

SETTLEMENT AGREEMENT

DUCK LAKE 2002

BAYOU GRAND COTEAU COASTAL FORESTED WETLAND CONVERSION

(NRDA Case File #LA2002_1204_1200 [Duck Lake 2002])

AMONG

**LOUISIANA OIL SPILL COORDINATOR'S OFFICE, OFFICE OF THE GOVERNOR;
LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES;
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY;
AND
HILCORP ENERGY COMPANY**

FEBRUARY 2009

DOCUMENT INDEX

Duck Lake Settlement Agreement (LA2002_1204_1200 [Duck Lake 2002])

Attachment 1: Final Damage Assessment and Restoration Plan

Attachment 2: Final Restoration Implementation and Monitoring Plan

Attachment 3: Forest Management Agreement between Trustees and Landowner

Appendix A: Forest Management Plan

Attachment 4: Conservation Servitude Agreement between Trustees and Landowner for 7.06-Acre Portion of Restoration Project

Exhibit A: Location Map of Restoration Property

Exhibit B: Delineation of Conservation Servitude Boundary

Attachment 5: Bayou Grand Coteau Mitigation Area Conservation Servitude for 0.75-Acre Portion of Restoration Project

Attachment 6: Letter of No Objection from the United States Army Corps of Engineers

**DUCK LAKE SETTLEMENT AGREEMENT FOR
NRDA CASE FILE #LA2002_1204_1200 (DUCK LAKE 2002) AMONG: THE
LOUISIANA OIL SPILL COORDINATOR'S OFFICE, OFFICE OF THE GOVERNOR;
LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY; AND
HILCORP ENERGY COMPANY**

I. INTRODUCTION

- A. The Louisiana Oil Spill Coordinator's Office, Office of the Governor ("LOSCO"), the Louisiana Department of Wildlife and Fisheries ("LDWF"), the Louisiana Department of Environmental Quality ("LDEQ"), and Hilcorp Energy Company ("Hilcorp"), (each, a "Party" and collectively, the "Parties") enter into this Settlement Agreement to settle, without litigation, the State of Louisiana's civil claims alleged under the Oil Pollution Act (OPA), 33 U.S.C. §§ 2701 *et seq.* and the Oil Spill Prevention and Response Act (OSPR), La. R.S. 30:2451 *et seq.* and all other claims that may exist or arise under federal and state law for damages for injury to natural resources resulting from an unauthorized discharge of crude oil, from a flowline owned and operated by Hilcorp, into the surrounding swamp located approximately 1.5 miles southwest of Duck, St. Martin Parish, Louisiana that was reported on December 4th, 2002.
- B. The LOSCO, LDWF and LDEQ are co-trustees of the injured natural resources and services and duly authorized representatives of the State of Louisiana. This Settlement Agreement is executed on behalf of the State of Louisiana.
- C. The State, through LOSCO, LDWF, and LDEQ, is authorized to seek natural resource damages, including the reasonable costs to assess the damages, pursuant to Section 1002 of OPA, 33 U.S.C. § 2702. The State is further authorized, pursuant to the Louisiana Constitution, article IX, sections 1 and 7, La. R.S. 36:601, *et seq.*, La. R.S. 56:1, *et seq.*, Louisiana Environmental Quality Act, La. R.S. 30:2001 *et seq.*, the Louisiana Coastal Wetlands Conservation, Restoration, and Management Act, La. R.S. 49:213.1 *et seq.*, and the Louisiana Oil Spill Prevention and Response Act, La. R.S. 30:2451 *et seq.*, to recover damages for injury to natural resources caused by the Incident.
- D. This Settlement Agreement deals solely with the natural resource damages that may have resulted from the Incident, as defined in section II.M of this Agreement.

NOW, THEREFORE, the Parties enter into this Settlement Agreement, and mutually agree as follows:

II. DEFINITIONS

Unless otherwise expressly provided, terms used in this Settlement Agreement that are defined in OPA and OSPRA in the Natural Resource Damage Assessment (NRDA) regulations (15 CFR Part 990 and La. Admin. Code 43: Part XXIX, Chapter 1) promulgated under OPA and OSPRA, shall have the meaning assigned to them in OPA and OSPRA or in such regulations.

