3rd June 2008

Anders Holmberg
Claims Manager,
The Swedish Club

Dear Anders,

SELENDANG AYU – Draft Study Plan for Lingering Oil

In response to your request for ITOPF to review the comments made by the RP's experts please find my thoughts below. I have read the very thorough comments made by the authors but it is not clear to me whether the comments are made in regard to a later draft of the study plan or the original draft dated 7th February. If a later draft exists, please can we see a copy? Thank you.

During the Waypoint Conference call held on 25th February, the Trustees stated that their aim was to determine i) is oil present? ii) where is it? iii) is it toxic? iv) is it bioavailable? With regard to their intent to try to locate oil irrespective of the tidal zone, I can see that there may be merit in their strategy as it will address their aims i) and ii)- in part, but the information will be qualitative and less meaningful unless it is linked to aims iii) and iv). I do not recall that the Trustees wanted to quantify the remaining oil (I believe all parties accept that this would be unrealistic given the environment into which the oil was spilt). However, they did say that they wanted to know where oil was in case further clean-up needed to be contemplated. From our perspective, the driver for any further clean-up would be dependent on the threat of the remaining oil to sensitive resources, i.e. its toxicity and bioavailability, and I recall that this would also be the driver from the Trustees' perspective. Thus, the key measurements are toxicity and bioavailability of any remaining oil and how best to determine this.

Given that there appears to be serious reservations about the relevance and adequacy of the data that may be gathered using some of the methods considered by the Trustees, e.g. PEMDs, W-correlations, it would seem that a compromise could be reached by depending on 'tried and tested' methodology for determining toxicity and bioavailability (both in the USA and elsewhere in the world). There is a wealth of information on the value of using organisms (such as mussels) as a measure of bioavailability and we would recommend using this method. It has the advantage of providing relevant data for the needs of the Trustees in this case and is cost-effective. The additional data obtained from the PEMDs and weathering studies is unlikely to add to the quality of information gathered from the bioavailability testing using organisms and the chemical analysis to study weathering. Consequently, the PEMDs and W-correlations may be surplus to requirement and, given the comments made by the RPs experts, they may introduce unwarranted complexity into the discussion on how to interpret the data and relate the information to injury - ultimately, perhaps, causing delay in reaching agreement on the extent of injury.

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After three and half years, I would have thought that the key is finding the least contentious, cost-effective and scientifically defensible method to enable the Trustees to be able to defend their position to their stakeholders (and visa versa for the RP) when finally agreeing to restoration options. I would have thought that their (and the RP's) position would be strengthened by relying on these tried and tested methods rather than on methods where there is doubt about the applicability and quality of information.

If further research on these methods to enable them to be recognized as 'tried and tested' is required, other sources of funding should be sought for this. Therefore, I doubt whether the cost of validating the Short and Heintz weathering model for the SELENDANG AYU oil should be part of this programme, even if it were to be considered, unless it will significantly improve the quantity and/or quality of information.

Clearly, with the study due to take place in a few weeks, a mechanism to 'short-cut' the commenting period should be sought. What is the possibility of a meeting or conference call between the RPs experts and the Trustees to put 'pen to paper' and draft a revised study plan together?

In the spirit of ‘openness’ I would be grateful if you would also pass my comments to the Trustees and I remain willing to discuss my recommendations with either Party, as appropriate and needed.

I hope that my comments are helpful.

With best regards,

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