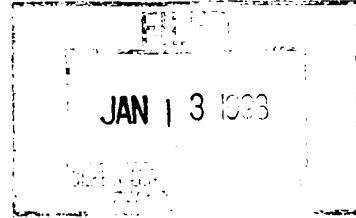


IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, and )  
 )  
 COMMONWEALTH OF VIRGINIA, )  
 DISTRICT OF COLUMBIA, )  
 )  
 Plaintiff-Intervenors, )  
 )  
 v. )  
 )  
 COLONIAL PIPELINE COMPANY, )  
 )  
 Defendant, )  
 )

1680  
Civil Action No. 97-~~1608~~-A

AGREED ORDER

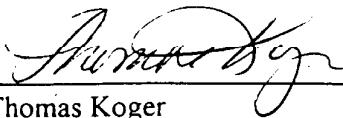
Upon the agreement of the parties it is hereby ORDERED that the Consent Decree shall be entered effective January 23, 1998, unless any party files a written objection before that date.

Date: January 13, 1998

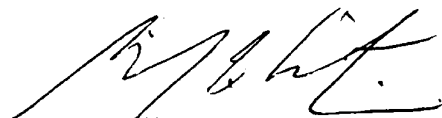
Claude M. Hilton  
Claude M. Hilton  
United States District Judge

Copied to M. Conde-tein 1/13/98

WE ASK FOR THIS:



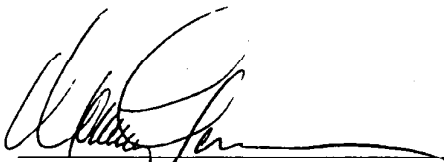
Thomas Koger  
Assistant Corporation Counsel  
Office of the Corporation Counsel  
District of Columbia  
441 Fourth Street, N.W.  
Washington, D.C. 20001  
(202) 727-6295



Michael D. Goodstein  
Environment and Natural Resources Division  
Environmental Enforcement Section  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044  
(202) 514-1111

Carl Josephson (MDS)

Carl Josephson  
Office of the Attorney General  
Commonwealth of Virginia  
900 East Main Street  
Richmond, Virginia 23219  
(804) 786-2071



Manning Gasch, Jr.  
Counsel for Colonial Pipeline Company  
Hunton & Williams  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219  
(804) 788-8342

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

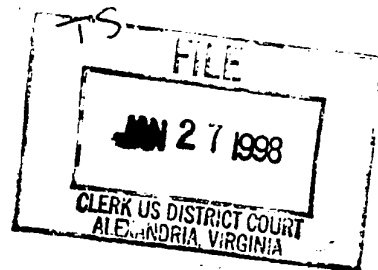
\_\_\_\_\_  
UNITED STATES OF AMERICA,  
COMMONWEALTH OF VIRGINIA,  
DISTRICT OF COLUMBIA,

Plaintiffs,

v.

COLONIAL PIPELINE COMPANY,

Defendant.  
\_\_\_\_\_



CIVIL ACTION NO. 97-1680-A

\_\_\_\_\_  
CONSENT DECREE  
\_\_\_\_\_

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TABLE OF APPENDICES

Appendix A is the Restoration Project List and Description of Natural Resource Restoration Projects.

Appendix B is a detailed outline to be followed in the production of Work Plans under this Consent Decree.

CONSENT DECREE

WHEREAS, concurrently with the filing of this Consent Decree ("Decree"), the United States of America, on behalf of the U.S. Environmental Protection Agency ("EPA") and the U.S. Department of the Interior ("DOI") (the National Park Service ("NPS") and the United States Fish and Wildlife Service ("FWS")), filed an action against Colonial Pipeline Company ("Colonial") pursuant to the Oil Pollution Act ("OPA"), 33 U.S.C. § 2701 et seq., and the Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq., seeking civil penalties and natural resource damages arising out of the discharge of oil into navigable waters of the United States and adjoining shorelines. This Decree resolves the claims raised in the United States' Complaint filed simultaneously with this Decree (the "Complaint").

WHEREAS, concurrently with the filing of this Decree, the Commonwealth of Virginia ("Virginia") filed an action against Colonial seeking natural resource damages and damage assessment costs arising out of the discharge of oil to navigable waters of the United States and adjoining shorelines pursuant to OPA and the CWA, and seeking response costs, natural resource damages, and, on behalf of the Virginia State Water Control Board and Thomas L. Hopkins, Director, Virginia Department of Environmental Quality, civil penalties, for the discharge of oil into or upon state waters and lands pursuant to the State Water Control Law ("SWCL"), Code of Virginia, Section 62.1-44.2 et seq. This Decree resolves claims raised in Virginia's Complaint filed simultaneously with the Decree.

