



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 24, 2014

General Counsel
ExxonMobil Pipeline Company
800 Bell Street; PL-EMB-707C
P.O. Box 2220
Houston, TX 77252-2220

Kevin J. Vaughan
Exxon Mobil Corporation
3225 Gallows Road, Rm. 3D0212
Fairfax, VA 22037-0001

On behalf of the ExxonMobil Pipeline Company

Re: Presentation to Responsible Party of Partial Claim for Past and Future Assessment
Costs for Natural Resource Damage Assessment for the Yellowstone River Oil Spill,
Pursuant to 33 U.S.C. § 2713

Dear Counsel:

This Presentment Letter (Letter) is written on behalf of the federal and State trustees charged with public trust responsibilities for natural resources injured and/or threatened by the Yellowstone River Oil Spill and its associated response efforts (the Incident). The federal and State trustees are the United States Department of the Interior, acting through the Bureau of Land Management and the Fish and Wildlife Service, and the State of Montana (collectively, the Trustees). The Trustees have authority under the Oil Pollution Act (OPA) (33 U.S.C. §§ 2701 et seq.) and the Natural Resource Damage Assessment Regulations (15 C.F.R. Part 990) promulgated pursuant to OPA, to conduct a Natural Resource Damages Assessment (NRDA) of injuries to their trust resources caused by the Incident. The State of Montana also has authority under State law. The OPA NRDA Regulations, at 15 C.F.R. 990.27, set forth standards for

trustees to consider in the selection of potential assessment procedures. The Trustees have considered those standards and have selected certain assessment procedures to determine and quantify such injuries.

By this Letter, and pursuant to 33 U.S.C. § 2713, the Trustees present to the ExxonMobil Pipeline Company (EMPCo) a claim for partial assessment activities in the sum of \$1,894,805. The Trustees seek \$1,608,863 for estimated costs to implement identified assessment work, and \$285,942 for reimbursement of costs for assessment work performed from May 1, 2013 – March 31, 2014. These costs are described in the attached Partial Claim for Past and Future Assessment Costs (Claim). Please be advised that the budget for the assessment work to be performed beginning April 1, 2014 is an estimate, and actual costs may vary once detailed planning and design begin and/or as new information becomes available.

If you wish to obtain more information about the Claim, please contact the Trustees as provided in the Claim. Should EMPCo decline to pay the above claim, it is the intent of the Trustees, in accordance with 33 U.S.C. § 2713 (c) and (d), to make a claim to the National Pollution Fund Center (NPFC) upon the expiration of ninety (90) days from the date of the presentment of this claim to EMPCo. Initiating the described assessment work is time critical. If EMPCo decides, in less than 90 days, not to fund some or all of the Trustee selected assessment activities, please advise the Trustees at your earliest opportunity so we may avoid unnecessary delay in filing a claim with the NPFC to obtain funding for those activities. Thank you for your consideration in this matter.

Sincerely,



Robert G. Collins
Supervising Assistant Attorney General
Montana Department of Justice
Natural Resource Damage Program
P.O. Box 201425
Helena, MT 59620-1425



Ann Umphres
Attorney Advisor
Office of the Solicitor,
Rocky Mountain Region
U.S. Department of the Interior
755 Parfet St., Ste. 151
Lakewood, CO 80215



Partial Claim for Past and Future Assessment Costs Yellowstone River Oil Spill



Prepared by State and Federal Trustees
State of Montana and U.S. Department of Interior

June 2014

Table of Contents

1.	Executive Summary	1
2.	Assessment Claim Overview	1
2.1	Claimant (Trustee) Information and Coordination	1
2.2	Incident Description	2
2.3	Responsible Party Information.....	2
2.4	Components of Claim and Amount of Costs Claimed.....	3
2.5	Statute of Limitations.....	3
3.	Adherence to Assessment Regulations	3
3.1.	Trustee Authority	3
3.2.	Summary of Preassessment Activities	4
3.2.1.	Preassessment Activities for Ecological Impacts.....	4
3.2.2.	Preassessment Activities for Human Use Impacts.....	6
3.3.	Notice of Intent to Conduct Restoration Planning	6
3.4.	Coordination between Trustees and Responsible Party	6
3.5.	Coordination between Trustees and Response Agencies.....	7
4.	Proposed Assessment Procedures	7
4.1.	Proposed Assessment Methods	7
4.1.1.	Injury Assessment Methods for Ecological Impacts.....	7
4.1.2.	Injury Assessment Methods for Human Use Impacts.....	10
4.2.	Natural Recovery Estimation	11
4.3.	Restoration Scaling Approaches	11
4.3.1.	Habitat Equivalency Analysis	11
4.3.2.	Resource Equivalency Analysis	11
4.3.3.	Reasonable Worst Case Estimates of Injury	11
4.4.	Quality Assurance and Chain of Custody	12
5.	Schedule of Assessment Work.....	12
6.	Federal and State Trustee Costs	12
6.1.	United States Department of Interior Costs	14
6.1.1.	Bureau of Land Management Costs.....	134
6.1.2.	U.S. Fish and Wildlife Service Costs.....	185
6.1.3.	Office of Policy, Management and Budget Costs.....	197
6.1.4.	DOI – Solicitor's Office Costs	18
6.2	State of Montana Costs	19
6.2.1.	Natural Resource Damage Program Costs	19
6.2.2.	Fish, Wildlife & Parks Costs	21
7.	Restoration Alternatives Evaluation and Development	23
7.1.	Restoration Goals	23
7.2.	Restoration Project Identification	23
7.3.	Restoration Criteria and Project Selection Process.....	23
7.4.	Development of Restoration Plan	24
8.	Points of Contact.....	25
8.1.	Department of Interior.....	25
8.2.	State of Montana	25

Appendix A Federal and State Trustees' Incurred Assessment Costs (May 1, 2013 and March 31, 2014)

Appendix B Scopes of Work for Trustee Primary Contractors

1. Executive Summary

This document provides information regarding the federal and State Trustees (Trustees) plans to assess injuries to natural resources resulting from the discharge of crude oil by the ExxonMobil Pipeline Company (EMPCo) into the Yellowstone River and adjoining floodplain. This Partial Claim for Past and Future Assessment Costs (Claim) provides information regarding the assessment procedures and methods proposed by the Trustees. The Claim also provides a schedule of when assessment work will be conducted, along with the Trustees' cost estimates.

The Trustees are assessing two broad categories of injuries and losses: 1) ecological injuries and service losses, and 2) human use service losses. For both of these categories, Trustees are evaluating injuries and service losses caused by the discharge of the oil, as well as injuries and losses as a result of response activities undertaken due to the discharge of oil. Ecological injuries and service losses under review include riverine aquatic habitat and supported biota, including fish; terrestrial habitat and supported biota; birds; large woody debris piles; and services provided by natural resources. The lost human use assessment will focus on human use losses, including recreational service losses, and lost passive and other non-use values. Section 4 outlines more specific information regarding the assessment methods that will be used for each of these categories.

