



Robin Bullock  
Director, NRD&ES

**BP Gulf Coast Restoration Organization**  
501 Westlake Park Blvd, Houston, TX 77079  
5900 East Benson Blvd, Anchorage, AK 995080

Tel: 281-366-0748 (HOU)  
Cell: 406-691-1130  
Email: Robin.Bullock@bp.com

July 28, 2011

**VIA EMAIL AND U.S. MAIL**

Cynthia K. Dohner  
Regional Director, FWS Southeast Region  
Fish and Wildlife Service  
1875 Century Boulevard  
Atlanta, GA 30345

Re: DOI Interim Partial Claim for Assessment Costs

Dear Ms. Dohner:

I would like to thank you for the opportunity to discuss the partial claim and status of NRD work on July 18. Per our discussions with the DOI representatives, please find attached a table outlining BP's position on funding for each of the studies described in DOI's July 1, 2011 Interim Partial Claim for Assessment Costs.

BP continues to be committed to a cooperative NRD assessment process, including funding for reasonable assessment costs. As indicated in the table:

- BP is willing to fund certain studies for which the Trustees have already completed independent implementation, contingent on timely receipt of associated data. We anticipate memorializing this understanding in a letter agreement.
- Funding for the proposed cooperative Trustee/BP data interpretation efforts is approved, but work plans for each of these efforts or resource groups are needed to support funding, schedule, and concurrence on scope of work.
- Decisions to fund 2012 data collection will rely on 2010 and 2011 data, much of which is pending, as well as evaluation of the assessment and restoration plan progress towards resolution. Therefore, BP is not in a position to commit to funding for 2012 data collection plans at this time.
- In the few instances where a decision has been made not to fund a particular study, BP will provide follow-up letters explaining the reasons for these decisions, unless a response has already been provided.

With respect to the Piping Plover study (not mentioned in the Interim Partial Claim), BP was disappointed that an integration agreement was not reached, and that we received notice of the supplemental Summer Plan after implementation was already underway. In prior correspondence, we indicated that we would consider funding the Gulf of Mexico sighting and banding work, as well as the breeding grounds resighting work, in exchange for the data associated with this effort. On further consideration, BP would agree to reimburse the Trust for the cost of the full Piping Plover study effort (as described in the two study plans received to date) in exchange for timely receipt of all associated data. We expect to provide a proposed letter agreement to this effect.

Finally, as discussed, BP is also committed to providing the Trustees with copies of our independently-collected data, including 2010 and 2011 overflight data and data from our 2011 colonial nesting bird productivity study. We appreciate DOI's similar commitment to provide its NRDA data, including independently collected data as well as outstanding cooperative data.

We appreciate your participation in our meeting last week. We look forward to further discussions and to a productive relationship as we move ahead.

Sincerely,

Handwritten signature of Robin Bullock in black ink, with a stylized signature that includes the letters 'LR' at the end.

Robin Bullock  
Director NRD&ES

Cc via email: Administrative Record  
Charles McKinley, DOI Solicitors Office  
John Carlucci, DOI Solicitors Office  
Harriet M. Deal, DOI Solicitors Office  
Greg Masson, DOI  
Pete Tuttle, USFWS  
Jim Hoff, NPFC  
Brian Israel, Arnold & Porter, LLP  
Jean Martin, BP Legal  
Larry Malnor, BP

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**BP's Preliminary Response to DOI's Interim Partial Claim for Assessment Costs  
Deepwater Horizon Spill**

