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Natural Resources Damages/Oil Pollution Act Enforcement: United States/Arkansas Game and Fish Commission/Arkansas Department of Energy and Environment and ExxonMobil Pipeline Company, LLC Enter into Consent Decree

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The United States, Arkansas Game and Fish Commission (“AGFC”), and Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) entered into a Consent Decree with ExxonMobil Pipeline Company, LLC and Mobil Pipe Line Company, (collectively “ExxonMobil”) addressing alleged violations of the Oil Pollution Act.

As noted in a June 3rd [Blog Post](#), the United States and the two Arkansas Governmental Agencies had filed a judicial action against ExxonMobil addressing the 2013 release of oil from the Pegasus Pipeline in Mayflower, Arkansas.

The complaint sought to recover damages related to the release from the pipeline for:

...injuries to, destruction of, loss of, or loss of use of natural resources and natural resource services (including the reimbursed costs of assessing such damages) and for restoration planning...

Authorities for the ability to recover such alleged damages cited included:

- Section 1002 of the Oil Pollution Control Act of 1990.
- Arkansas Water and Air Pollution Control Act.
- Arkansas Game and Fish Commission Code 01.00-H-Restitution.

The Consent Decree notes that ExxonMobil with the oversight of DEQ and the United States Environmental Protection Agency (“EPA”) and in coordination with AGFC, and the United States Fish and Wildlife Service (“Service”), undertook cleanup actions to address what is referred to in the document as a “Release Incident”. The cleanup actions are stated to have included:

- Surveying oiled areas.
- Environmental confirmation and sampling of soils, sediments, vegetation, groundwater, and surface water.

- Performing other required remedial activities.

The Service along with DEQ and AGFC are stated to have entered into a Memorandum of Agreement providing a framework for coordinating Natural Resource Damage Assessment and Restoration efforts. Such assessment efforts are described. Further, such assessment efforts are stated to be a basis for determining ExxonMobil's payments pursuant to the Consent Decree are adequate and reasonable compensation for the natural resources damages calculation.

The Consent Decree also provides:

- ExxonMobil has previously reimbursed approximately \$402,977.71 of assessment costs incurred by AGFC and DEQ.
- A draft restoration plan for the Release Incident has been prepared by EPA, AGFC, and DEQ.
- ExxonMobil does not admit the allegations in the previously filed complaint.
- ExxonMobil must make a payment of \$1,755,082.49.

The Consent Decree also provides for how the relevant funds will be used for natural resource restoration.

A copy of the Consent Decree can be downloaded [here](#).