This Claim includes restoration planning activities beginning in May 2013, and focuses on the injury assessment stage of restoration planning. Trustee costs are provided in Section 6. The Trustees have incurred assessment costs between May 1, 2013 and March 31, 2014 in the amount of \$285,942. The Trustees estimate their costs for this assessment work beyond the incurred costs to be \$1,608,863. The Trustees anticipate that continuing this assessment work will require approximately two years to complete, once funding has been received. A description of the assessment work is provided in Section 4, and a schedule of when reports will be completed is provided in Section 5. Since the Trustees expect that additional assessment activities will be required as part of the work discussed in Section 4, the Trustees have included contingency funding in this estimate in the amount of 25%. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim. The total amount reflected in this Claim is \$1,894,805.

2. Assessment Claim Overview

2.1 Claimant (Trustee) Information and Coordination

The following officials or their designees are acting on behalf of the public as federal and State Trustees for natural resources:

1. The Governor of the State of Montana (State)
2. The U.S. Department of the Interior (DOI), as represented by the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS)

The statutory authority is detailed in Section 3.1 of this document.

The Trustees entered into a Memorandum of Understanding (MOU) in February 2012, that formed a Trustee Council for coordination and cooperation of the Trustees in initiation and conduct of preassessment and restoration planning activities, for natural resources and services under their trusteeship injured as a result of the discharge of oil by EMPCo into the Yellowstone River and adjoining floodplain (details regarding the incident are provided below in Section 2.2; details regarding the Responsible Party is provided in Section 2.3). The U.S. Bureau of Land Management and the State of Montana are Co-Lead Administrative Trustees.

The administrative record has been established and is available online at the following websites:

- <http://www.blm.gov/mt/st/en/info/yellowstonespill.html> or <http://blm.gov/dbld> (redirect)
- <https://doj.mt.gov/lands/yellowstone-river-oil-spill/>

2.2 Incident Description

On or about July 1, 2011, a 12-inch diameter pipeline owned by EMPCo, ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain.

The discharge is estimated to have been approximately 63,000 gallons (about 1,500 barrels of oil). It occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. The discharge, along with associated response activities, continues to adversely affect and threaten natural resources within the jurisdictions of the United States and the State of Montana, including the Yellowstone River adjoining shorelines, including, but not limited to, the floodplain, shoreline, wetlands and other riparian areas, islands, fields, pastures, bottomlands, grasslands and shrublands.

In accordance with the Oil Pollution Act (OPA) and National Contingency Plan, a Unified Command was organized after the spill under the authority of the United States Environmental Protection Agency (EPA). An EPA On-scene Coordinator led the response, which was undertaken by the Responsible Party EMPCo, in coordination with the State of Montana and other federal agencies. Cleanup crews, comprised of EMPCo and government personnel, responded to the discharge, and were on-site until late November. In early September, EPA handed response leadership to the State of Montana Department of Environmental Quality.

Montana Fish, Wildlife & Parks issued a Fish Consumption Advisory on July 21, 2011, due to the spill, which was lifted on August 24, 2011. During response activities, a number of public properties, including parks and fishing access sites were used as staging grounds, and were closed to the public.

2.3 Responsible Party Information

EMPCo owns and operates the pipeline that ruptured in July 2011, spilling crude oil that caused injuries to natural resources as defined by OPA section 1001(20). EMPCo is a subsidiary of the ExxonMobil Corporation.

2.4 Components of Claim and Amount of Costs Claimed

The Trustees are assessing ecological injuries and service losses, and human use service losses. For both of these categories, the Trustees are evaluating injuries and service losses caused by the discharge of oil, as well as injuries and losses as a result of response activities undertaken due to the discharge of oil. Ecological injuries and service losses under review include riverine aquatic habitat and supported biota, including fish; terrestrial habitat and supported biota; birds; large woody debris piles; and services provided by natural resources. The lost human use assessment will focus on human use losses, including recreational service losses, such as fishing and park use, and lost passive and other non-use values.

The Trustees have not completed assessment activities. As a result, final costs and damages have not been estimated. Data collection and analysis is ongoing, and may result in the identification of additional natural resource damage assessment activities by the Trustees or, alternatively, the decision may be made not to pursue an activity identified in this Claim. The amount of costs claimed includes 25% contingency funding to conduct further activities after the work plans and associated costs for the studies set forth herein have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

The Trustees expressly reserve their ability to modify and supplement the assessment and restoration planning procedures identified herein. The need for any additional studies and assessment activities and their relationship to existing data collection efforts and analyses and data management will be clearly identified in any future assessment claims. This Claim is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against Montana, the United States, their departments, agencies, or entities, their officers, employees, or agents, or any other person.

2.5 Statute of Limitations

Claims for natural resource damages sought under OPA must be brought within three years after the date of completion of the natural resources damage assessment. (OPA § 1017, 33 U.S.C. § 2717(f)). Claims under the Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA) must be commenced within 6 years after initiation of physical onsite construction of the final permanent remedy.

3. Adherence to Assessment Regulations

3.1. Trustee Authority

Natural Resource Trustees are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources pursuant to Section 1006 of the OPA, 33 U.S.C. §§ 2701, *et seq.*, Section 311(f) of the Clean Water Act, 33 U.S.C. § 1321(f), and other applicable Federal and State statutory and common law, including but not limited to, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, Subpart G, and the OPA Natural Resource Damage Assessment Regulations (Regulations),

15 C.F.R. Part 990, as well as Executive Order 12580, 52 Fed. Reg. 2923 (January 23, 1987), as amended by Executive Order 12777, 56 Fed. Reg. 54757 (October 19, 1991), Executive Order 13016, 61 Fed. Reg. 45871 (August 28, 1996), and Executive Order 13286, 68 Fed. Reg. 10619 (February 28, 2003), and applicable State laws and authorities, including, without limitation, the Comprehensive Environmental Cleanup and Responsibility Act, 75-10-701, MCA, *et seq.* Trust resources include those that belong to, are managed by, held in trust by, appertain to, or are otherwise controlled by the United States, a State, an Indian Tribe, or a foreign government. *See* Section 1001(20) of the OPA, 33 U.S.C. § 2701(20).

By undertaking a natural resource damage assessment (NRDA), the Trustees consider the extent of injuries to natural resources, including the functions and services provided by the injured resource, while determining the appropriate ways of restoring the injured resources and compensating for these injuries. Under OPA's implementing regulations, natural resources are defined broadly to include "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources." *See* 43 C.F.R. § 11.14. Trustees use the information obtained during the NRDA to develop and implement plans for the "restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship." The Trustees may seek damages for these injuries, including the reasonable costs of the assessment. *See* OPA Section 1002(b)(2)(A), 33 U.S.C. § 2702(b)(2)(A).

Federal Trustees are designated pursuant to the NCP, 40 C.F.R. § 300.600 and Executive Orders 12580 and 12777. For this incident, the federal Trustee is the United States Department of the Interior, as represented by the Bureau of Land Management and the U.S. Fish and Wildlife Service. The State trustee is the Governor of the State of Montana, in accordance with 40 CFR 300.605.

