LOSCO HEADING

DATE

Dr. Jerry Hall
Texaco
E&P Technology Department
5901 South Rice Avenue
Bellaire TX 77401

Dear Dr. Hall:

This letter summarizes the CAG meeting held between Trustee and Texaco representatives on June 16, 1999 with some follow-up on June 17, 1999 regarding the cooperative natural resource damage assessment (NRDA) process underway for the Texaco Pipeline Inc. May 16, 1997 crude oil spill (the Incident) in Lake Barre, Louisiana. The meeting was attended by representatives of Texaco and their contractor Entrix, the U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA), the Louisiana Oil Spill Coordinators Office (LOSCO), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF), and the Louisiana Department of Environmental Quality (LDEQ). A draft of this letter was sent to representatives of the other trustee agencies participating in this meeting for their review.

Ralph Markarian (ENTRIX) began the meeting by reviewing the agreements reached concerning the HEA debits for the injuries resulting from the Incident, and the HEA credits and the general planting design of the preferred restoration alternative- planting the marsh platform on the East Timbalier Island CWPPRA project. The marsh HEA debit was determined to be 75.6 discounted service acre-years (DSAYs), and the faunal injury debit for the four acre marsh creation offer from Texaco is equivalent to approximately 33.8 DSAYs. If implemented in Spring 2000, these translate into a requirement of 3.7 acres of marsh planting with vegetative spread to compensate for faunal injuries and 14.9 acres of marsh planting with vegetative spread to compensate for marsh service losses. The total acreage of direct planting and vegetative spread required as compensation for all injuries is 58 acres if the planting is implemented in Spring 2000.

The planting design calls for planting strips with multiple rows of plants parallel to the shoreline, with the first strip running the length of the marsh platform along the bayside shoreline. This first strip will be planted with *Spartina alterniflora*, and consist of nine rows. The remaining strips will be located interior of the *S. alterniflora* strip, planted with *Spartina patens*, and consist of five rows, but may not necessarily run the length of the marsh platform. The final design will depend upon the site conditions found before planting is implemented. The Trustees confirmed that this general planting design is acceptable.

The next topic discussed was the monitoring program and performance criteria. The basic schedule and type of monitoring, which was consistent with that presented in the April 19 and 20, 1999 CAG meeting was approved by the Trustees. There was a lot of discussion concerning performance criteria. Ralph mentioned that Texaco wants to set expectations for project performance at year one and two rather than set absolute criteria that would need to be met or otherwise would trigger penalties. The actual performance would be compared to the expected performance to provide guidance to Texaco and the Trustees as to whether corrective actions are advisable in order to meet the required criteria after year three. The Trustees agreed with this concept.

The Trustees suggested that the performance criteria for the required acreage of *Spartina alterniflora* at the end of three years should be 80 percent cover in the planted area, and 45 percent in the five foot zone surrounding the planted area where vegetative spread should occur. If additional acreage of *S. alterniflora* is planted, then the Trustees suggested that this could be used to offset deficiencies in reaching these performance criteria. Any areas of *S. alterniflora* located within the planted zone and the five feet surrounding it, with a percent cover of 50 percent or more, will be counted toward the requirement for the planted area. It would be sufficient if the total percent cover in this acreage is equivalent to 80 percent cover over the required acreage. As an example, if ten acres of *S. alterniflora* were required, sixteen acres at 50 percent cover or 12 acres at 66.67 percent cover would each be considered equivalent to the ten acres at 80 percent cover and would satisfy restoration requirements for this component. Any areas of *S. alterniflora* located within the planted zone and the five feet surrounding it, with a percent cover of 25 percent or more, will be counted toward the requirement for the vegetative spread area. It would be sufficient if the total percent cover in this acreage is equivalent to 45 percent cover over the required acreage. As an example, if eight acres of *S. alterniflora* were required, nine acres at 40 percent cover would be considered equivalent to the eight acres at 45 percent cover and would satisfy restoration requirements for this component.

