

LAW OFFICE
KERRAL, YOUNG & LOGAN
A CORPORATION

SUITE 500
1022 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501-
1984
(907) 278-5827
FACSIMILE
(907) 278-6838
www.kylaw.com

BARTHEL C. KERRAL, JR.
STEPHEN YOUNG
MIRIAM E. CLARKE
PETER R. ROYDEN
SCOTT T. FRANTZ
TERRY ROSS
JAMES D. COFFEY
WILLIAM H. GORHAM, JR.
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NEAL SCOTT DORR
BOB BUDDE
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SCOTT B. HERRING
SCOTT B. BARR
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TAMARA LARSEN STELLON

ELIZABETH A. LOGAN
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GARY D. BRADY
STE ALLEN
WILLIAM TULLIAN LARSEN
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JAMES H. HERRALD
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RICHARD A. O'NEILL
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OF COURSE

RICHARD L. LARSEN
GREGORY E. COFFIN
BRYAN M. HERRALD
DAVID W. TAYLOR

January 27, 2006

- * ADMITTED IN ALASKA
 - * ADMITTED IN WASHINGTON
 - * ADMITTED IN WASHINGTON & CALIFORNIA
 - * ADMITTED IN ALASKA & CALIFORNIA
 - * ADMITTED IN DISTRICT OF COLUMBIA & FLORIDA
 - * REGISTERED FOREIGN LAWYER WITH THE LAW SOCIETY OF HONG KONG & ADMITTED IN NEW YORK
 - * SOLICITOR ADMITTED IN ENGLAND, WALES AND NORTHERN IRELAND
- ALL OTHERS ADMITTED IN CALIFORNIA

Via Facsimile - 271-5827

Gina Belt
United States Department of Justice
Environment & Natural Resources Division
801 "B" Street, Suite 504
Anchorage, AK 99501-3657

Re: SELENDANG AYU
Our File No.: 4404-56

Dear Gina:

I am writing regarding the NRDA 'trustees' decision to conduct a cytochrome P450 study of sea ducks in the vicinity of the SELENDANG AYU wreck in February 2006. The trustees approached Gary Mauseth earlier this month, and asked whether the RP would be willing to fund the study, which we are told will cost \$250,000.

We cannot agree to fund the study at this time because the trustees have not provided us with enough information for us to conclude that the study is justified. Although Gary Mauseth was provided with a barebones summary of the study, it is not detailed enough for us to determine whether the study design is technically valid, nor can we determine whether the results of the study will be relevant to determining injury resulting from the SELENDANG AYU oil spill.

We note that the study will be conducted in February 2006, long after the grounding of the SELENDANG AYU. The wreck has not released any appreciable quantities of oil since October 2005, when it broke apart in a storm. Although a small amount of oil was released in that event, most of the released oil was driven ashore near the wreck. Assuming a few ducks might have been exposed to SELENDANG AYU oil this winter, the trustees have no way of telling whether the eiders tested as part of the study protocol were exposed to oil from the SELENDANG AYU. There is no reason to assume that ducks that may have been

LONG BEACH OFFICE
400 CHURCHWAY
P.O. BOX 1780
LONG BEACH, CA 90801-1780
(562) 435-7600
FACSIMILE (562) 435-7616

SAN FRANCISCO OFFICE
SUITE 1800
FOUR BRANCH STREET
SAN FRANCISCO, CA 94111
(415) 398-6888
FACSIMILE
(415) 391-7125 - (415) 391-7788

SEATTLE OFFICE
SUITE 1810
1304 FIFTH AVENUE
SEATTLE, WA 98101
(206) 464-9700
FACSIMILE (206) 464-9888

MIAMI OFFICE
1000 THE CENTRE MARK
387 CORNERS ROAD CENTRAL
MIAMI BEACH
(305) 556-1775
FACSIMILE (305) 556-1710

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exposed to oil from the wreck in October will still be in the vicinity of the wreck in February, or that their exposure to oil was such that they would still show elevated Cytochrome P450 levels in February.

There is also no way of knowing whether an eider with elevated Cytochrome P450 levels in February was exposed to oil from the SELENDANG AYU, or from some other pollutant or source of oil. As the trustees are well aware, there are other sources of pollution in Dutch Harbor and the Bering Sea, and the Fish and Wildlife Service had already documented elevated Cytochrome P450 levels in ducks in nearby Unaslaska Bay before the SELENDANG AYU spill occurred.

Given how doubtful it is that the study will provide meaningful data for injury determination purposes, we are very doubtful that the \$250,000 cost of the study can be justified.

In summary, we have doubts that the proposed Cytochrome P450 test will provide meaningful data that will be useful in evaluating injury to sea ducks as a result of the SELENDANG AYU oil spill. As such, the \$250,000 that will be spent on the project appears to be unreasonable and unjustified, and the RP objects to paying for any part of the study.

During our meetings last year in Seattle and Anchorage, the trustees advised that they wished to work with the RP in a cooperative manner. The last minute notification regarding this project is not consistent with a cooperative natural resource damages assessment. As we discussed earlier this week, the RP has yet to receive a single report or study result from the trustees regarding injuries to resources, including basic information such as bird mortality data or reports on wildlife observations from over-flights or vessels. Consequently, we have no way of knowing whether significant sea duck mortality or exposure to oil occurred as a result of the spill. Absent such basic information, we have a hard time evaluating proposals such as the one for the Cytochrome P450 study. In contrast, the RP has provided the trustees with all of the data and reports that the trustees have requested. You advised that the trustees are working on injury reports that will be provided at the February 17 meeting, and that some of the delays are the result of contractors who have missed deadlines in providing information to the trustees.

I hope the trustees are prepared to provide meaningful information regarding injury determination at our meeting in February, and to outline the full

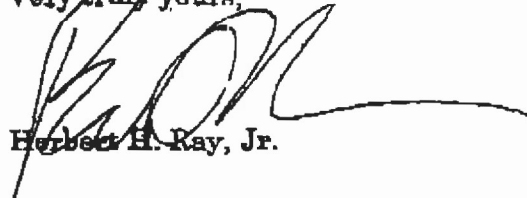
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scope of restoration projects that they are considering. As you know, the RP would like to move as expeditiously as possible towards resolving the NRDA claim. Further progress is unlikely until our consultants have been provided with this information.

I would be happy to discuss these issues with you further, should you have any questions.

Very truly yours,



Herbert H. Ray, Jr.

HHR:kj (AA141873)
cc: Steve Poole
Chris Abrams