- A. “Agreement” shall mean this Settlement Agreement for NRDA case file #LA2002_1204_1200 (Duck Lake 2002) including its attachments: Attachment 1 (Final Damage Assessment and Restoration Plan [Final DARP]); Attachment 2 (Final Restoration Implementation and Monitoring Plan); Attachment 3 (Forest Management Agreement); Attachment 4 (Conservation Servitude Agreement between the Trustees and the Landowner); Attachment 5 (Bayou Grand Coteau Mitigation Area Conservation Servitude Agreement); and Attachment 6 (United States Army Corps of Engineers Letter of No Objection). These documents are attached hereto and incorporated by reference herein.
- B. “BGCMA Conservation Servitude” shall mean the Conservation Servitude for the Bayou Grand Coteau Mitigation Area, attached hereto and incorporated by reference herein as Attachment 5.
- C. “Certificate of Completion of the Restoration Project” shall mean the correspondence sent from the Trustees to Hilcorp following Trustee approval of the Final Monitoring Report as specified in section 3.8 of the Final Restoration Implementation and Monitoring Plan, attached hereto and incorporated by reference herein as Attachment 2.
- D. “Conservation Servitude Agreement” shall mean the Louisiana Conservation Servitude Agreement for NRDA case file #LA2002_1204_1200 (Duck Lake 2002), filed in the conveyance records of Lafourche Parish, Louisiana, attached hereto and incorporated by reference herein as Attachment 4.
- E. “Corrective Actions” shall mean any action(s) deemed necessary by the Trustees if the Restoration Project fails to meet any of the performance criteria identified in the Final Restoration Implementation and Monitoring Plan (see section 3.9 of the Final Restoration Implementation and Monitoring Plan [Attachment 2] for a description of corrective actions).
- F. “Corrective Action Costs” shall mean those costs incurred by the Trustees if corrective actions are required during implementation of the Restoration Project.

- G. “Effective Date” for purposes of this Agreement shall mean the date of the last signature of this Agreement.
- H. “Final Restoration Implementation and Monitoring Plan” (referred to herein as the Final RIMP) shall mean the Final Restoration Implementation and Monitoring Plan for NRDA case file #LA2002_1204_1200 (Duck Lake 2002) agreed to by the Parties, attached hereto and incorporated by reference herein as Attachment 2.
- I. “Force Majeure” shall mean any act of God, any storm, flood, natural disaster, act of war, public disturbance, strike, act of Congress or other legislative or administrative body, or any other event arising from causes beyond the control of Hilcorp, or any entity controlled by Hilcorp, or of Hilcorp’s contractors, that reasonably delays or prevents Hilcorp’s performance of any obligation under this Agreement.
- J. “Forest Management Agreement” shall mean the Forest Management Agreement for NRDA case file #LA2002_1204_1200 (Duck Lake 2002) agreed to by the Parties, filed in the conveyance records of Lafourche Parish, Louisiana, attached hereto and incorporated by reference herein as Attachment 3.
- K. “Forest Management Plan” shall mean the Forest Management Plan for NRDA case file #LA2002_1204_1200 (Duck Lake 2002) attached hereto and incorporated by reference herein as Appendix A of the Forest Management Agreement.
- L. “Future Implementation Costs” shall mean those costs incurred by the Trustees from the Effective Date of this Agreement through the end of Phase 2 of the forest management activities described in section 2.2 of the Forest Management Plan. These costs exclude any corrective action costs, if applicable, as defined in section II.F of this Agreement.
- M. “Incident” shall mean the unauthorized discharge of crude oil into the surrounding swamp located approximately 1.5 miles southwest of Duck Lake, St. Martin Parish, Louisiana that was reported on December 4th, 2002 for NRDA case file #LA2002_1204_1200 (Duck Lake 2002).
- N. “Party” or “Parties” shall mean Hilcorp and the State of Louisiana.
- O. “Past Assessment Costs” shall mean the reasonable costs, including but not limited to direct and indirect costs, incurred by the Trustees in assessing the natural resource damages and in planning the Restoration Project.

