

APPENDIX C

USE OF FUNDS IN NORTH CAPE OIL SPILL RESTORATION ACCOUNT

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Pursuant to Section VIII (North Cape Oil Spill Restoration Account) of the Consent Decree, the Trustees shall use the funds in the North Cape Oil Spill Restoration Account ("Restoration Account"), including all interest earned on such funds, for the following projects/activities. The goals of the projects are based on what the Trustees believe is attainable with the funds allocated for each project based on current market conditions. As set forth in Section VIII (North Cape Oil Spill Restoration Account) of the Consent Decree, if the goals of these projects are not attainable with the monies allocated to each project, the Trustees shall not be required to expend additional monies to achieve these goals.

1. Lobster Monitoring and Oversight: The Trustees will use approximately \$600,000 of the funds in the Restoration Account, plus accrued interest on this amount, as well as the \$200,000 paid by the Settling Defendants directly to NOAA on or about May 19, 2000, to (a) oversee the implementation of the Lobster Restoration Project by the Settling Defendants and (b) monitor the success of the Lobster Restoration Project by implementing a tag and recapture program.

2. Shellfish Restoration: The Trustees will use approximately \$1.5 million of the funds in the Restoration Account, plus accrued interest on this amount, to implement a quahog restoration project. The Trustees will transplant adult quahogs to designated sanctuaries in the waters of Narragansett Bay and the coastal salt ponds. These quahogs will be transplanted from an area proposed for dredging within the Federal Navigation Channel in the Providence River. If necessary, additional quahogs will be purchased from the market for transplanting. The goal is to transplant approximately 10.2 million quahogs. To the extent that the Federal Navigation Channel and the shellfish market cannot supply an adequate number of quahogs, the Trustees will implement additional shellfish restoration projects, such as, for example, the remote setting of oysters and/or quahog seeding.

3. Salt Pond Land Acquisition: The Trustees will use approximately \$1.6 million of the funds in the Restoration Account, plus accrued interest on this amount, to acquire land, or a conservation easement, near or adjacent to one or more of Rhode Island's salt ponds. The purpose of this acquisition is to reduce the ecological impacts of future land development, benefiting salt pond water column and benthic resources, and the biota dependent on them, by preventing increases in nutrient loading caused by septic discharges. The goal is to prevent the development of approximately 42 house lots.

4. Loon Restoration: The Trustees will use approximately \$3 million of the funds in the Restoration Account, plus accrued interest on this amount, to implement one or more loon restoration projects. The Trustees will use these funds to acquire/protect loon nests and associated territories and to ensure the success of these projects through efforts to protect/monitor the loon nests, such as hiring a field biologist to monitor the loon nests and providing information to the public concerning the project. The Trustees currently expect to

contribute a portion of the \$3 million toward an approximately \$4 million purchase of an easement along large portions of the shoreline of a lake in Maine, which is expected to protect loon nests and associated loon territories. The remaining portion of the \$4 million is expected to be provided by another party. The Trustees will use the remaining funds for protection/monitoring as well as to acquire additional land, or easements, to protect as many additional loon nests and associated territories as possible. The goal is to protect a total of approximately 20 loon nests and associated loon territories.

5. Sea Bird Restoration: The Trustees will use approximately \$400,000 of the funds in the Restoration Account, plus accrued interest on this amount, to implement a project to restore the injury caused to sea birds (other than loons). The Trustees will acquire land, or a conservation easement, on an island off the coast of Maine in order to protect eider habitat from future development, which would most likely eliminate the eider nests. The Trustees will also use these funds to ensure the success of this project through efforts to protect/monitor the eider nests. The goal of the project is to protect approximately 315 eider nests. If such property does not become available within five years, the Trustees will consider the implementation of an alternative restoration project for sea birds (other than loons).

6. Piping Plover Restoration: The Trustees will use approximately \$140,000 of the funds in the Restoration Account, plus accrued interest on this amount, to implement a piping plover protection project. The Trustees plan to implement a project that will enhance the productivity of piping plovers. The Trustees will hire a biologist, during the piping plover nesting season, to help reduce disturbance and predation at piping plover nests. The biologist will identify piping plover nesting areas, construct predator barriers around the nests, and reduce human disturbance by educational outreach to the public at nesting sites.

7. Fish Run Project: The Trustees will use approximately \$160,000 of the funds in the Restoration Account, plus accrued interest on this amount, to implement one or more anadromous fish run projects intended to provide compensation for lost recreational fishing. This project will involve removing or modifying existing obstructions to fish passages on rivers or brooks that connect to the salt ponds.

8. General Oversight: The Trustees will use approximately \$400,000 of the funds in the Restoration Account, plus accrued interest on this amount, for general oversight (as opposed to direct implementation costs) of the non-lobster restoration projects listed at numbers 2 through 7 above and the performance of Trustee responsibilities as described in their Memorandum of Agreement.

9. Lobster Restoration: If, as a result of delays in the Lobster Restoration Project caused by lobster disease, the Settling Defendants make a payment to the Trustees pursuant to Section II of the North Cape Lobster Restoration Plan Statement of Work, the Trustees shall use such payment to complete the Lobster Restoration Project or to implement an alternative project to complete the lobster restoration.