3.2. Summary of Preassessment Activities

The Trustees conducted numerous studies and surveys to collect ephemeral data concerning on-site conditions soon after the spill and during and after response activities that would otherwise have been lost or altered. The Trustees have to date coordinated a number of data collection activities with EMPCo (see Section 3.4 for further information on coordination with and cooperation by EMPCo).

3.2.1. Preassessment Activities for Ecological Impacts

For surface water and sediment, the Trustees collected and analyzed surface water, via semipermeable membrane devices (SPMDs), and sediment samples to analyze for oil constituents such as polycyclic aromatic hydrocarbons (PAHs), as well as other indicator chemicals. The Trustees collected certain samples with EMPCo staff joining in the field.

The Trustees conducted fish health surveys in the fall of 2011, spring of 2012, and fall of 2012. The fall of 2012 fish collection occurred jointly with EMPCo. The Trustees collected fish in order to analyze the exposure of fish to oil/PAHs, as well as potential biochemical and physiological responses of exposure, including, for example, the noted presence of external gross lesions. The Trustees also began to perform histopathological assessments on fish collected from

the oiled area and reference areas for the three surveys. The Trustees also collected and preserved bile samples for analyses. In addition, the Trustees compiled observations of external gross lesions made on fish during bait collection for other studies. The Trustees found injury to fish and fish habitat. Initial histopathological assessments to date on surviving fish show external lesions and scars, and affected gills, kidneys, blood, and liver. These adverse effects appear to be unrelated to pathogens such as bacteria, viruses, or fungi.

Other receptors and their habitats were also potentially exposed and injured, including but not limited to reptiles (including turtles) and amphibians (including frogs). The Trustees also began to identify a preliminary suite of in-stream restoration projects to address aquatic losses.

The Trustees also conducted a preliminary analysis of impacts to floodplain habitat resulting from the spill, based on available response data, compiling available data and information collected during response cleanup, and using it to provide a preliminary estimation of the nature and extent of oiling in the floodplain and the potential adverse impacts of response activities on floodplain habitat. The Trustees found injury to both bottomland/riparian lands, and grassland/shrubland. For example, on significant acreage, oil was allowed to degrade over time. Where response actions were taken, adverse effects occurred and continue to occur. For example, the use of heavy equipment (e.g., all-terrain vehicles, skid steers, excavators), and the building of staging grounds, footpaths, temporary roads, and vehicle tracks destroyed or damaged floodplain habitat. The Trustees also conducted a preliminary literature review on the types of impacts and potential recovery trajectories for floodplain habitat. The Trustees also began to identify potential types of restoration to offset floodplain habitat injuries.

Also during preassessment activities, the Trustees conducted surveys in order to analyze large woody debris piles (LWD piles) that were oiled as a result of the spill and wholly or partially disassembled as a part of response activities. One of the Yellowstone River's distinguishing attributes as the longest undammed river in the lower 48 states is the existence of LWD piles. The Trustees conducted two surveys, one in the fall of 2011 and the second in the spring of 2012 after spring runoff. EMPCo representatives participated in the spring 2012 survey. In addition, the Trustees began a review of aerial photographs taken before and after the spill. The Trustees also began a review of response records on the volume of debris removed and types of response activities undertaken at LWD piles. The Trustees found injury to LWD piles and cottonwood tree regeneration. The Trustees preliminarily estimate approximately 30 or more LWD piles were injured due to oil or the physical impacts of response activities. LWD piles play an important role in channel morphological processes and aquatic and riparian habitat formation, including cottonwood tree regeneration. A preliminary literature review on the ecological and fluvial geomorphic services provided by LWD in large river systems comparable to the Yellowstone River was also conducted. The Trustees also began to develop a preliminary LWD Resource Equivalency Analysis (REA).

The Trustees obtained wildlife data that were collected as a part of response activities. These data identify the number, species, and locations of birds that were found dead or oiled, as well as the number and species of biota that were rehabilitated and released. The Trustees found injury to birds, including the American White Pelican, a State species of concern, owls and other cavity nesting birds, and bird habitat. Other receptors also potentially lost, injured and/or threatened,

along with their habitat, include but are not limited to: passerine birds, waterfowl, shorebirds, and raptors. During the preassessment phase, the Trustees preliminarily estimated the total number of oiled and dead birds, extrapolating from the wildlife records. The Trustees also conducted a preliminary literature review to develop values for some of the parameters, and began to develop preliminary bird REAs for two representative species, American Pelicans and cavity nesting owls. The Trustees also began to identify preliminary restoration options for injured birds.

3.2.2. Preassessment Activities for Human Use Impacts

The Trustees compiled readily available information on pre and post-spill recreational use, including information on fishing and park use. The Trustees also conducted a pilot telephone survey to gather information from the public on the impact of the spill on their recreational fishing activities. The Trustees found diminished and/or lost use, including but not limited to fishing and other recreational uses. For example, fishing and other recreational uses were prohibited, curtailed, or otherwise adversely affected, either directly or indirectly, at parks, fishing access sites, Bureau of Land Management property, and on or adjacent to the Yellowstone River. In addition, the Trustees conducted a preliminary literature search on the value of the recreational activities, and began to evaluate the recreational use losses resulting from the spill. The Trustees also conducted a preliminary literature review, and began an initial contingent valuation pilot study to evaluate whether to pursue non-lost use values for the oil spill. Based upon this literature review and study, the Trustees believe there were lost passive and other non-use values as a result of the oil spill.

3.3. Notice of Intent to Conduct Restoration Planning

On October 31, 2013, the Trustees issued a Notice of Intent (NOI), pursuant to 15 CFR 990.44, for the Yellowstone River Oil Spill. In the NOI, the Trustees set forth their determination of jurisdiction to conduct a NRDA and that doing so is appropriate in this matter. Based on information collected since July 2011, the Trustees have made a preliminary determination that natural resources and services have been injured. These injuries are expected to continue and response actions are not expected to address the injuries. Feasible restoration alternatives exist to address such injuries. As such, Trustees stated their intent to proceed with an NRDA to identify natural resource injuries and proposed restoration alternatives. The NOI was distributed to the public via agency websites and media outlets. The NOI was provided to the responsible party electronically and via overnight delivery.

3.4. Coordination between Trustees and Responsible Party

The Trustees and EMPCo signed a Letter Agreement, dated September 30, 2011, by which EMPCo agreed to provide initial funding for NRDA preassessment activities. In August 2012, the Trustees and EMPCo entered into a Memorandum of Agreement (MOA) to provide a framework for the development of NRDA cooperative tasks, and provide further funding. The MOA was extended to the end of March 2013 by mutual agreement after which time, EMPCo declined to extend the MOA, and it expired. The Trustees have to date coordinated certain data collection activities with EMPCo, and have shared data and information. EMPCo reimbursed the

Trustees for costs incurred during the preassessment phase pursuant to the Letter Agreement, except for \$249,475 in preassessment costs, which EMPCo declined to reimburse.