- P. “Restoration Project” shall mean the Bayou Grand Coteau Coastal Forested Wetland Conversion compensatory restoration project that was selected in the Final Damage Assessment and Restoration Plan for NRDA case file #LA2002_1204_1200 (Duck Lake 2002) (referred to herein as the “Final DARP” and attached hereto as Attachment 1) to recover damages for injuries to Natural Resources and services resulting from the Incident.
- Q. “Responsible Party” shall mean and include Hilcorp Energy Company.
- R. “Trustees” shall mean the State of Louisiana by and through its duly authorized representatives: the Louisiana Oil Spill Coordinator’s Office, Office of the Governor (LOSCO); the Louisiana Department of Wildlife and Fisheries (LDWF); and the Louisiana Department of Environmental Quality (LDEQ).
- S. “Hilcorp” shall mean Hilcorp Energy Company, and its associates, affiliates, subsidiary, parent or related companies, business entities or corporations, including, without limitation, any former, present or future parent corporations, brother or sister corporations (that is, entities with a common parent), subsidiaries, unincorporated divisions, partners, general or limited partners, joint ventures and its former, present or future employees, officers, shareholders, directors, managers, insurers, representatives, adjusters, attorneys and agents.
- T. “Work” shall mean the activities and responsibilities contained in and required by the Final RIMP, the Forest Management Agreement, the Conservation Servitude Agreement, and the BGCMA Conservation Servitude, as it pertains to the Restoration Project. The Parties acknowledge that the duration of this Agreement will be for a period not to exceed either 60 years from the date of execution of this Agreement or 55 years from the date of the Certificate of Completion of the Restoration Project (as defined in section II.C of this Agreement), whichever period is longer. A letter stating the execution of this Agreement and a copy of the Certificate of Completion of the Restoration Project will be filed in the conveyance records of Lafourche Parish by Hilcorp, as required in section V.L and V.M of this Agreement.

III. STATEMENT OF FACTS

- A. On December 4, 2002, the Trustees were notified of an unauthorized discharge of crude oil into the surrounding swamp located approximately 1.5 miles southwest of Duck Lake, St. Martin Parish, Louisiana.
- B. The flowline was owned and operated by Hilcorp.

- C. Approximately 1,000 barrels of crude oil was discharged from the flowline into the surrounding swamp south-southeast of Duck Lake.
- D. Birds, fish, and other fauna, as well as their habitats were actually or potentially affected by the Incident.
- E. The concentration and quantity of oil discharged were sufficient to actually or potentially cause injury to natural resources, including visible oiling of swamp vegetation in the area.
- F. LOSCO, LDWF, and LDEQ are the designated Trustees for the natural resources actually or potentially affected by the Incident.
- G. Upon discovering the Incident, Hilcorp and its oil spill response contractor promptly initiated, conducted, and participated in response actions to contain and remove the discharged oil.
- H. Response actions implemented by Hilcorp and other entities provided no compensation for the natural resources and their services that were actually or potentially injured, lost, or destroyed as a result of the Incident.
- I. Pursuant to Section 1006(c)(5) of OPA, 33 U.S.C. § 2706(c)(5), 15 C.F.R. 990.14(c), La. R.S. 30:2480(C)(6)(b) and (c), and LAC 43:XXIX.115, the Trustees invited Hilcorp to participate in the NRDA process.
- J. Hilcorp accepted responsibility for the costs of conducting an NRDA, as well as the costs of performing the Work.
- K. Hilcorp worked cooperatively with the Trustees in assessing the injuries and planning the restoration actions for those injuries.
- L. Hilcorp has maintained the responsibility for completing the NRDA and implementing the Work.
- M. Hilcorp and the Trustees agree that settlement without litigation is in the public interest.
- N. Charles Armbruster of LOSCO (see contact information under Statement of Obligations) will be the project manager and point of contact for the Trustees during restoration implementation.
- O. The Trustees have expended considerable time, funds, and resources in assessing

the Incident and any natural resource injuries and losses that may have resulted from this Incident. The Trustees' Past Assessment Costs incurred as of the Effective Date are as follows:

1. LOSCO: \$9,146.76 in past assessment costs;
2. LDEQ: \$1,633.70 in past assessment costs;
3. LDWF: \$13,727.04 in past assessment costs.

