



United States Department of the Interior
OFFICE OF THE SOLICITOR
WASHINGTON, D C 20240

April 10, 2014

Via E-Mail

Ms. Molly Cagle
Partner,
Baker Botts, LLP
98 San Jacinto Blvd. #1500
Austin, TX 78701

RE: TEXAS CITY Y OIL SPILL: Oil Pollution Act: Advanced Funding for Natural Resource Damage Preassessment and Assessment Activities

Dear Ms. Cagle:

On behalf of the Texas Natural Resource Trustee Council, the U.S. Department of the Interior hereby confirms that Kirby Inland Marine, LP (Kirby) has agreed to provide advanced funding in the amount of five hundred thousand dollars (\$500,000) to fund the Natural Resource Trustees' (Trustees) preassessment and assessment activities related to the natural resource damages assessment (NRDA) for the Texas City Y oil spill (the Incident). As we discussed, the Trustees intend to use the funds to pay for the Trustees' statutorily authorized and recoverable preassessment and assessment costs associated with the Incident. Examples of such costs include, but are not limited to, employees working on the NRDA (including reasonable salary, travel and indirect costs) and contractor support for the NRDA. The contractor support will be coordinated with all Trustees and employed to benefit all Trustees. At this time, the State of Texas does not anticipate the need to seek access to the Advanced Funding however it has specifically reserved its right to pursue and use the Advanced Funding in the future if it becomes necessary.

Cost documentation and accounting for how the Advanced Funding is expended will be provided. Both the Federal and State Trustees intend to seek ongoing reimbursement from Kirby of their reasonable costs of preassessment and assessment via an invoice and cost documentation process which will be described in a formal memorandum of agreement which is currently being negotiated.

The five hundred thousand dollars (\$500,000) Advanced Funding will be placed in a site-specific account within the Department of the Interior's Natural Resource Damage Assessment and Restoration (NRDAR) Fund. Enclosed please find instructions for how to deposit the five hundred thousand dollars (\$500,000) into the NRDAR Fund. In acknowledgement of this agreement for Advanced Funding, please sign and return to me the attached signature page.

The Advanced Funding fully satisfies only those claims for costs that are paid by the Advanced Funding; it does not constitute satisfaction of any other potential claims that the Trustees' may have with respect to the Incident.

The Advanced Funding by Kirby and the accounting associated with withdrawal of monies from the NRDAR Fund shall not be treated as an election by any Federal or State Trustee to participate in any given statutory scheme.

The Federal and State Trustees recognize that Kirby's agreement to provide Advanced Funding is without prejudice to any party's position with respect to liability, injury or damages arising out of the Incident. The Federal and State Trustees also recognize that Kirby has reserved its right to assert in the future that any charges against or studies or invoices paid for with the Advanced Funding do not constitute reasonable costs of preassessment or assessment activities.

In the event that Kirby does not provide Advanced Funding to the Trustees by close of business Friday, April 11, 2014 the Federal and State Trustees may seek initiate funding from the National Pollution Funds Center consistent with Section 2712 of OPA.

The Federal and State Trustees appreciate Kirby's commitment to a cooperative NRDA. We believe that a cooperative process will benefit the natural resources and their services by facilitating a faster assessment, and ultimately, restoration.

Please let me know if you have any questions.

Sincerely,

/s/ Amy L. Horner

Amy L. Horner
Attorney-Advisor

Encl.

cc:

James Murphy, Attorney, Texas Parks and Wildlife Department

Sheila O'Brien, Office of General Counsel, NOAA

Cullen McMorrow, Attorney, Texas Commission of Environmental Quality

David Green, Attorney, Texas General Land Office

John Carlucci, Solicitor's Office, U.S. Department of the Interior

TEXAS CITY Y OIL SPILL: Kirby Inland Marine, LP Agreement to provide Advanced Funding for Natural Resource Damage Preassessment and Assessment Activities in the amount of \$500,000.

Molly Cagle, Baker Botts, LLP

Date