In October 2013, the Trustees formally invited EMPCo's participation in the NRDA, in a letter to EMPCo enclosing the Trustees' NOI and an invitation for EMPCo to participate in the Natural Resource Damage Assessment. In November 2013, EMPCo wrote to the Trustees noting its interest in participating in NRDA, and proposing that the Trustees and EMPCo discuss EMPCo's potential involvement. After unsuccessful initial discussions following the notice to participate, the Trustees developed this Claim related to the restoration planning phase.

3.5. Coordination between Trustees and Response Agencies

The response agencies notified Trustees of the incident soon after it occurred. The Trustees and response agencies worked to ensure access for NRDA activities, which did not interfere with response actions. The Trustees and response agencies shared information. Where possible, Trustees obtained relevant response data for Trustee data needs rather than collecting data independently.

4. Proposed Assessment Procedures

4.1 Proposed Assessment Methods

4.1.1 Injury Assessment Methods for Ecological Impacts

Preassessment activities identified ecological injuries and service losses, including riverine aquatic habitat and supported biota, including fish; terrestrial habitat and supported biota; birds; large woody debris piles; and services provided by natural resources. Based on preassessment outcomes, the Trustees will focus future assessment efforts toward these affected resources, but may expand in the future should potential new injuries be identified. All Trustee NRDA activities will be in accordance with NRDA assessment procedures.

4.1.1.1 Aquatic Habitat and Biota

The Trustees will continue with injury assessment, both injury determination and quantification. The Trustees will complete the following injury assessment tasks, among others, related to aquatic habitat and biota:

- Continued analysis of fish health studies. Lesion observations, histopathology, and bile analyses related to the three fish health studies have been summarized to date by the Trustees in data reports. The Trustees will complete their analysis of the fish health studies data, including analysis regarding the exposure of fish to oil/PAHs, as well as potential biochemical and physiological responses of exposure.
- Histopathological assessments. The Trustees will continue to review and perform histopathological assessments on fish collected from the oiled area and reference areas from the three surveys.

- Bile sample analysis. The Trustees will continue to analyze collected bile samples.
- Literature review. The Trustees will complete a comprehensive literature review on the adverse effects to fish health associated with exposure to oil and related PAHs and toxicity thresholds, comparing these levels with measured chemistry results in order to help assess the potential toxic effects of oil constituents (e.g., PAHs) on relevant aquatic biota.
- Surface water and sediment analysis. The Trustees will complete compilation and analysis of surface water and sediment analytical data collected during preassessment and response activities.
- Further activities. The Trustees may decide additional studies are needed to determine and quantify injury to aquatic biota including fish. For example, the Trustees may decide to conduct laboratory toxicity studies.

Costs and further activities. The Trustees' anticipated costs associated with these activities are included in the Trustees' budget estimates for this Claim. The Trustees may develop a REA for in-stream aquatic injuries, potentially using a reasonable worst case estimate, and likely focusing on fish as a representative receptor, in order to help determine the amount of restoration required to offset the losses. The Trustees may also use the contingency funding set forth in this Claim to conduct further activities (e.g., laboratory fish toxicity studies) after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.1.1.2 Terrestrial Habitat and Biota

The Trustees will continue with injury assessment, both injury determination and quantification. The Trustees will complete the following injury assessment tasks, among others, related to terrestrial habitat and biota:

- Analysis of effects. The Trustees will complete their compilation and analysis of data and information collected during response to better refine their understanding and document the nature, location, duration, and scope of the oiling and the physical impacts of the response effects on terrestrial habitat and biota.
- Literature review. The Trustees will refine their literature search on the impacts and recovery trajectories from response activities, including for example, from physical trampling and cutting of vegetation, as well as the spread of invasive species.
- Refinement of habitat equivalency analysis. The Trustees will refine and quantify physical (and, if warranted, toxicological) impacts to the habitat using a habitat equivalency analysis (HEA).

- Further activities. The Trustees may consult with outside experts on the adverse effects of oiling and response activities to terrestrial habitat.

Costs. The anticipated Trustee costs associated with these activities are included in Trustees' budget estimates in this Claim. The Trustees may use the contingency funding set forth in this Claim to conduct further activities (e.g., involvement of outside experts) after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.1.1.3 Large Woody Debris Piles

The Trustees will continue with injury assessment, both injury determination and quantification. The Trustees will complete the following injury assessment tasks, among others, related to LWD piles:

- Analysis of LWD piles. The Trustees will complete their compilation and analysis of response data, and data collected during the two past LWD surveys.
- Literature review. The Trustees will refine their literature review of ecological and fluvial services provided by LWD.
- Aerial photography overflights. The Trustees have conducted aerial photography overflights in spring 2014 in order to help document high water levels relative to disturbed LWD piles, and to help document any impacts to these piles post high-water, and will likely conduct additional flights later this year and in the future.
- Analysis of aerial imagery. The Trustees will complete their analysis of pre-spill and post-spill aerial imagery, including imagery from later aerial photography overflights.
- Field work. The Trustees will perform further field work to help document the effects of spring runoff on the LWD piles that were injured as a result of the spill and related response activities.
- Refinement of resource equivalency analysis. The Trustees will refine and quantify the preliminary LWD REA developed during preassessment activities based on the results of the data analyses, aerial photo interpretation, and literature reviews.

Costs. The Trustees' anticipated costs associated with these activities are included in Trustees' budget estimates for this Claim. The Trustees may use the contingency funding set forth in this Claim to conduct further activities after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.1.1.4 Birds

The Trustees will continue with injury assessment, both injury determination and quantification. The Trustees will complete the following injury assessment tasks, among others, related to birds:

- Compilation of wildlife data. The Trustees will refine and complete their compilation of wildlife data initiated as part of preassessment activities.
- Literature review. The Trustees will refine their literature review with regards to defining multiplier parameters and identifying restoration requirements of affected bird species.
- Refinement of resource equivalency analysis. The Trustees will refine and quantify the initial pelican and cavity nesting (owl) REAs.
- Further activities. The Trustees will review the compiled information and data to evaluate whether additional studies are needed. For example, the Trustees will evaluate whether to perform a searcher efficiency study and a carcass persistence study.

Costs. The Trustees' anticipated costs associated with these activities are included in Trustees' budget estimates in this Claim. The Trustees may use the contingency funding set forth in this Claim to conduct further activities (e.g., carcass persistence and searcher efficiency field studies) after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.1.1.5 Additional Natural Resource Assessments

The Trustees may also consider injury assessment for resources such as amphibians, reptiles, in-stream aquatic vegetation beds, and cottonwood regeneration, among others, if additional information warrants their consideration. The Trustees may use the contingency funding set forth in this Claim to conduct further activities after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.1.2 Injury Assessment Methods for Human Use Impacts

The Trustees will continue with injury assessment, both injury determination and quantification. The Trustees will complete the following injury assessment tasks, among others, related to lost human use and non-use values:

Compilation of use data. The Trustees will complete their compilation of site data on park use and recreational activities, such as fishing, initiated during preassessment activities.