P. The Trustees will continue to incur Future Implementation Costs in conjunction with implementation of this Agreement.

IV. DENIALS

- A. By entering into this Agreement, Hilcorp shall not be deemed as admitting any violation of the OPA and OSPRA or any rules or regulations promulgated there under.
- B. The Trustees do not, by consenting to this Agreement, warrant in any manner that actions taken by Hilcorp pursuant to this Agreement will result in satisfactory performance of the Work.
- C. The Trustees shall not be responsible or liable for any adverse impacts that are directly or indirectly related to Hilcorp's performance of its obligations under this Agreement.
- D. The Trustees shall not be liable for any property damage or personal injury caused by Hilcorp's implementation of the Final RIMP.
- E. The Trustees shall not be liable for the actions of Hilcorp's agents, employees, assigns, partners or subcontractors and Hilcorp shall fully defend and indemnify and hold harmless the Trustees from any and all suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Hilcorp, its agents, employees, partners or subcontractors, without limitation; provided, however, that Hilcorp shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Trustees.

V. STATEMENT OF OBLIGATIONS OF HILCORP

- A. Upon execution of this Agreement by all Parties, Hilcorp shall pay the Trustees' past assessment costs and future implementation costs. Upon signature of this Agreement, the Parties agree that these costs cannot be disputed and will be

considered final. Hilcorp shall submit a check in the amount set forth below as follows:

1. For the Trustees' past assessment costs:
 - a. A check for \$24,507.50 payable to LOSCO.

The check shall reference the Duck Lake NRDA case file #LA2002_1204_1200 (Duck Lake 2002) and be sent to:

Louisiana Oil Spill Coordinator's Office,
Office of the Governor
Gina Muhs Saizan
150 Third Street, Suite 405
Baton Rouge, Louisiana 70801
Phone: 225-219-5800

2. For the Trustees' future implementation costs:
 - a. A check for \$54,031.08 payable to LOSCO.

The check shall reference the Duck Lake NRDA case file #LA2002_1204_1200 (Duck Lake 2002) and be sent to:

Louisiana Oil Spill Coordinator's Office,
Office of the Governor
Gina Muhs Saizan
150 Third Street, Suite 405
Baton Rouge, Louisiana 70801
Phone: 225-219-5800

- B. For the Trustees' corrective action costs, if corrective action costs are applicable, Hilcorp shall pay the corrective action costs as follows:
 1. LOSCO will forward a consolidated statement and a copy of the cost documentation to Hilcorp for payment. Hilcorp shall pay the corrective action costs as directed by the Trustees at the time of the billing.

The check shall reference the Duck Lake NRDA case file #LA2002_1204_1200 (Duck Lake 2002) and be sent for distribution to:

Louisiana Oil Spill Coordinator's Office,

Office of the Governor
Gina Muhs Saizan
150 Third Street, Suite 405
Baton Rouge, Louisiana 70801
Phone: 225-219-5800

2. In the event that Hilcorp disputes any of the Trustees' corrective action costs, Hilcorp shall provide written notice thereof to the Trustees' point of contact within thirty (30) days of Hilcorp's receipt of the invoice specifying the disputed costs. The Parties shall thereafter diligently and in good faith negotiate to resolve such dispute to the mutual satisfaction of the Parties.
- C. Hilcorp agrees to fully implement the Final RIMP, abide by the Conservation Servitude Agreement and BGCMA Conservation Servitude, appended hereto in Attachment 2, Attachment 4 and Attachment 5, respectively, and incorporated by reference herein, and is responsible for the performance and cost of the Work.
- D. Hilcorp shall implement this Agreement in such a way as to minimize any adverse effects of the Work.
- E. Hilcorp shall conduct the Work in a good and workmanlike manner and in compliance with all applicable laws, regulations, ordinances, permits, and authorizations required for the Work.
- F. Hilcorp shall obtain, at its expense, any remaining documents necessary for implementation of the Work, including all permits and certifications, and it shall comply with all relevant federal and state laws and regulations.
- G. If any third party access agreements are necessary for the implementation of the Work, Hilcorp shall use its best efforts to obtain such access agreements as soon as practicable. If despite its best efforts Hilcorp is unable to obtain a necessary third party access agreement, Hilcorp shall advise the Trustees. Such agreements shall provide for access by Hilcorp and the Trustees and/or their authorized representatives, employees, and contractors to the land subject to the access agreements.
- H. Hilcorp shall maintain liability insurance in the amount of \$1,000,000 and shall submit proof of insurance prior to execution of this Agreement.
- I. In the event the Work is suspended or delayed due to Force Majeure, Hilcorp shall, upon written notice of the Force Majeure event to the Trustees, have an

