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DOCKETED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA

Plaintiff,

v.

DOYON DRILLING, INC.,

Defendant,

No.

PLEA AGREEMENT

I. INTRODUCTION

A. This document contains the complete plea agreement (Agreement) between the United States of America and Defendant DOYON DRILLING, INC. (DOYON DRILLING). Filed

simultaneously with this agreement is a Deferred Prosecution Agreement between the United States and Defendant DOYON DRILLING, deferring charges for violations of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA), 42 U.S.C. Section 9601 *et seq.* The deferred prosecution of RCRA and CERCLA charges is contingent upon DOYON DRILLING's compliance with the terms of both this Agreement and the Deferred Prosecution Agreement. Other than these two agreements, no other agreement, understanding, promise or condition exists between the parties.

B. The parties expressly agree and acknowledge that this Agreement is entered into and controlled by Fed. R. Crim. P. 11(e)(1)(C) and 11(e)(2). The government and the Defendant understand and agree that: (a) if the Court accepts this Plea Agreement, the Court is bound by the terms of the Agreement, and the government and the Defendant are bound by the terms of the Deferred Prosecution Agreement, and (b) if the Court does not accept this Plea Agreement, either party may withdraw from the Plea Agreement and the Deferred Prosecution Agreement and the Defendant may withdraw its pleas of guilty.

C. This Agreement does not limit the rights of any party to speak at the time of sentencing consistent with the recommended provisions set forth in the Agreement, correct inaccuracies or provide the Court or the United States Probation Office (Probation Office) with a full description of the Defendant's conduct.

D. This Agreement is limited to the United States Attorney's Office for the District of Alaska (United States Attorney's Office) and the Environmental Crimes Section of the Department of Justice, and does not bind other sections or divisions of the Department of Justice

or any other federal, state or local prosecutive or regulatory authority. The government, however, agrees to make its best efforts to assure such other authorities that resolution of this matter is a fair and substantial resolution of the federal criminal matters at issue. Upon request, the United States will provide those authorities and jurisdictions with information regarding the terms of this Plea Agreement and the Deferred Prosecution Agreement and the steps that Defendant has taken to ensure environmental compliance and cooperation with the United States.

E. The Defendant agrees that it has been fully advised of its statutory and constitutional rights, that it has been informed of the charges and allegations against it and the possible penalties, and that it understands them. The Defendant further agrees that it understands that by entering a plea of guilty as set forth below, it will be waiving certain statutory and constitutional rights to which it is otherwise entitled.

F. The United States and the Defendant agree that Chapter 8 of the Federal Sentencing Guidelines Manual governs this case with regard to any payment of restitution, community service, and probation, consistent with the nature of this Rule 11(e)(1)(C) agreement; however, pursuant to U.S.S.G. § 8C2.1, Chapter 8 of the Federal Sentencing Guidelines Manual does not apply to the determination of an appropriate fine.

II. THE AGREEMENT

A. The Defendant agrees to:

1. Waive indictment and plead guilty to an Information charging it with fifteen misdemeanor counts for negligently discharging a harmful quantity of oil and hazardous substances upon the shorelines adjoining waters of the United States and negligently discharging a harmful quantity of oil and hazardous substances in a manner that may have affected natural

resources belonging to or appertaining to the United States, in violation of the Federal Water Pollution Control Act (Clean Water Act), Title 33, United States Code, Sections 1319(c)(1)(A) & 1321(b)(3).

2. Acknowledge responsibility for the acts and omissions constituting the crimes alleged in the Information and constituting the factual basis for its plea of guilty, which facts are set forth below in Section VI of this Agreement.
3. Have its representative, duly authorized by the Defendant's Board of Directors and with authority to speak for the Defendant, appear and enter the guilty plea and also appear for imposition of sentence.
4. Provide to the United States and the Court written evidence, in the form of a notarized resolution of its Board of Directors with both notary and corporate seals, certifying that the Defendant is authorized to waive its right to Indictment, to plead guilty to the Information in this case, and to enter into and comply with all provisions of this Agreement. The resolution shall further certify that the President or Chief Executive Officer or his or her designee are authorized to take these actions and that all corporate formalities, including but not limited to approval by Defendant's directors, required for such authorization have been observed.
5. Forfeit its right to appeal any lawful sentence imposed in conformity with the provisions of this Rule 11(e)(1)(C) Agreement. The parties agree not to make any public statement contrary to the facts and provisions set forth in this Agreement, the Deferred Prosecution Agreement, and the Information, or to make any public statement regarding this Agreement, the Deferred Prosecution Agreement, or the Information, other than as required by law, prior to the filing of the Information. However, the parties specifically reserve the right to

make public statements or filings that do not contradict the facts set forth in the Information and the Deferred Prosecution Agreement and the terms of this Agreement after the filing of the Information.