WHEREAS, concurrently with the filing of this Decree, the District of Columbia (the "District") has filed an action seeking civil penalties and natural resource damages arising out of the discharge of oil into navigable waters of the United States and adjoining shorelines pursuant to OPA, the CWA, DC Water Pollution Control Act (DCWPCA), D.C. Code 6-921 et seq. This Decree resolves the claims raised in the complaints filed simultaneously with this Decree by Virginia and the District, as well as the Complaint (together the "Plaintiffs' Complaints").

WHEREAS, the United States, Virginia, the District, and Colonial agree that this Decree is fair, reasonable, in the public interest, and in furtherance of the statutory goals of OPA, the CWA, the SWCL and the DCWPCA, and will avoid difficult, prolonged and complicated litigation among the United States, Virginia, the District, and Colonial.

#### BACKGROUND

I. Colonial owns and operates a subsurface pipeline system for the transport of oil that runs from Pasadena, Texas to Linden, New Jersey. A portion of Line 3 of this pipeline system runs from Chantilly, Virginia to Dorsey Junction, Maryland (the "Pipeline").

1. On or about March 28, 1993, the Pipeline ruptured near Sugarland Run behind the Reston Hospital Center, 813 Town Center Parkway, Reston, Fairfax County, Virginia. Before the rupture was repaired, approximately 408,000 gallons (9700

barrels) of Fuel Oil No. 2 (also known as diesel fuel) were discharged into the environment (the "Spill").

2. Several federal, state and local agencies responded to the Spill. On April 2, 1993, EPA issued Colonial an Administrative Order, pursuant to Sections 311(c), (e) and (m) of CWA, 33 U.S.C. §§ 1321(c), (e) and (m), for the comprehensive assessment and cleanup of the Spill. Despite containment efforts, the area directly contaminated with oil consists of approximately 48 square miles of surface water, shorelines, islands and wetlands.

3. The United States, Virginia and the District have been engaged in the process of assessing natural resource damages and developing a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of such damaged natural resources. Colonial has proposed and the Parties have agreed, subject to the provisions in Section XII (RPL Work Plans) of this Consent Decree, that Colonial will implement a list and description of natural resource restoration projects attached hereto as Appendix A.

4. This Decree is a settlement of a contested matter. The Parties hereto dispute many factual and legal issues. Participation in this settlement does not constitute or represent any admission of law or fact by any Party.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED as follows:



## I. JURISDICTION

5. This Court has jurisdiction over the subject matter and over the Parties to this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355 and 1395(a); CWA Section 311(b)(7)(E), 33 U.S.C. § 1321(b)(7)(E); and OPA Section 1017(b), 33 U.S.C. § 2717(b) and any pendent state law claims, including the pendent claim by Virginia pursuant to Section 62.1-44.34:18C and 62.1-44.34:20C, Code of Virginia. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). Plaintiffs' Complaints in this action state claims upon which relief may be granted. Solely for the purposes of this Decree and its enforcement and Plaintiffs' Complaints, Colonial waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District and shall not challenge this Court's jurisdiction to enter and enforce this Decree. The Parties agree to be bound by the terms of this Decree and not to contest its validity in any subsequent proceeding arising from it.

## II. PARTIES BOUND

6. This Decree shall apply to and be binding upon and inure to the benefit of the United States, Virginia, the District, and Colonial, its officers, directors, successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Colonial under this Decree.

### III. DEFINITIONS

7. Unless otherwise provided herein, whenever terms listed below are used in this Decree or in the appendices attached hereto and incorporated hereunder, terms used in this Decree that are defined in OPA or in regulations promulgated under OPA shall have the meaning assigned to them in OPA or in such regulations. Whenever terms listed below are used in this Decree, the following definitions shall apply:

"Appendix" means one of the two alphabetically designated attachments to this Decree labeled as an appendix.

The "Restoration Project List and Description" ("RPL") means the list and description of projects, attached as Appendix A, or as modified pursuant to Section XII (RPL Work Plans) of this Decree, to restore, rehabilitate, replace, or acquire the equivalent of, natural resources and/or the services they provide and to compensate the public for interim losses resulting from injury to or destruction of natural resources until the completion of restoration. The RPL includes a conceptual description of all projects, performance standards and monitoring requirements for completion of that work.

"Damage Assessment Costs" shall mean the costs incurred by the Natural Resource Trustees of assessing damages from the Spill as defined in Section 1001(5) of OPA, 22 U.S.C. § 2701(5).

"Decree" means this Consent Decree and all appendices attached hereto. In the event of a conflict between this Decree and any appendix, this Decree shall control.

"Day" means a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"FWS" means the United States Fish and Wildlife Service, an agency of the United States Department of the Interior, and any successor departments or agencies of the United States.

"NPS" means the National Park Service, an agency of the United States Department of the Interior, and any successor departments or agencies of the United States.

"Natural Resources" shall mean land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, Virginia or the District.

