



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
ALASKA REGION

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January 24, 2005

Via Facsimile (279-4239) and U.S. Mail

Herbert H. Ray, Jr., Esq.  
Douglas R. Davis, Esq.  
Keesal, Young & Logan  
Suite 650  
1029 West Third Avenue  
Anchorage, AK 99501-1954

Re. M/V Selendang Ayu - Cooperative Reference Beach Study

Dear Sirs:

I am writing to follow up on our meetings of Monday, January 10 and Thursday, January 13, 2005, during which we discussed the performance of a cooperative reference beach study by the U.S. Fish and Wildlife Service (FWS) and the responsible parties (RPs) in connection with the evaluation of seabird mortality resulting from the M/V Selendang Ayu incident. I understand that the parties have reached agreement on the following terms of the cooperative reference beach study:

1. The parties have prepared three mutually acceptable protocols (Protocols). The Protocols are entitled: (1) Joint Protocol for Determining Levels of Bird Background Mortality, (2) Joint Protocol for Assessment of Bird Carcasses Lost to Scavengers and to Rewash, and (3) Joint Protocol for Determining Searcher Detection [sic] Efficiency. Copies of the Protocols, which have been signed by Vernon Byrd and Dan Varoujean for the FWS and the RPs, respectively, are attached.

2. The RPs will pay all costs associated with performing the reference beach activities. Costs which will be paid directly by the RP include the costs of providing aerial and land based platforms for the performance of the work. Costs which shall be reimbursed by the RPs within thirty (30) days of receipt of appropriate cost documentation include travel and transportation costs of FWS personnel from their duty stations to Dutch Harbor, labor costs and per diem.

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3. Unless mutually agreed by both parties, data collected pursuant to and in accordance with the Protocols shall not be challenged by either party and shall be the only data used by either party for determining background mortality of seabirds in connection with releases of oil which have occurred to date, i.e., January 24, 2005, from the M/V Salendang Ayu. In the event that there are additional releases, however, the parties understand that it may be necessary or desirable to conduct additional reference beach studies.

If the RPs are in agreement with the terms of the cooperative reference beach study as described above, please sign the acknowledgment line below and return to me (my fax number is 271-4143) by the close of business on Wednesday, January 26, 2005. In addition, while I assume that Dan Varoujan is authorized by the RPs to sign documents, such as the Protocols, on the RPs' behalf in connection with this matter, I would appreciate it if you would confirm that my assumption is in fact correct.

I look forward to hearing from you.

Sincerely,



Lisa M. Toussaint

By signing on the line below, I acknowledge that the RPs are in agreement with the terms of the cooperative reference beach study as described herein.



Signature

1/26/05

Date

Enclosures

- cc: Jennifer Kohour, U.S. Fish & Wildlife Service
- Deborah Rutyna, U.S. Fish & Wildlife Service
- Greg Siekaniac, U.S. Fish & Wildlife Service
- Regina Bell, U.S. Department of Justice
- Craig O'Connor, U.S. Department of Commerce
- Alex Swidzinski, State of Alaska