6. Pay a fine of \$3,000,000.00 as specified in paragraph IV.A of this Agreement.

All penalties paid to the United States as a result of violations of Title 33, United States Code, Section 1321 shall be deposited in the Oil Spill Liability Trust Fund pursuant to Title 26, United States Code, Section 9509 and Title 33, United States Code, Section 1312(s).

7. Be placed on organizational probation for a probationary period of five years as specified in paragraph IV.C of this Agreement.

8. In connection with the United States' investigation of possible violations of the RCRA, CERCLA, the Safe Drinking Water Act, 42 U.S.C. Section 300f ~~et seq.~~, or any other environmental or criminal violation at Endicott Island, Alaska, and in any trials or other proceedings arising out of this investigation, the Defendant will cooperate truthfully and completely with the United States. The Defendant agrees that such cooperation shall include, but not be limited to, the following upon request:

a) The Defendant will provide access to copies of original documents and records and providing authentication of such documents as business records;

b) The Defendant will provide reasonable access to DOYON DRILLING rigs;

c) The Defendant will provide access to Defendant's experts and consultants and copies of their records, reports, and documents, including but not limited to Dames & Moore;

d) The Defendant will provide the assignment schedules for DOYON DRILLING employees and contractors, and grant liberal leave to its employees for any obligation to respond to any request to appear for interviews by law enforcement agents and government counsel and also to respond to any request to appear or subpoena to appear at legal proceedings, including grand jury sessions and trials;

e) The Defendant will impose no limits on contacts between law enforcement agents and government counsel and Defendant's past and present officers and employees, including refraining from instructing its officers and employees that they must contact a company representative or counsel before communicating with law enforcement personnel and government counsel; however, DOYON DRILLING may expect that the United States will give consideration to and will coordinate with DOYON DRILLING to the extent possible with respect to work schedules and drilling activities, so that investigative work by the United States will not unduly interfere with the business of the company;

f) The Defendant will inform its employees and contractors that it is the policy of DOYON DRILLING to cooperate with regulatory authorities, and encourage its past and present officers and employees to cooperate fully and truthfully with the United States and disclose all information with respect to their activities and those of others relating to violations of federal criminal laws, including federal environmental laws;

g) The Defendant will provide all relevant information including the complete results of all internal and external investigations of this matter and the names of all potential witnesses. Upon request in writing of the United States, the Defendant will provide a limited waiver of the attorney-client privilege and the work product doctrine, if necessary, in

order to fully cooperate in accord with this Agreement. Any privilege waiver requested would not extend to opinions of counsel, mental impressions of counsel and legal advice of counsel. The Defendant warrants that there is no internal or external investigative report of the subject matters in this Agreement. Said information is contained in the witness statements all of which shall be provided as set forth in (b) below.

h) In the state of Alaska, witness statements are generally exchanged between parties to litigation. Accordingly, in furtherance of its duties to cooperate consistent with this Agreement, Defendant shall provide to the United States witness statements (written notes and interview memoranda) of all interviews of its past or present officers and employees, in connection with the waste disposal practices and rig operations at Rig 15. Portions of the witness statements which include counsel's mental impressions, opinions of counsel, and legal advice of counsel may be redacted. In addition, in the event the United States calls counsel for the defendant to testify about witness statements obtained from Defendant's past or present officers or employees, the Defendant shall permit such testimony to occur which orally provides the same information as that in those witness statements (with the exception of any mental impressions, opinions and legal advice of counsel). It is further understood and agreed that Defendant's

obligations in this paragraph are subject to and limited by the Defendant's obligations to preserve confidences under all applicable joint defense agreements. Should Defendant determine that it is obligated to withhold any such document or information pursuant to a joint defense agreement, the Defendant shall (a) identify in writing the nature of the document or information it seeks to withhold; and (b) provide an explanation in writing as to how said document or information is covered by the terms of a joint defense agreement.