additional amount of time equal to the period of delay resulting from the Force Majeure event to complete the Work and such additional and reasonable amount of time to complete the Work as mutually agreed to by the Parties hereto. Hilcorp shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.

- J. Upon execution of this Agreement, Hilcorp shall file in the conveyance records of Lafourche Parish, Louisiana, a copy of the signed Conservation Servitude Agreement.
- K. Upon execution of this Agreement, Hilcorp shall file in the conveyance records of Lafourche Parish, Louisiana, a copy of the signed Forest Management Agreement.
- L. Upon execution of this Agreement, Hilcorp shall file in the conveyance records of Lafourche Parish, Louisiana, a Trustee-approved letter stating the execution of this Agreement.
- M. Upon receipt from the Trustees, Hilcorp shall file in the conveyance records of Lafourche Parish, Louisiana, a copy of the Certificate of Completion of the Restoration Project.

VI. COVENANT NOT TO SUE

- A. Subject to Hilcorp's complete payment of the sum of \$24,507.50 for the Trustees' past assessment costs, the complete payment of the sum of \$54,031.08 for the Trustees' future implementation costs, the complete payment of any costs related to corrective actions, satisfactory completion of the Work according to this Agreement, and satisfactory completion of its obligations under this Agreement, the Trustees hereby covenant not to sue or take any enforcement or other administrative actions against Hilcorp for any and all civil or administrative claims for any civil cause of action under the Oil Pollution Act of 1990 and the OSPRA or any other statute or common law and for natural resources and services under their trusteeship that may have been injured, destroyed, or lost as a result of the Incident. This release and covenant not to sue extends only to Hilcorp and any parent, subsidiary, or affiliated entity, and each of their officers, directors, and employees, and does not extend to any other person.
- B. Hilcorp hereby covenants not to sue and agrees not to assert any claims or causes of action against the State of Louisiana, their employees, agents, and assigns for any claims arising from or relating to the Incident, pursuant to any federal, state, or common law, including, but not limited to any claims arising out of activities

related to the Work, including claims based on the Trustees' selection of the Restoration Project, oversight of the Restoration Project, and/or approval of plans for such activities.

- C. Once 1) the Conservation Servitude Agreement has been signed by the Holder and Landowner and filed in the conveyance records of Lafourche Parish, Louisiana; 2) the Forest Management Agreement has been signed by the Landowner and filed in the conveyance records of Lafourche Parish, Louisiana; 3) a copy of the Trustee-approved letter required in section V.L of this Agreement has been filed in the conveyance records of Lafourche Parish, Louisiana; 4) the Final RIMP has been fully implemented and completed to the satisfaction of the Trustees; and 5) the Trustees have received a request for a Certificate of Completion of the Restoration Project (see section 3.8 of Attachment 2) from Hilcorp, LOSCO, acting on behalf of the Trustees, shall provide Hilcorp a Certificate of Completion of the Restoration Project stating that the Final RIMP has been completed in a satisfactory manner.
- D. Nothing in this Agreement is intended to be, nor shall be construed as, a release or covenant not to sue for any claim or cause of action, administrative or judicial, for:
1. Natural resource damages, in the event that Hilcorp does not pay the Trustees' past assessment costs and future implementation costs or corrective action costs described in section V. of this Agreement or does not perform the Work under this Agreement;
 2. Any claim for response costs;
 3. Any other past releases, future releases, discharges, or spills;
 4. Any and all criminal liability; or
 5. Any other matter not expressly included in the release from liability for natural resource damage assessment costs set forth in paragraph A of this section.