Literature review. The Trustees will refine their literature review on trip values that are specific and focused on the recreational uses affected by the spill to help complete the Trustees' quantification of recreational human use losses.

Contingent valuation. The Trustees will develop a contingent valuation survey instrument, a sample design, and implementation of pretesting and final survey.

Costs. The Trustees' anticipated costs associated with these human use impacts assessment activities are included in Trustees' budget estimates of this Claim. The Trustees may use the contingency funding set forth in this Claim to conduct further activities after the work plans and associated costs for the studies have been developed. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim.

4.2 Natural Recovery Estimation

As required under 15 CFR 990.52(c), the Trustees will estimate the rate at which natural recovery would occur without restoration, but including any response actions. Trustees will conduct further literature reviews on natural recovery from oil and response activities, coordinate with response agencies to obtain any further monitoring data regarding recovery pertaining to response actions, and estimate the time for natural recovery.

4.3 Restoration Scaling Approaches

4.3.1 Habitat Equivalency Analysis

A HEA may be used to scale restoration alternatives to compensate for injuries. A HEA computes habitat injuries in terms of discounted service-acre years (DSAYs) to represent the geographic scope and severity of ecological services lost, modified by the duration of injury and discounted over time. Similarly, HEA computes the value of a habitat restoration project in terms of DSAYs to represent the geographic scope and duration of the services it provides, modified by the time the project requires to reach full function and discounted over time. The Trustees will use HEA to ensure that the restoration projects chosen adequately compensate the public for losses. The Trustees anticipate using this approach for terrestrial habitat and biota.

4.3.2 Resource Equivalency Analysis

A REA may be used for specific resources that recover at a significantly different rate than their habitat, or that may have had injuries that are not well represented by the level of injury to habitat. The Trustees anticipate using this approach for birds, LWD, and may use for in-stream injured resources (fish and other aquatic biota).

4.3.3 Reasonable Worst Case Estimates of Injury

In cases where accurate calculation of injuries requires significant data collection or analysis which would unduly increase the cost of the assessment, the Trustees may estimate injuries and restoration requirements using a hypothetical reasonable worst case scenario. This allows faster progress towards implementation of restoration and allows funds to be directed toward restoration rather than towards additional assessments. Trustees may consider this approach for injuries to resources as warranted (e.g., fish and other aquatic biota). If the contingency funding

proves insufficient, the Trustees will submit a supplemental claim for development of reasonable worst case estimates.

4.4 Quality Assurance and Chain of Custody

Because all work performed for the NRDA should meet high standards of professional performance and technical rigor, highly qualified and experienced experts will design and implement the work. Work products will be developed to meet or exceed generally accepted technical standards, methods, and procedures used in the NRDA field.

Chain of custody forms will continue to be used for field-collected samples. Laboratories performing chemical analyses were required to provide data QA/QC packages, which were evaluated by Trustees and/or EMPCo. Laboratories performing chemical analyses in the future will be required to provide data QA/QC packages.

5. Schedule of Assessment Work

The schedule of major actions proposed is provided in Table 5-1, below. The two year time period reflected by this schedule is consistent with the estimated future costs of the Trustees detailed in Section 6. Completed activities supporting the Claim include the Notice of Intent, issued in October 2013.

Table 5-1: Preliminary Schedule of Yellowstone River Oil Spill NRDA Proposed Activities. This schedule assumes that funding will be in place by August 1, 2014. Deliverables will be delayed if funding takes longer to secure.

Proposed NRDA Action	Proposed Report Deadline
In-stream (fish) injury and REA summary report	March 30, 2015
Floodplain habitat (and supported biota) injury and HEA summary report	March 30, 2015
LWD injury and REA summary report	March 30, 2015
Avian injury and REA summary report	March 30, 2015
Human use losses summary report	March 30, 2016
Injury summary report	June 30, 2016
Anticipated development of Restoration Plan	June 30, 2016

6. Federal and State Trustee Costs

This Claim sets forth the Trustees' incurred and anticipated assessment costs and the approximate date the Trustees expect to have incurred the anticipated costs. These assessment costs are reasonable assessment costs within the meaning of 15 CFR 990.30. The United States Department of the Interior costs are separated into Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), Office of Policy, Management and Budget (DOI-PMB), and the Solicitor's Office. State of Montana costs are separated into Montana Department of Justice Natural Resource Damage Program (NRDP) and Montana Fish, Wildlife & Parks (FWP). Both Trustees have retained contractors.

Trustees' incurred assessment costs between May 1, 2013 and March 31, 2014 totaling \$285,942. The Trustees estimate their costs for this assessment work beyond the incurred costs to be \$1,608,863. Since the Trustees expect that additional assessment activities will be required as part of the work discussed in Section 4, the Trustees have included contingency funding in this estimate in the amount of 25%. If the contingency funding proves insufficient, the Trustees will submit a supplemental claim. The total amount reflected in this Claim is \$1,894,805. The Trustees estimate that it will require two years from the receipt of funding to complete the tasks described in this Claim. In addition to the specific assessment tasks described in Section 4, Trustees' costs include staff time for Trustees' administrative activities and public involvement. All costs are rounded to the nearest dollar.

Table 6-1: Costs Incurred May 1, 2013 to March 31, 2014

United States Department of Interior Costs	
– Bureau of Land Management	\$13,290
– U.S. Fish and Wildlife Service	\$76,603
– Office of Policy, Management and Budget	\$3,953
– Solicitor's Office	\$10,063
State of Montana	
– Natural Resource Damage Program	\$178,530
– Fish, Wildlife & Parks	\$3,503
COSTS INCURRED	\$285,942

Table 6-2: Estimated Costs for Identified Assessment Activities

United States Department of Interior Costs	
– Bureau of Land Management	\$60,917
– U.S. Fish and Wildlife Service	\$452,800
– Office of Policy, Management and Budget	\$24,235
– Solicitor's Office	\$15,204
State of Montana	
– Natural Resource Damage Program	\$673,211
– Fish, Wildlife & Parks	\$60,723
Estimated costs subtotal	\$1,287,090
Contingency (25%)	\$321,773
ESTIMATED COSTS	\$1,608,863

Table 6-3: Total Presented Claim

Costs Incurred May 1, 2013 to March 31, 2014	\$285,942
Estimated Costs for Identified Assessment Activities	\$1,608,863
TOTAL PRESENTED CLAIM	\$1,894,805

6.1 United States Department of Interior Costs

6.1.1 Bureau of Land Management Costs

6.1.1.1 May 1, 2013 to March 31, 2014 Incurred Costs

Bureau of Land Management (BLM) assessment costs incurred from May 1, 2013 to March 31, 2014 are \$13,290. Appendix A contains documentation of incurred costs.