i) The Defendant agrees to withdraw from all joint defense agreements with individuals or corporations, as of the date of this agreement. Despite withdrawal from the joint defense agreements, the Defendant will continue to preserve confidences under all applicable joint defense agreements unless all relevant parties waive the privilege. The Defendant agrees not to enter any joint defense agreements regarding the subject matter identified in Section III after the date of this Plea Agreement.

B. In exchange for the Defendant's full and complete compliance with the terms of this Agreement, the government agrees that:

1. It will defer prosecution of one count of violating RCRA and one count of violating CERCLA, as described in the Deferred Prosecution Agreement. The government reserves the right to reinstate prosecution of these charges should the Defendant fail to comply with the terms and conditions of the Deferred Prosecution Agreement and this Agreement.

2. It will not seek additional criminal prosecution in the District of Alaska against DOYON DRILLING, or any other affiliated or related corporate entity, for environmental criminal violations and general criminal violations (1) relating to waste disposal and rig operations at Rig 15 from 1992 to 1995, or (2) based on any matters that were the subject of the government's criminal investigation involving DOYON DRILLING and were known to the government as of the time of this Plea Agreement. This Agreement does not limit the government's right to prosecute any offenses based on facts of which it was unaware as of the date of this Agreement. The parties understand that this Agreement does not apply to any individuals, including but not limited to present and former employees, officers, agents and contractors. The parties further understand that this agreement applies only to federal criminal

charges and only binds the U.S. Attorney's Office for the District of Alaska and the Department of Justice Environmental Crimes Section. The Defendant has discussed with its attorneys and understands that nothing contained in this Plea Agreement is meant to limit the rights and authority of the United States to take further civil or administrative action against the Defendant including but not limited to, any listing and debarment proceedings to restrict rights and opportunities of the Defendant to contract with or receive assistance, loans and benefits from United States government agencies.

III. PENALTIES

The maximum penalty for each of the counts in the Information is a fine of \$200,000.00 or twice the gross gain or loss resulting from the unlawful conduct, 18 U.S.C. Section 3571; from one to five years probation; and a special assessment of \$125.00, 18 U.S.C. Section 3013(a)(1)(B). The Defendant could also be required to make full restitution for damage to any person or natural resources.

IV. RECOMMENDATIONS AS TO SENTENCE

Pursuant to Fed. R. Crim. P. 11(e)(1) and (2), the parties agree that the following sentence is appropriate and should be imposed in this case:

A. DOYON DRILLING shall pay a fine of \$3 million. One million of the fine will be paid on or before the date that the Court imposes sentence. Two million of the \$3 million fine may be offset by expenditures incurred by DOYON DRILLING from January 1, 1996 for the development, implementation, and maintenance of a corporate environmental compliance program for DOYON DRILLING and its employees, as discussed below. The expenditures to be offset from the fine must be documented and approved by the U.S. Attorney's Office and Probation

Office within the period of probation. Any remainder of the fine amount must be paid to the U.S. Treasury prior to release from probation.

B. DOYON DRILLING shall pay special assessments of \$1,875 (\$125.00 for each count) to the Victim's Assistance Fund, pursuant to Title 18, United States Code, Section 3013(a)(2)(B).

C. DOYON DRILLING shall be placed on organizational probation for a period of five years.

* * D. In addition to the Court's standard conditions of probation and in addition to conditions that may be set by the Probation Office, the terms of probation shall include the following specific conditions:

1. DOYON DRILLING shall commit no further violations of environmental laws, regulations or permits of the United States, including those for which primary enforcement has been delegated to a state.