The Trustees had not developed a performance criteria proposal for the *Spartina patens* strips prior to the meeting. As a follow up, on June 17, 1999 they proposed a similar scheme for *S. patens*. The performance criterion for the *S. patens* planted area is 50 percent cover after three years, but any acreage of 30 percent or more within the planted area and the three feet surrounding it could be counted toward calculating an equivalent acreage. The performance criterion for the vegetative spread area for *S. patens* is 25 percent, but any acreage of at least 15 percent within the planted area and the three feet surrounding it could be counted toward calculating an equivalent acreage. For both *S. patens* and *S. alterniflora*, the Trustees are not requiring any additional acreage be planted beyond that which will be required as calculated by the HEA. However we are trying to provide Texaco a mechanism to reduce the likelihood of having to do additional planting in the future while still ensuring that the restoration requirements to make the environment and public whole for injuries resulting from the Incident are still met.

Texaco is considering the Trustees' suggested performance criteria at this time, and will inform the Trustees whether this approach is acceptable to them. There was a great deal of discussion as to how to monitor the performance of the marsh restoration project under the Trustees' proposed criteria. During the meeting on the 16th and the follow up discussions on the 17th, two ideas were mentioned. The first was to subdivide the project into segments which would be judged as to whether they met the minimum standards for inclusion in calculation of the equivalent acreage for either the planted area or the vegetative spread area using a number of transects in each segment. The second idea was to use transects in a portion of the restoration marsh together with aerial photography to essentially map zones of percent cover and use some krieging method to calculate acreage to compare with requirements.

Several miscellaneous topics were discussed. John Dimity (ENTRIX) said that they were reviewing the June 7 version of the DARP and will work on language for the missing sections on scaling (with Tony Penn of NOAA), planting specifications, and monitoring. John Kern (NOAA) stressed the need to have those sections drafted quickly if the agencies are to have management complete their review in time to allow publication of the availability of the DARP in mid-July as currently contemplated. Acceptable exclusions for Texaco not meeting the performance standards were also discussed. The list of exclusions that Texaco had presented at the previous CAG meeting was re-shown. The Trustees objected to the exclusion for disease, noting that Texaco should choose disease-resistant strains and could have a guarantee from their supplier. It was agreed, however, that it would be appropriate to consider disease as a possible exclusion if some epidemic swept through natural marshes in the area as well as affecting the restoration marsh. The Trustees had provided the list of exclusions to their attorneys. The issue of exclusions is largely a legal matter, and there will need to be agreement on the definitions of those exclusions that ultimately are agreed upon. Another topic that was briefly discussed was the status of comments on the draft modeling report developed by the Trustees. No written comments have been received to date on this draft, which had been provided to Texaco prior to the April CAG meeting. It is not clear whether any comments will be forthcoming, and the Trustees will shortly proceed to finalize this document since it needs to go into the Administrative Record prior to the draft DARP going out for public review and comment.

The last issue discussed was the contacts that John Woodard of Fina has made to Texaco. Mr. Woodard would like restoration to be done on Fina property, and has expressed concern that the preferred restoration alternative is located outside of Fina property. I mentioned that I had recently met with Mr. Woodard and other landowners and discussed the NRDA process, letting them know that the Trustees act on behalf of the public as a whole, and that they have the ability to seek compensation for private losses. The CAG discussed the attempts that had been made to seek appropriate restoration ideas from Mr. Woodard specifically, and the public in general. The Trustees expressed confidence that they have far exceeded the requirements under the OPA regulations to seek public input and noted that there will be further opportunities including comment on the draft DARP.

The Trustees expressed satisfaction with the progress made in this meeting and in follow up discussions. Although significant issues remain to be worked out, it is clear that the cooperative process has been very successful in resolving issues. We anticipate that the spirit of cooperation that has been exhibited by both sides will continue, and that final agreement on the details of performance criteria and monitoring and other outstanding issues will be reached soon. If there are any comments on this meeting summary, please submit them in writing to Warren Lorentz for inclusion in the AR.

Sincerely,

Warren Lorentz

cc: John Dimitry, Entrix
John Kern, NOAA
Jim Hanifen, LDWF
Heather Finley, LDWF
Buddy Goatcher, USFWS
Chris Piehler, LDEQ
Linda Pace, LDNR