"Natural Resource Trustees" refers to the designated federal and state officials who may act on behalf of the public as trustees for the natural resources in and around Sugarland Run and the Potomac River; the United States Department of the Interior, represented by the United States Fish and Wildlife Service and the National Park Service, is the federal trustee for

natural resources and federal lands in and around Sugarland Run and the Potomac; the trustee for natural resources in and around Sugarland Run for Virginia is the Department of Environmental Quality; the trustees for the natural resources in and around the Potomac River within the District of Columbia are the Department of the Interior and the District of Columbia.

"Paragraph" means a portion of this Decree identified by an arabic numeral or an upper case letter.

"Parties" shall mean the United States, Virginia, the District of Columbia, and Colonial.

"Performance Standards" means the completion of the projects set forth in the RPL as described in the "Work Plans" or as modified pursuant to Section XII ( RPL Work Plans) of this Consent Decree to the satisfaction of the Natural Resource Trustees.

"Restoration Planning Process" is the process under OPA by which the Natural Resource Trustees are responsible for developing a plan for restoration of the injured natural resources and services, providing adequate opportunity for public review and comment, and complying with applicable law.

"Section" means a portion of this Decree identified by a Roman numeral.

"Spill" refers to the approximately 408,000 gallons (9700 barrels) of oil released into the environment as a result of a pipeline rupture on or about March 28, 1993, in Fairfax County, Virginia.

"United States" means the United States of America.

"Work" shall mean all activities Colonial is required to perform under this Decree relating to the RPL.

"Work Plan(s)" shall mean the detailed description of work to be performed for implementation of each project included within the RPL, as required by Section XII of this Decree and addressing each element of the Work set out in the outline attached hereto as Appendix B.

IV. CIVIL PENALTY, COST REIMBURSEMENT,  
AND PROJECT FUNDING CONTRIBUTION

8. Civil Penalty. Within thirty (30) days of the entry of this Decree, Colonial shall pay to the United States \$750,000 as a civil penalty. Payment of this amount shall be made by Fedwire Electronic Funds Transfer ("EFT") or wire transfer to the Federal Reserve Bank of New York City for deposit to agency account code 69-02-5102, referencing this action and DOJ number 90-5-1-1-4055. Any EFT received by the Department of Justice after 4:00 p.m. (Eastern Time) will be credited to the next business day. Notice of payment pursuant to this subparagraph shall be sent to the United States as provided in Section XVIII (Notices and Submissions). Within thirty (30) days of the entry of this Decree, Colonial shall pay to Virginia \$750,000 as a civil penalty. Payment of this amount shall be made in accordance with instructions to be provided to Colonial by Virginia. Notice of payment pursuant to this subparagraph shall be sent to Virginia as provided in Section XVIII (Notices and Submissions).

9. Reimbursement of Past Assessment Costs. Within thirty (30) days of entry of this Decree, Colonial shall pay the following amounts as reimbursement for costs incurred by the Natural Resource Trustees in assessing the damages to natural resources resulting from the Spill:

\$147,008.14 to the United States;

\$97,000 to Virginia;

\$38,271 to the District.

The payments above shall be made as provided below:

For the United States:

Checks shall be made payable to the Department of Interior and include the following:

NRDAR Account # 14X5198 (NRDAR)  
The SITE or CASE NAME  
The LOCATION of the Site -- Reston, Virginia  
The PAYING PARTY -- Colonial Pipeline Company

The checks should be sent to:

Chief, Division of Finance  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive  
Arlington, Virginia 22203

For Virginia:

Checks shall be made payable to the Department of Environmental Quality and sent to:

Virginia Department of Environmental Quality  
Office of Financial Management  
P.O. Box 10150  
Richmond, Virginia 23240

For the District:

The check shall be made payable to:

D.C. Treasurer  
Oil Spill Contingency Fund  
Account #2548

and sent to:

Ms. Karen E. Bonilla  
Budget Officer  
Department of Consumer and Regulatory Affairs  
614 "H" Street, N.W.  
Washington, D.C. 20001

Notice of payment pursuant to this subparagraph shall be sent to the United States, Virginia, and the District as provided in Section XVIII (Notices and Submissions).

10. Interest on Late Payments. In the event Colonial fails to make timely payments of any amounts required under this Decree, Colonial shall be liable for interest on the unpaid balance at the rate specified in Section 1005 of OPA, 33 U.S.C. § 2705. The interest shall be calculated from the first day following the date payment is due until the entire outstanding balance has been received.

11. Monitoring and Oversight Costs. Colonial shall pay to the Natural Resource Trustees monitoring and oversight costs associated with the RPL or any substitute projects thereto under Section XII in accord with the following:

To the United States: For monitoring and oversight activities undertaken by the National Park Service, Colonial's payment shall not exceed ten percent (10%) of the costs of performing the Work planned for the National Park Service on DOI