2. Defendant DOYON DRILLING agrees to establish and maintain an effective environmental compliance program enforcing all environmental law, regulations, and permits. Defendant DOYON DRILLING agrees that the environmental compliance program will be diligently enforced by the officers and managers of DOYON DRILLING. As part of establishing and maintaining an effective compliance program, DOYON DRILLING will do the following:

a) appoint a DOYON DRILLING employee as a responsible corporate officer (RCO), who will have the requisite knowledge of DOYON DRILLING's compliance obligations under this Agreement and the authority to insure that the obligations are fully

implemented, and who will be directly responsible for monitoring, maintaining, and enforcing the provisions of the environmental compliance program. The U.S. Attorney's Office and the Court must approve the selection of the RCO. DOYON DRILLING will identify the RCO to the Court at the time of sentencing;

b) establish, at a time prior to sentencing, a Compliance Committee consisting of the RCO, the General Manager of DOYON DRILLING and the independent environmental consultant hired to develop DOYON DRILLING's compliance program, as described below or other suitable environmental consultant approved by the U.S. Attorney's Office and the Probation Office. This Compliance Committee shall report to the DOYON DRILLING board at each regularly scheduled board meeting;

c) retain, at a time prior to sentencing, the services of an independent environmental consultant to be approved by the U.S. Attorney's Office and Probation Office who will develop the environmental compliance plan, including the requisite employee training program. The consultant shall have full access to all DOYON DRILLING facilities, including but not limited to its drilling rigs and business offices, records relating to DOYON DRILLING's compliance with environmental laws, regulations and permits, and all present and past DOYON DRILLING employees;

d) identify all waste streams from the DOYON DRILLING rigs;

e) develop written work practice standards for DOYON DRILLING rigs regarding handling, storage, treatment, and proper disposal of all solid wastes and hazardous substances;

f) develop and implement a program to comply with all federal and state environmental laws, regulations, and permits. The program will adopt and implement the recommendations of the independent environmental consultant and will incorporate and employ the equipment and procedures necessary to prevent future noncompliance and violations. The program will include the development and maintenance of record keeping regarding the accumulation, treatment, storage, and proper disposal of all solid waste, as defined by RCRA. The program must be approved by the U.S. Attorney's Office, Environmental Protection Agency (EPA), and Probation Office prior to implementation. This program must be developed and fully implemented within one year of sentencing.

g) commence implementation of the compliance program and training following the government's review and approval. The Defendant shall submit quarterly reports to the Court, U.S. Attorney's Office and Probation Office, signed by the RCO, describing the status of the implementation of the environmental compliance program and training. A status conference with the Court will be held on an annual basis commencing one year from the date this Agreement is executed, or more frequently as requested by the United States and approved by the Court, during the period of probation. The environmental compliance program will remain under _____ the supervision of the Court for the duration of the term of probation subject to periodic announced and unannounced inspections by government officials. This term shall not be interpreted in any way to limit any governmental agency's exercise of its statutory or regulatory access or inspection rights.

h) train all employees, and contractor employees that are normally and regularly present at DOYON DRILLING facilities on the North Slope or are involved with waste

handling or disposal, annually about the requirements of environmental law, regulations and permits and about the necessity of personal responsibility in enforcement of environmental laws, regulations and permits. This internal employee training will be in addition to any training provided by DOYON DRILLING's clients;

i) train all new DOYON DRILLING employees, and new contractor employees that are normally and regularly present at DOYON DRILLING facilities on the North Slope or have responsibility for waste handling or disposal, within two months of hiring about the requirements of environmental laws, regulations and permits and about the necessity of personal responsibility in enforcement of environmental laws;

j) direct supervisors to provide written certification annually to the RCO that all supervised employees have been properly trained;

k) hire an independent environmental auditor approved by the U.S. Attorney's Office and the Probation Office to conduct annual audits of all DOYON DRILLING rigs in operation to determine compliance with all environmental laws, regulations and permits, adequacy of the compliance program, and adequacy and frequency of environmental training.

The auditor will not be associated with the independent consultant hired to develop the compliance and training programs. The auditor shall have full access to DOYON DRILLING's drilling rigs, business offices, facilities, records relating to DOYON DRILLING's compliance with environmental laws, regulations and permits and DOYON DRILLING employees;

l) convey the independent auditor's annual reports to the EPA, the U.S. Attorney's Office, the Probation Office, and the Court;

m) provide any rebuttal of, or explanations by DOYON DRILLING in response to, the auditor's annual report to the EPA, the U.S. Attorney's Office, the Probation Office, and the Court;

n) assume all costs associated with the implementation, maintenance and governmental and Court review of this condition of probation. All costs submitted as an offset to the fine must be documented and approved by the U.S. Attorney's Office and Probation Office prior to the conclusion of probation.