6.1.1.2 Estimated Assessment Costs

BLM estimated resource requirements consist of labor costs for the two years of effort in the amount of \$60,917. Over the time period covered by this estimate, some staffing changes may occur, including reassignment of personnel and changes in hourly rates. Estimates in the table below are based on present information. BLM indirect costs are estimated to be 18.4% of labor costs and DOI Headquarters indirect costs are estimated to be 16.84% of labor costs.

Table 6-4: Projected costs associated with the BLM conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Expense Category	hours/week	cost/hour (includes benefits)	24 months (104 Weeks)
Labor			
Billings Field Office Manager	3	\$76.00	\$23,712
Government Information Specialist	1	\$60.82	\$6,325
Hazardous Materials Coordinator	1	\$61.38	\$6,384
Management and Program Analyst	1	\$82.91	\$8,623
Labor Subtotal			\$45,044
DOI indirect costs (16.84%)			\$7,585
BLM indirect costs (estimated at 18.4%)			\$8,288
Indirect subtotal			\$15,873
Total Labor			\$60,917
TOTAL ESTIMATED COSTS			\$60,917

BLM Personnel:

The BLM Billings Field Office Manager position is currently held by Jim Sparks. Mr. Sparks is the Lead Administrative Trustee representative and is responsible for allocating staff and fiscal resources to conduct NRDA activities, routine oversight of the implementation of NRDA technical activities by Trustees, and oversees and implements technical activities of BLM.

The BLM Government Information Specialist position is currently held by Greg Pedersen. Mr. Pedersen maintains the Trustee Administrative Record, tracks cost and budget documentation, and manages the external website for the Yellowstone Oil Spill.

The BLM Hazardous Materials Coordinator position is currently held by Peter Bierbach. Mr. Bierbach provides technical expertise to the BLM on the NRDA process for the Yellowstone Oil Spill.

The BLM Management and Program Analyst position is currently held by Janet Youngdahl. Ms. Youngdahl provides technical expertise to the BLM on the NRDA process for the Yellowstone Oil Spill.

6.1.2 U.S. Fish and Wildlife Service Costs

6.1.2.1 May 1, 2013 to March 31, 2014 Incurred Costs

U.S. Fish and Wildlife Service (FWS) assessment costs incurred from May 1, 2013 to March 31, 2014 are \$76,603. Appendix A contains documentation of incurred costs.

6.1.2.2 Estimated Assessment Costs

FWS estimated resource requirements consist of labor, travel, and contractor costs for the two years of effort in the amount of \$452,800. The activities included in this estimate are provided in Section 4. Over the time period covered by this estimate, some staffing changes may occur, including reassignment of personnel and changes in hourly rates. Estimates in the table below are based on present information. FWS indirect costs are estimated to be 52% of labor costs and DOI Headquarters indirect costs are estimated to be 16.84% of labor costs.

The FWS oversees the contract with IEC for which, IEC will provide support to the Trustee Council and to Trustees' technical working groups (TWGs) for assessment activities. The proposed scope of work for IEC's tasks is provided in Appendix B.

Table 6-5: Projected costs associated with the U.S. Fish and Wildlife Service (FWS) conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Expense Category	hours/week	cost/hour (includes benefits)	24 months (104 Weeks)
Labor			
Acting Case Manager/Senior Contaminants Specialist	20	\$51.68	\$107,494
Assistant Contaminants Specialist	10	\$38.11	\$39,634
Labor Subtotal			\$147,128
DOI indirect costs (16.84%)			\$24,777
FWS indirect costs (estimated at 52%)			\$76,507
Indirect subtotal			\$101,284
Total Labor			\$248,412
Travel			
Travel within MT (2 staff x 6 trips x 2 nights/trip)			\$3,852
Total Travel			\$3,852
Contracts			
IEc Contracting			\$200,536
Total Contracts			\$200,536
TOTAL ESTIMATED COSTS			\$452,800

FWS Personnel:

The Acting Case Manager/Senior Contaminant Specialist position is currently held by Karen Nelson. The Case Manager for BLM retired recently, and due to position vacancies, the FWS is currently filling the role. Karen Nelson is a toxicologist at the FWS's Helena, Montana Ecological Service Field Office. She participates in Trustee conference calls and meetings, as well as meetings with EMPCo. She is responsible for all case management activities. Ms. Nelson leads the Avian Injury TWG and duties include compiling supplemental literature searches to further define bird multiplier parameters, facilitating the identification of restoration requirements for affected bird species, and reviewing all available data and compiled literature to evaluate whether additional primary bird studies are needed to quantify bird losses and restoration. If the Trustees conclude that additional studies are necessary, she will participate and manage the development of additional study work plans. Ms. Nelson reviews other documents and work products associated with other parts of the Trustee claim, assists with the development of budgets, provides oversight of field work and data analysis, and keeps technical and financial records. She also serves as a liaison between field staff and upper management.

The Assistant Contaminant Specialist position is currently held by David Rouse. David Rouse is a toxicologist at the FWS's Helena, Montana Ecological Service Field Office. He participates in Trustee conference calls and meetings and provides technical support to the Avian Injury and Large Woody Debris TWGs. Mr. Rouse conducts literature searches to further define bird multiplier parameters and restoration requirements for affected birds. If the Trustees determine that additional avian injuries studies are necessary, he will assist in the development of those work plans. Mr. Rouse reviews other documents and work products associated with other parts of the Trustee claim and assists with the development of budgets and cost tracking.

FWS Travel:

The travel estimate is based on costs for overnight trips by FWS staff within Montana to meet with co-Trustees, EMPCo, or to provide Trustee oversight during studies. Specifically, this estimate is based on three overnight trips per year by each FWS employee, assuming each trip requires two nights of lodging.

6.1.3 Office of Policy, Management and Budget Costs

6.1.3.1 May 1, 2013 to March 31, 2014 Incurred Costs

Office of Policy, Management and Budget (DOI-PMB) assessment costs incurred from May 1, 2013 to March 31, 2014 are \$3,953. Appendix A contains documentation of incurred costs.

6.1.3.2 Estimated Assessment Costs

DOI-PMB estimated resource requirements consist of labor costs for the two years of effort in the amount of \$24,235. The activities included in this estimate are provided in Section 4. Over the time period covered by this estimate, some staffing changes may occur, including reassignment of personnel and changes in hourly rates. Estimates in the table below are based on present information. DOI Headquarters indirect costs are estimated to be 16.84% of labor costs.

Table 6-6: Projected costs associated with the Office of Policy, Management, and Budget (PMB) conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Expense Category	hours/week	cost/hour (includes benefits)	24 months (104 Weeks)
Labor			
Economist	3	\$66.48	\$20,742
Labor Subtotal			
DOI indirect costs (16.84%)			\$3,493
Indirect subtotal			\$3,493
Total Labor			\$24,235
TOTAL ESTIMATED COSTS			\$24,235

PMB Personnel:

The Economist position is currently held by Christian Crowley. Christian Crowley is an economist at DOI Headquarters. Mr. Crowley provides economics assistance to the Ecological TWGs. He also participates in the identification of restoration requirements for injured resources.