<b>Task</b>	<b>Budget</b>	<b>Status of BP's Intention to Fund</b>
<b>Turtles</b>		
Nesting and Hatchling Kemp's Ridley-2011	\$41,979	BP agrees to fund pending execution of cooperative study agreement.
Nesting and Hatchling Kemp's Ridley-2012	\$344,725	2012 activities on hold at this time. BP agrees that we may revisit this discussion in 1Q depending on outcome of anticipated discussions.
Nesting and Hatchling Loggerhead-2011	\$70,000	BP agrees to fund pending execution of cooperative study agreement.
Nesting and Hatchling Loggerhead-2012	\$178,090	2012 activities on hold at this time. BP agrees that we may revisit this discussion in 1Q depending on outcome of anticipated discussions.
Turtle Analytical Plan-2010	\$1,203,243	Plan is currently under review.
Turtle Analytical Plan-2011	\$1,494,781	Plan is currently under review.
<b>Birds</b>		
Beach Habitat Carcass Persistence	\$244,000	Completed cooperative plan with agreement by BP to fund.
Marsh Edge Searcher Efficiency	\$198,000	BP does not support an alternative approach to injury assessment in the marsh. Letter to be provided will detail why we disagree with the study and elect not to fund.
Marsh Edge Carcass Persistence	\$200,000	BP does not support an alternative approach to injury assessment in the marsh. Letter to be provided will detail why we disagree with the study and elect not to fund.
Carcass Drift	\$1,076,000	Ongoing cooperative plan with agreement by BP to fund.
Colonial Waterbird Photographic Census	\$972,000	BP was disappointed not to have been able to participate in this study and to have been forced to collect and pay for duplicative data. We will agree to funding of this study on the condition of timely data sharing, which is to be memorialized in a letter agreement.
Pelagic Oiled Bird Photo Evaluation	\$72,000	BP does not support this as a cooperative study for reasons stated in person and to be provided for the administrative record. The relevant data is in the Trustees' possession and additional analysis is not necessary or reasonable.
Secretive Marsh Bird Helicopter Calibration	\$156,000	BP has elected not to support this work scope. We believe that the potential safety risk is too high, particularly given that sufficient data already exist to address this resource.
Suppl. to Gulf Coast Breeding, Beach-Nesting Population Surveys	\$260,000	Independent implementation of field work is complete. BP will fund contingent upon receipt of associated data.
UV Screening to Detect Petroleum on Bird Plumage	\$63,000	To be determined based on review of plan (currently in development).
Wildlife Ops Data Assessment for Beached Bird Model Use	\$164,000	BP does not support an alternative approach to injury assessment in the marsh. Letter to be provided will detail why we disagree with the study and elect not to fund.

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<b>Task</b>	<b>Budget</b>	<b>Status of BP's Intention to Fund</b>
Avian Injury Quantification Technical Support	\$775,000	Willing to fund provided that written plan is developed and implemented cooperatively.
Blood Physiology	\$125,000	BP is willing to fund.
Avian Toxicity (Plan Development and Implementation)	\$4,785,000	To be determined pending results of blood physiology study.
<b>Other</b>		
Gulf Sturgeon	\$1,074,768	Currently under review; will get back to Trustees no later than first week of August.
Beach Mice	\$66,360	Completed cooperative plan with agreement by BP to fund.
2011 Aerial Imagery Assessment Costs	\$2,506,000	Cooperative funding agreed by BP; however, need clarification that photo evaluation is not interpretation. Work plan(s) required to support funding, scheduling, and concurrence on scope of work.
2012 Aerial Imagery Assessment Costs	\$2,534,000	2012 activities on hold at this time. BP agrees that we may revisit this discussion in 1Q depending on outcome of anticipated discussions.
Response Injury and Sandy Beach	\$158,366	BP agrees that this is to be a cooperative work effort and funded by BP.
Near Shore Benthic Prey Organisms	\$961,000	BP agrees that this is to be a cooperative work effort and funded by BP, provided the sample collection addresses existing data gaps.
JELA SAV Plan	\$142,506	Currently a cooperative plan with agreement by BP to fund.
Quality Assurance and Quality Control	\$153,500	BP agrees that this is to be a cooperative work effort and funded by BP; however BP needs a work plan to confirm scope, schedule and budget.
Expert Consultation	\$1,504,948	BP supports funding consulting experts who are providing assistance to the Trustees for identified and agreed upon scopes (e.g., REA modeling), but not litigation experts.
Early Restoration Planning	\$450,000	BP agrees that this is to be a cooperative work effort and funded by BP; however BP needs a work plan to confirm scope, schedule, and budget.