3. The Defendant understands this Agreement does not confer any immunity on the Defendant or any of its officers, employees or directors for making false statements to the government or giving untruthful testimony under an oath at any judicial proceeding, nor does this Agreement provide use immunity or derivative use immunity to the Defendant or any of its officers, employees or directors for any statements.

V. ELEMENTS

The elements of the offenses described in the Information, to which the Defendant agrees to plead guilty, are as follows: (1) that the Defendant acted negligently; (2) that the Defendant discharged or caused to be discharged, a harmful quantity of oil or a hazardous substance; (3) that the discharge was onto shorelines adjoining waters of the United States and in a manner that may have affected natural resources belonging to or appertaining to the United States. 33 U.S.C. §§ 1319(c)(1)(A) & 1321(b)(3).

VI. FACTUAL BASIS

The conduct described below constitutes a factual basis for the violations contained in the Information. The Defendant, a corporation, is criminally liable for the acts of its employees

PLEA AGREEMENT

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comprising the elements of the offenses charged. At all times described below, the employees whose conduct is described were acting for the benefit of DOYON DRILLING and within the scope of their employment.

The parties stipulate that the following provides a factual and legal basis for the Defendant's conviction of the crimes charged in the Information.

A. The Defendant

Defendant DOYON DRILLING is an Alaskan corporation that provides drilling services throughout the North Slope of the state of Alaska. DOYON DRILLING owns and operates several drilling rigs on the North Slope, including Rig 15. Throughout the relevant period, Rig 15 operated on Endicott Island.

DOYON DRILLING has operated Rig 15 on Endicott Island (Endicott) since approximately 1986. Endicott consists of two man-made islands located in the Beaufort Sea off the North Slope of Alaska. The islands were constructed in the late 1980's to facilitate oil exploration and production.

Rig 15 has several employee positions, including the toolpusher, who oversees the drilling rig on behalf of DOYON DRILLING. The toolpusher is in charge of the rig and is the highest ranking DOYON DRILLING employee regularly onsite. The rockwasher worked in a separate unit of Rig 15, used during the period relevant to this matter, called the rockwashing unit or rockwasher. This rockwashing unit processed fluids that were used to lubricate the drill bit and lift cuttings to the surface, separating out sand, gravel and rocks from the lubricant, called drilling mud. The waste drilling mud was injected by the rockwasher into the outer annuli of wells.

When drilling a well, Rig 15 drills a hole to a certain depth, then lowers a steel pipe called the surface casing into the hole and cements that casing into place. The rig then drills a second, smaller hole, within the surface casing. A second casing is then lowered and cemented into place. Finally, an even smaller hole is drilled within this second casing and the production tubing is lowered into the hole and cemented into place. The space inside the production tubing is where the oil and gas are brought to the surface.

The space between production tubing and the second casing is the inner annulus. On most Endicott wells, the inner annulus is closed to the ground formation. Fluids pumped down the inner annulus remain in the inner annulus until removed. The space between the second casing and the outer, surface casing is called the outer annulus. The surface casing extends to a depth of between 2000 feet to 4500 feet. On most Endicott wells, fluids pumped down the outer annulus reach the 2000 to 4500 foot depth, then flow into the ground formation and are released into the environment.

B. The Defendant's Unlawful Conduct

Over a period of several years, beginning approximately in late 1992 and lasting until approximately September 1995, employees of DOYON DRILLING discharged waste oil and hazardous substances by injecting barrels of waste materials down the outer annuli of oil-producing wells. The barrels contained a variety of wastes, including waste paint thinner, waste paint, waste oil, waste glycol, and waste solvents. The waste materials placed into the rockwasher tanks and injected into the outer annuli included oil and hazardous substances, as those terms are defined in regulations of the EPA promulgated pursuant to the Federal Water Pollution Control Act.

Waste materials from throughout the facility on Endicott were accumulated in barrels. Doyon Drilling employees did not always segregate waste materials when placed in barrels, resulting in the unlawful mixing of wastes. Full accumulation barrels were routinely taken to a designated storage area on the island.