6.1.4 DOI-Solicitor's Office Costs

6.1.4.1 May 1, 2013 to March 31, 2014 Incurred Costs

The DOI Solicitor's Office provides NRDA legal support for DOI bureaus, including the FWS and BLM.

6.1.4.2 Estimated Assessment Costs

The DOI Solicitor's assessment costs incurred from May 1, 2013 to March 31, 2014 are \$10,063. Appendix A contains documentation of incurred costs.

The Solicitor's Office resource requirements consist of labor and travel costs for a total of \$15,204 as estimated below.

Table 6-7: Projected costs associated with the DOI Solicitor's Office conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Attorney-Advisor Office of the Solicitor	Total Hours 24 months (104 weeks)	Hourly Rate \$74.69 (salary, benefits, and indirect costs)*	Total Labor	Total Travel (4 trips - Trustee mtgs, site visit, brief management)	Total Labor and Travel
	150 hours	*Rate may increase due to salary increase or SOL annual calculation of overhead	\$11,204	\$4,000	\$15,204

Solicitor's Office personnel:

Ann Umphres is currently the DOI Solicitor assigned to this matter. She is located in the DOI Solicitor's Office, Rocky Mountain Region in Lakewood, CO. Solicitor costs include activities to assess natural resource damages under OPA Sections 1002(b)(2)(A) and 1006(c), including restoration planning and the development of a plan for restoration, rehabilitation, replacement or acquisition of the equivalent of the natural resources under DOI trusteeship, public notice and comment activities, trustee coordination, administrative activities, and participation in conference calls and meetings with Trustees and with EMPCo.

6.2 State of Montana Costs

6.2.1 Natural Resource Damage Program Costs

6.2.1.1 May 1, 2013 to March 31, 2014 Incurred Costs

Natural Resource Damage Program (NRDP) assessment costs incurred from May 1, 2013, to March 31, 2014, are \$178,530. Appendix A contains documentation of incurred costs.

6.2.1.2 Estimated Assessment Costs

The NRDP's estimated future resource requirements consisting of labor, travel, and contractor costs for the two years of effort is \$673,211. The activities included in this estimate are provided in Section 4. Over the time period covered by this estimate, some staffing changes may occur, including reassignment of personnel and changes in hourly rates. Estimates in the table below are based on present information. The travel estimate is based on costs for trips by NRDP staff within Montana to meet with co-Trustees, EMPCo, or to provide Trustee oversight during studies.

The NRDP will continue its contracts with Stratus Consulting and LP Consulting LLC. Stratus Consulting and LP Consulting LLC provide technical support to the Trustee Council and to Trustees' technical working groups (TWGs) for assessment activities. The proposed scopes of work for Stratus Consulting's tasks and LP Consulting's tasks are provided in Appendix B, and include staff time and travel costs. NRDP will also continue its contract with Headwaters Pathology. Headwaters Pathology will continue to review, perform and assist with histopathological assessments related to aquatic injury. NRDP will also continue its contract with Portage Incorporated. Portage will continue to assist with in-field data collection, oversight and other support. NRDP will also continue its contract with Kestrel Aerial Services, Incorporated to provide aerial imagery of the Yellowstone River at certain river stages. In addition, NRDP will continue its contract with Bioeconomics, Incorporated. Bioeconomics, in consultation with Stratus, will develop a contingent valuation survey instrument, a sample design, and implementation of pretesting and final survey. The proposed scope of work for Bioeconomics' tasks is provided in Appendix B, and includes staff time and travel costs.

Table 6-8: Projected costs associated with the State of Montana Natural Resource Damage Program conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Expense Category	hours/week	cost/hour (includes benefits)	24 months (104 Weeks)
Labor			
Case Manager/Supervising Assistant Attorney General	7	\$56.00	\$40,768
Assistant Attorney General	7	\$53.50	\$38,948
Environmental Science Specialist	7	\$42.00	\$30,576
Administrative Specialist	1	\$35.50	\$3,692
Labor Subtotal			\$113,984
NRDP indirect costs (8%)			\$9,119
Total Labor			\$123,103
Travel			
Travel within MT (3 staff x 4 trips x 2 nights/trip)			\$3,645
Contracts			
Stratus Consulting			\$196,098
LP Consulting			\$78,765
Bioeconomics			\$250,000
Portage			\$5,000
Headwaters Pathology			\$10,000
Kestrel Aerial Services – 3 flights			\$6,600
Total Contracts			\$ 546,463
TOTAL ESTIMATED COSTS			\$ 673,211

Natural Resource Damage Program Personnel:

The Case Manager /Supervising Assistant Attorney General position is currently held by Rob Collins. Mr. Collins provides overall management and supervision of the State's NRDA activities. Mr. Collins reviews documents and work products associated with the Trustee claim, and assists with the development of budgets. Mr. Collins also performs certain legal work relating to those activities, such as compliance with any operating MOAs or MOUs. Mr. Collins also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Collins coordinates the work of the State's staff and its consultants.

The Assistant Attorney General position is currently held by Mary Capdeville. Ms. Capdeville provides legal advice relating to the NRDA activities. Ms. Capdeville also serves as the backup for the Case Manager / Supervising Assistant Attorney General, and participates in conference

calls and meetings with Trustees and with EMPCo. In addition, Ms. Capdeville coordinates certain work of the State's staff and its consultants.

The Environmental Specialist position is currently held by Doug Martin. Mr. Martin is assigned to work on and manage certain technical aspects of the State's NRDA activities. Mr. Martin, along with FWP staff, provides oversight of field work and data analysis. Mr. Martin also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Martin assists in coordinating the work of the State's consultants.

Accounting and administrative assistance is currently being provided by Kathy Coleman.

6.2.2 Fish, Wildlife & Parks Costs

6.2.2.1 May 1, 2013 to March 31, 2014 Incurred Costs

Fish, Wildlife & Parks (FWP) assessment costs incurred from May 1, 2013, to March 31, 2014, are \$3,503. Appendix A contains documentation of incurred costs.

6.2.2.2 Estimated Assessment Costs

The FWP's estimated future resource requirements consisting of labor, travel, and contractor costs for the two years of effort is \$60,723. The activities included in this estimate are provided in section 4. Over the time period covered by this estimate, some staffing changes may occur, including reassignment of personnel and changes in hourly rates. Estimates in the table below are based on present information. The travel estimate is based on costs for trips by FWP staff within Montana to meet with co-Trustees, EMPCo, or to provide Trustee oversight during studies.