VII. AMENDMENT TO AGREEMENT

This Agreement may be amended by mutual consent of the Trustees and Hilcorp. Such amendments shall be in writing and shall have as their effective date the date on which they are signed by all of the parties to this Agreement. Any amendments will be filed in the public records of Lafourche Parish. Either party may propose modification of this Agreement due to the receipt of new material information, or a change in material circumstances.

The Trustees may grant an extension of any deadline in this Agreement upon a written request showing of good cause by Hilcorp.

VIII. CERTIFICATIONS

- A. Hilcorp certifies that, to the best of its knowledge and belief, it has fully and accurately disclosed to the Trustees all information requested by the Trustees that is currently in the possession of Hilcorp's officers and employees, contractors, and agents relating to the Incident.
- B. The Trustees certify that, to the best of their knowledge and belief, no other Trustee intends to present a claim for damages to natural resources and their services that may have been injured, destroyed, or lost as a result of the Incident.
- C. The Trustees certify that they shall utilize State and agency travel policies and procedures, including Division of Administration PPM 49 and LDEQ PPM 3001-88, to the extent applicable.

IX. SEVERABILITY

Invalidation of any one of the provisions contained herein shall in no way affect any other provision, which shall remain in full force and effect.

X. EXECUTION

This Agreement may be executed in one or more counterparts. All counterpart signature pages shall be considered part of the original document. Each party signing below covenants that he or she is duly authorized to bind the party for whom he or she is signing.

XI. ENFORCEMENT AND VENUE

The provisions of this Agreement, including the provisions of the Final DARP (Attachment 1), the Final RIMP (Attachment 2), the Forest Management Agreement (Attachment 3), the Conservation Servitude Agreement (Attachment 4), and the Bayou Grand Coteau Mitigation Area Conservation Servitude Agreement (Attachment 5) attached hereto and incorporated by reference herein, may be enforced by lawsuit brought by the Trustees.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to this Agreement shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

IN WITNESS WHEREOF, this Agreement is executed by each of the Parties as of the dates written below.

FOR THE STATE OF LOUISIANA

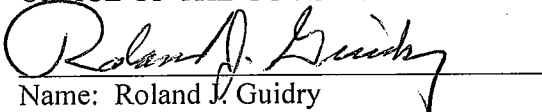


Name: Michael Wascom

Title: LOSCO Special Counsel

Date: June 29, 2009

LOUISIANA OIL SPILL COORDINATOR'S OFFICE,
OFFICE OF THE GOVERNOR



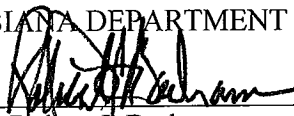
Name: Roland J. Guidry

Title: Louisiana Oil Spill Coordinator

Date: 29 June 09

Settlement Agreement (LA2002_1204_1200 [Duck Lake 2002])

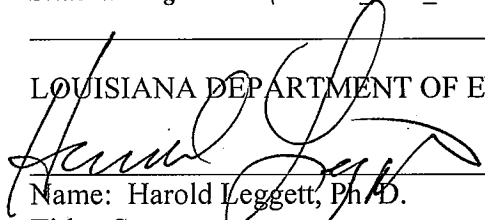
LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES


Name: Robert J. Barham
Title: Secretary

Date: 8-4-2009

Settlement Agreement (LA2002_1204_1200 [Duck Lake 2002])

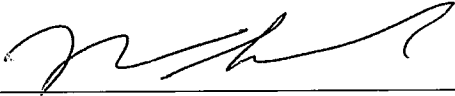
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY



Name: Harold Leggett, Ph.D.
Title: Secretary

Date: 07-29-09

HILCORP ENERGY COMPANY



Name

Title: DIRECTOR; REG / ENV / SAFETY

Date: 2/17/09