Once several barrels of waste materials had accumulated at the storage area, the rig toolpusher or roustabout pusher would direct that the barrels be taken to the rockwasher for disposal. A forklift operator would transport the barrels to the rockwashing unit, where a rockwasher would inject the waste materials, either by placing the wastes into a collection tank and then injecting the tank contents, or pumping the wastes directly from the barrel.

DOYON DRILLING employees injected waste materials as frequently as once every two weeks. On occasion, as many as 25-30 barrels were injected at one time. Approximately seven rockwashers were directed to inject hazardous waste. Rockwashers complained about the noxious fumes released during injection of the waste. Some rockwashers wore respirators provided by DOYON DRILLING to protect them from the fumes. DOYON DRILLING conducted no environmental laboratory testing to determine the nature of the wastes and whether

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PLEA AGREEMENT
Page 18

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Ecc
COPY

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12 UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

No.

15 v.

16 DOYON DRILLING, INC.,

INFORMATION

17 Defendant.

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21 COUNTS 1-15

22 The United States Attorney charges that at all times relevant to this Information:

23 1. DOYON DRILLING, INC. (DOYON DRILLING), was an Alaskan corporation
24 engaged in the business of providing drilling services throughout the North Slope of the state of
25 Alaska. DOYON DRILLING owned and operated several drilling rigs, including a rig identified as
26 Rig 15. Rig 15 was operated by DOYON DRILLING on Endicott Island, a man-made island located
27 in the Beaufort Sea off the North Slope of Alaska.
28

1 2. In late 1992, a processing facility known as a rockwasher was added to Rig 15. The
2 function of the rockwasher was to process rock cuttings and spent drilling muds used in the drilling
3 process. Some of the rock cuttings and spent drilling muds were injected into the outer annuli, or the
4 outermost spaces of oil-producing wells on Endicott Island, utilizing a practice known as annular
5 injection.

6 3. Beginning approximately in late 1992, and continuing through September of 1995,
7 DOYON DRILLING employees working in the rockwasher on Rig 15 were instructed by their
8 supervisors to dump the contents of waste barrels into a tank in the rockwasher and then inject the
9 contents of the tank into the outer annuli of oil-producing wells. Occasionally, rockwashers pumped
10 the wastes directly from the barrels down the outer annuli of wells. The barrels contained a variety of
11 wastes, including waste paint thinner, waste paint, waste oil, waste glycol, and waste solvents. These
12 materials included oil and hazardous substances as those terms are defined in the EPA regulations
13 promulgated pursuant to the Federal Water Pollution Control Act.

14 4. The outer annuli of the oil-producing wells into which the waste materials were
15 injected are not sealed. The waste materials were released into the environment and not reclaimed.
16 On several occasions between 1992 and September of 1995, annular injection materials returned to
17 the ground surface near the wells into which the materials had been previously discharged. These
18 broaching incidents confirmed that these materials migrated from the initial area of injection to other
19 areas on and around Endicott Island, potentially affecting natural resources belonging to the United
20 States.

21 5. The Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, also known as the
22 Clean Water Act, seeks to prevent, reduce and eliminate water pollution in the United States, and to
23 conserve the waters of the United States for the protection of fish and aquatic life, wildlife,
24 recreational purposes, and the use of such waters for public drinking water, agriculture, and industrial
25 purposes. 33 U.S.C. § 1252(a). The Clean Water Act was amended in 1990 by the Oil Pollution
26 Control Act (OPA). The OPA amendments prohibit the discharge of oil or hazardous substances
27 upon the shorelines adjoining the waters of the United States and that may affect resources belonging
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1 to or appertaining to the United States in quantities that may be harmful. 33 U.S.C. § 1321(b)(3).