Table 6-9: Projected costs associated with the State of Montana Fish, Wildlife & Parks conducting assessment activities as part of the Yellowstone River Oil Spill Natural Resource Damage Assessment

Expense Category	hours/ week	cost/hour (includes benefits)	24 months (104 Weeks)
Labor			
Region 5 Operations Manager	2	\$53.30	\$11,086
FWP Program Manager	1.5	\$43.60	\$6,802
Aquatic Biologist	1.5	\$33.80	\$5,273
Wildlife Resource Conservation Manager	1.5	\$41.40	\$6,458
Fishery Resource Conservation Manager	1.5	\$47.50	\$7,410
Stream Protection Act Coordinator	2	\$34.95	\$7,270
Labor Subtotal			\$44,299
FWP indirect costs (18.75%)			\$8,306
Total Labor			\$52,605
FWP boat & driver (3 day)			\$1,650
Travel			
Travel within MT (6 staff x 4 trips x 2 nights/trip)			\$6,468
TOTAL ESTIMATED COSTS			\$60,723

Fish, Wildlife & Parks Personnel:

Region 5 Operations Manager position is currently held by Gary Hammond. Mr. Hammond provides overall management and supervision of Fish, Wildlife & Parks Region 5, including any Region 5 involvement in NRDA activities. Mr. Hammond also participates in conference calls and meetings with Trustees and with EMPCo, and assists in the coordination with local groups and other interested parties. In addition, Mr. Hammond coordinates with the State's consultants.

The FWP Program Manager position is currently held by Robert Gibson. Mr. Gibson coordinates with local groups and other interested parties, and compiles information and photographs to aid with NRDA activities. Mr. Gibson also participates in conference calls and meetings with Trustees and with EMPCo.

The Aquatic Biologist position is currently held by Michael Ruggles. Mr. Ruggles is assigned to work on technical aspects of the State's NRDA activities related to aquatics. Mr. Ruggles, in coordination with NRDP staff, performs field work and data analysis related to aquatics. Mr. Ruggles also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Ruggles assists in coordinating the work of the State's consultants related to aquatics.

The Wildlife Resource Conservation Manager position is currently held by Raphael Mulé. Mr. Mulé is assigned to work on technical aspects of the State's NRDA activities related to wildlife resources. Mr. Mulé, in coordination with NRDP staff, performs field work and data analysis

related to wildlife resources. Mr. Mulé also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Mulé assists in coordinating the work of the State's consultants related to wildlife resources.

The Fishery Resource Conservation Manager position is currently held by Kenneth Frazer. Mr. Frazer is assigned to work on technical aspects of the State's NRDA activities related to fishery resources. Mr. Frazer, in coordination with NRDP staff, performs field work and data analysis related to fishery resources. Mr. Frazer also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Frazer assists in coordinating the work of the State's consultants related to fishery resources.

The Stream Protection Act Coordinator / Fluvial Geomorphologist position is currently held by Beau Downing. Mr. Downing is assigned to work on technical aspects of the State's NRDA activities related to fluvial geomorphology. Mr. Downing, in coordination with NRDP staff, performs field work, data analysis, and reports related to fluvial geomorphology, including LWD piles. Mr. Downing also participates in conference calls and meetings with Trustees and with EMPCo. In addition, Mr. Downing assists in coordinating the work of the State's consultants related to fluvial geomorphology.

7. Restoration Alternatives Evaluation and Development

7.1 Restoration Goals

Under OPA, the Trustees are authorized to develop and implement a plan to restore impacted resources. The purpose of this effort is to ensure restitution for the injuries to natural resources and the services they provide. Restitution may take the form of resource restoration, rehabilitation, replacement, or acquisition of equivalent natural resources and/or services. NRDA restoration projects should not include legally mandated requirements and restoration projects that would otherwise occur.

7.2 Restoration Project Identification

As required by 15 CFR 990.53(a)(2), the Trustees will consider a reasonable range of restoration options before selecting their preferred alternatives. Appropriate restoration alternatives will be identified through consultations, literature reviews, discussions among Trustees, and with other entities including, but not limited to, local government authorities, conservation districts and other resource management units, and local watershed improvement consortia

7.3 Restoration Criteria and Project Selection Process

Natural resource damage regulations under OPA require the Trustees to consider six criteria when evaluating restoration options. The Trustees for this case will use the criteria to select restoration projects and project locations that reflect the geographic area affected by the spill and address the diversity of resource injuries resulting from it. If the Trustees conclude that two or more alternatives are equally preferable based on these factors, the Trustees will select the most cost-effective alternative.

Trustees will base their selection on the following six criteria:

1. The cost to carry out the alternative;
2. The extent to which each alternative is expected to meet the trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses;
3. The likelihood of success of each alternative;
4. The extent to which each alternative will prevent future injury as a result of the incident and avoid collateral injury as a result of implementing the alternative;
5. The extent to which each alternative benefits more than one natural resource and/or service; and
6. The effect of each alternative on public health and safety.

This Claim includes the Trustees' costs associated with the development and review of restoration project ideas and evaluation that are accomplished in tandem with the injury assessment.

7.4 Development of Restoration Plan

OPA requires that damage claims be based upon a plan developed with opportunity for public review and comment. To meet this requirement, the Trustees plan to develop a Draft and Final Yellowstone River Oil Spill Restoration Plan/Environmental Assessment (Restoration Plan) and any other necessary NEPA documents, with an opportunity for public review of and comment on the draft plan.

The Restoration Plan will include:

1. A summary of injury assessment procedures used;
2. A description of the nature, degree, and spatial and temporal extent of injuries resulting from the incident;
3. The goals and objectives of restoration;
4. The range of restoration alternatives considered, and a discussion of how such alternatives were developed and evaluated;
5. Identification of the Trustees' tentative preferred alternative(s);
6. A description of past and proposed involvement of the responsible party in the assessment; and
7. A description of monitoring for documenting restoration effectiveness, including performance criteria that will be used to determine the success of restoration or need for interim corrective action.

The Restoration Plan is not included in the two year timeline covered by this Claim, but the Trustees' actions during these two years will result in progress toward the Restoration Plan. The claim for development of the Restoration Plan will be presented separately from this current Claim, once associated costs have been developed. Similarly, the costs of implementing the Restoration Plan are also not included in the current Claim.

8. Points of Contact

8.1 U.S. Department of Interior

Karen J. Nelson
U.S. Fish and Wildlife Service - Montana Field Office
Environmental Contaminants Specialist
585 Shepard Way, Suite 1
Helena, MT 59601
Phone: (406) 449-5225 x210
karen_nelson@fws.gov

Janet Youngdahl
U. S. Bureau of Land Management
Program Analyst
National Operations Center
Branch of Program Operations
Denver Federal Center, P.O. Box 25047
Denver, CO 80225
Phone: (303) 236-6282
janet_youngdahl@blm.gov

Ann C. Umphres
U.S. Department of Interior
Attorney-Advisor
Office of the Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215
Phone: (303) 231-5353 x343
ann.umphres@sol.doi.gov

8.2 State of Montana

Robert G. Collins
Supervising Assistant Attorney General
Montana Department of Justice
Natural Resource Damage Program
1301 East Lockey Avenue
P.O. Box 201425
Helena, MT 59620-1425
(406) 444-0205
rcollins@mt.gov

Mary Capdeville
Assistant Attorney General
Montana Department of Justice
Natural Resource Damage Program
1301 East Lockey Avenue
P.O. Box 201425
Helena, MT 59620-1425
(406) 444-0205
mcapdeville@mt.gov