



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

August 2, 2019

DRAFT-ATTORNEY CLIENT PRIVILEGED & ATTORNEY WORK-PRODUCT

Via Electronic Mail and USPS

J. Gregory Smith, Senior Counsel
Marathon Petroleum Company LP
539 South Main Street
Findlay, OH 45840
jgsmith@marathonpetroleum.com

RE: Presentation to Responsible Party of for Natural Resource Damage Assessment Costs for the Marathon Big Creek Pipeline Oil Spill, Pursuant to 33 U.S.C. § 2713

Dear Mr. Smith:

This Presentment Letter is written on behalf of the state and federal trustees charged with public trust responsibilities for natural resources (the Trustees) injured and/or threatened by the March 20, 2018, Marathon Big Creek Pipeline Spill Incident (the Incident).¹ The Trustees have authority under the Oil Pollution Act (OPA) (33 U.S.C. §§ 2701 *et seq.*) and the Natural Resource Damage Assessment Regulations (15 C.F.R. Part 990) promulgated pursuant to OPA (OPA NRDA Regulations), to conduct a Natural Resource Damages Assessment (NRDA) of injuries to their trust resources caused by the Incident. The OPA NRDA Regulations, at 15 C.F.R. 990.27, set forth standards for trustees to consider in the selection of potential assessment procedures. The Trustees have considered those standards and have selected certain assessment procedures to determine and quantify such injuries.

By this letter, and pursuant to 33 U.S.C. § 2713, the Trustees present to Marathon a claim, in the sum of \$216,440.00 for estimated costs to implement an assessment of injuries to aquatic resources as described in the attached Assessment Plan. The assessment work identified in the Plan, will inform the development of restoration alternatives to address natural resource injuries caused by the Incident. The Assessment Plan addresses injury determination activities, as

¹The Trustees include the State of Indiana's Departments of Environmental Management and Natural Resources, and the U.S. Department of the Interior's Fish and Wildlife Service.

described at 990.51 of the OPA NRDA Regulations, and quantification activities as described in 990.52 of those regulations, but does not include those activities contemplated by the restoration selection provisions of those regulations. See 15 C.F.R. §990.53-56. Depending on the results of the assessment work described in the Plan to be funded by the amount set forth above, the Trustees will conduct restoration planning, including developing and evaluating restoration alternatives, and developing a restoration plan. Consequently, the claim presented herein is for injury assessment costs only.

Marathon has indicated a desire to participate in this NRDA process. Accordingly, you may remit payment of the amount set forth above in accordance with the attached payment instructions. If you wish to discuss the cooperative assessment process further, feel free to contact me or Nancy King, General Counsel, IDEM Office of General Counsel at 312-232-7694 or via email NKING@idem.in.gov.

Should Marathon decline to pay the above claim, it is the intent of the Trustees, in accordance with 33 U.S.C. § 2713 (c) and (d), to make a claim to the National Pollution Fund Center (NPFCC) upon the expiration of ninety (90) days from the date of the presentation of this claim to Marathon. If Marathon decides, in less than 90 days, not to fund some or all of the Trustee selected assessment activities, please advise us at your earliest opportunity so we may avoid unnecessary delay in filing a claim with the NPFCC to obtain funding for those activities. Thank you for your consideration in this matter.

Sincerely,



Sarah Shattuck
Attorney-Advisor
Branch of Environmental Restoration
Division of Parks and Wildlife

Enclosures

cc: (via email)

Daniel Sparks, FWS
Annette Trowbridge, FWS
Nancy King, General Counsel, Indiana Department of Environmental Management
John Carlucci, Assistant Solicitor, Branch of Environmental Restoration, Division of
Parks and Wildlife