2 6. At Endicott Island within the District of Alaska, defendant DOYON DRILLING
3 negligently discharged a harmful quantity of oil and hazardous substances upon the shorelines
4 adjoining waters of the United States and that may affect natural resources belonging to or
5 appertaining to the United States on or about the following dates:

6		
7	COUNT 1	May 1, 1993 through June 30, 1993
8	COUNT 2	July 1, 1993 through August 31, 1993
9	COUNT 3	September 1, 1993 through October 31, 1993
10	COUNT 4	November 1, 1993 through December 31, 1993
11	COUNT 5	January 1, 1994 through February 28, 1994
12	COUNT 6	March 1, 1994 through April 30, 1994
13	COUNT 7	May 1, 1994 through June 30, 1994
14	COUNT 8	July 1, 1994 through August 31, 1994
15	COUNT 9	September 1, 1994 through October 31, 1994
16	COUNT 10	November 1, 1994 through December 31, 1994
17	COUNT 11	January 1, 1995 through February 28, 1995
18	COUNT 12	March 1, 1995 through April 30, 1995
19	COUNT 13	May 1, 1995 through June 30, 1995
20	COUNT 14	July 1, 1995 through August 31, 1995

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1 COUNT 15

September 1, 1995 through September 30, 1995

2 All in violation of Title 33, United States Code, Sections 1321(b)(3) and 1319(c)(1)(A) and
3 Title 18, United States Code, Section 2.

4
5 DATED this ____ day of April, 1998.

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8 ROBERT BUNDY
United States Attorney

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11 TIMOTHY BURGESS
Assistant United States Attorney

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13 DEBORAH SMITH
Deputy Chief
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IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA

Plaintiff,

v.

DOYON DRILLING, INC.,

Defendant,

No.

DEFERRED PROSECUTION
AGREEMENT

I. INTRODUCTION

A. This document contains the complete Deferred Prosecution Agreement (Deferral Agreement) between the United States of America and Defendant DOYON DRILLING, INC.

(DOYON DRILLING) with respect to charges under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6928(d)(2)(A), and the Comprehensive Environmental Response, Liability, and Cleanup Act (CERCLA), 42 U.S.C. Sections 9601 & 9603. Filed simultaneously with this agreement is a Plea Agreement between the United States and Defendant DOYON DRILLING, in which DOYON DRILLING agreed to plead guilty to 15 charges of negligently discharging a harmful quantity of oil and hazardous substances upon the shorelines adjoining waters of the United States and in a manner that may have affected resources belonging to or appertaining to the United States in violation of the Federal Water Pollution Control Act (Clean Water Act), Title 33, United States Code, Sections 1319(c)(1)(A) and 1321(b)(3). The deferral of felony RCRA and CERCLA charges is contingent upon DOYON DRILLING's compliance with the terms of both this Deferral Agreement and the Plea Agreement. Other than these two agreements, no other agreement, understanding, promise or condition exists between the parties.

B. This Agreement is limited to the United States Attorney for the District of Alaska (U.S. Attorney's Office) and the Environmental Crimes Section of the Department of Justice, and does not bind other sections or divisions of the Department of Justice or any other federal, state or local prosecutive or regulatory authority.

C. The parties agree not to make any public statement contrary to the facts and provisions set forth in this Deferral Agreement, the Plea Agreement, and the Information. However, the parties specifically reserve the right to make public statements or filings that do not contradict the facts set forth in the Deferral Agreement, Information and the Plea Agreement after the filing of the Information.

II THE AGREEMENT

A. The Defendant agrees to:

1. Acknowledge responsibility for the acts and omissions constituting the crimes alleged below:

a) From late 1992 through September 1995, in the manner and frequency discussed below in Section IV, in the District of Alaska, Defendant DOYON DRILLING did knowingly dispose and cause to be disposed, hazardous wastes on Endicott Island, by injecting hazardous wastes down the outer annuli of oil-producing wells, without a permit or interim status authorization, in violation of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6928(d)(2)(A).

b) On or about January 17, 1995, a hazardous substance consisting of 23 barrels of ignitable waste solvents and waste oil containing F-listed hazardous wastes as defined in the Resource Conservation and Recovery Act, was released into the environment from Rig 15, by injection into the ground through the outer annuli of an oil-producing well on Endicott Island; the release was not federally permitted; the amount released was in excess of the reportable quantity as defined by law; and DOYON DRILLING failed to immediately notify the appropriate agency of the United States as soon as DOYON DRILLING became aware of the release, all in violation of the Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA), 42 U.S.C. Sections 9601 and 9603.

