



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
Suite 4470
501 West Ocean Boulevard
Long Beach, CA 90802

December 7, 2006

Andrew Davis
LeBoeuf, Lamb, Greene & MacRae LLP
Goodwin Square
225 Asylum Street, 13th Floor
Hartford, CT 06103

Dear Mr. Davis:

On or about November 11, 2005, the articulated tug barge DBL-152, owned and operated by your client, K-Sea Transportation, released approximately 3 million gallons of slurry oil into federal waters of the Gulf of Mexico, approximately 35 nautical miles south of Sabine Pass, Texas and Calcasieu Pass, Louisiana. This incident constitutes an actual or substantial threat of a discharge of oil that may give rise to liability for Natural Resource Damages (NRD) under the Oil Pollution Act (OPA), 33 U.S.C. §§ 2701 *et seq.* The National Oceanic and Atmospheric Administration (NOAA) is the natural resource trustee with responsibility for natural resources actually or potentially injured as a result of this incident.

Following the notice of the discharge, NOAA made the determinations required by 15 C.F.R. 990.41 that based on information received from the on-scene coordinators and on data gathered during field investigations:

1. An incident has occurred, as defined in 15 CFR 900.30, in that oil was discharged into federal waters;
2. The discharge was not permitted under applicable law; from a public vessel; or from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §§ 1651 *et seq.*; and
3. NOAA has determined that natural resources under its trusteeship have been or may have been injured as a result of this discharge.

Based on the determinations above, NOAA has determined to proceed with the Preassessment Phase of the Natural Resource Damage Assessment (NRDA) process. After the Preassessment Phase is complete, NOAA will determine whether or not to proceed with the Restoration Planning Phase of the NRDA process.

The goal of the NRDA process is to efficiently and effectively restore injured natural resources and their services to baseline conditions and compensate the public for interim losses to both ecological services and human use. Under 15 C.F.R. 990.14, trustees are required to invite the participation of known Responsible Parties (RPs) in the assessment process to best facilitate achieving this restoration goal. Accordingly, this letter shall serve as K-Sea's invitation to participate.

A written response is required by January 22, 2007, to confirm K-Sea's desire to participate in the assessment. Please send your response to NOAA General Counsel for Natural Resources, 501 W. Ocean Blvd., Suite 4470, Long Beach, California 90802 (Attn: Chris Plaisted). If you have any questions or comments concerning this matter, feel free to contact me at (562) 980-3237. NOAA will contact you to determine a mutually acceptable level of K-Sea's involvement in the assessment process, consistent with the provisions of 15 CFR 990.14(c).

Sincerely,



Christopher J. Plaisted
Attorney-Advisor for Natural Resources

cc: Troy Baker
Tony Penn