2. Concede and admit the factual and legal basis for these charges as described in section IV.

3. Have its representative, duly authorized by the Defendant DOYON DRILLING's Board of Directors and with authority to speak for the Defendant, sign the Deferred Prosecution Agreement and appear in court at the time it is filed.

4. Provide to the United States and the Court written evidence, in the form of a notarized resolution of its Board of Directors with both notary and corporate seals, certifying that Defendant is authorized to enter the Deferred Prosecution Agreement, toll the applicable statutes of limitations, and comply with all provisions of the Deferral Agreement. The resolution shall further certify that the President or Chief Executive Officer or his or her designee are authorized to take these actions and that all corporate formalities, including but not limited to approval by Defendant's directors, required for such authorization have been observed.

5. The Defendant understands and agrees that the prosecution of the RCRA count and CERCLA count will be deferred for a period of five years. During this five year deferral period, the Defendant agrees to the following conditions:

a. The Defendant shall commit no further violations of state or federal criminal laws, environmental laws, regulations or permits of the United States, including those for which primary enforcement has been delegated to a state.

b. In connection with the United States' investigation of possible violations of the RCRA, CERCLA, the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., or any other environmental or criminal violation at Endicott Island, Alaska, and in any trials or other proceedings arising out of this investigation, the Defendant will cooperate truthfully and completely with the United States. The Defendant agrees that such cooperation shall include, but not be limited to, the following upon request:

- i) The Defendant will provide access to copies of original documents and records and providing authentication of such documents as business records;
- ii) The Defendant will provide reasonable access to DOYON DRILLING rigs;
- iii) The Defendant will provide access to Defendant's experts and consultants and copies of their records, reports, and documents, including but not limited to Dames & Moore;
- iv) The Defendant will provide the assignment schedules for DOYON DRILLING employees and contractors, and granting liberal leave to its employees for any obligation to respond to any request to appear for interviews by law enforcement agents and government counsel and also to respond to any request to appear or subpoena to appear at legal proceedings, including grand jury sessions and trials;
- v) The Defendant will impose no limits on contacts between law enforcement agents and government counsel and Defendant's past and present officers and employees, including refraining from instructing its officers and employees that they must contact a company representative or counsel before communicating with law enforcement personnel and government counsel; however, DOYON DRILLING may expect that the United States will give consideration to and will coordinate with DOYON DRILLING to the extent possible with respect to work schedules and drilling activities, so that investigative work by the United States will not unduly interfere with the business of the company;
- vi) The Defendant will inform its employees and contractors that it is the policy of DOYON DRILLING to cooperate with regulatory authorities, and

encourage its past and present officers and employees to cooperate fully and truthfully with the United States and disclose all information with respect to their activities and those of others relating to violations of federal criminal laws, including federal environmental laws;

vii) The Defendant will provide all relevant information including the complete results of all internal and external investigations of this matter and the names of all potential witnesses. Upon request in writing of the United States, the Defendant will provide a limited waiver of the attorney-client privilege and the work product doctrine, if necessary, in order to fully cooperate in accord with this Agreement. Any privilege waiver requested would not extend to opinions of counsel, mental impressions of counsel and legal advice of counsel. The Defendant warrants that there is no internal or external investigative report of the subject matters in this Agreement. Said information is contained in the witness statements all of which shall be provided as set forth in (h) below.

viii) In the state of Alaska, witness statements are generally exchanged between parties to litigation. Accordingly, in furtherance of its duties to cooperate consistent with this Agreement, Defendant shall provide to the United States witness statements (written notes and interview memoranda) of all interviews of its past or present officers and _____ employees, in connection with the waste disposal practices and rig operations at Rig 15. Portions of the witness statements which include counsel's mental impressions, opinions of counsel, and legal advice of counsel may be redacted. In addition, in the event the United States calls counsel for the defendant to testify about witness statements obtained from Defendant's past or present officers or employees, the Defendant shall permit such testimony to occur which orally provides the same information as that in those witness statements (with the exception of any mental

impressions, opinions and legal advice of counsel). It is further understood and agreed that Defendant's obligations in this paragraph are subject to and limited by the Defendant's obligations to preserve confidences under all applicable joint defense agreements. Should Defendant determine that it is obligated to withhold any such document or information pursuant to a joint defense agreement, the Defendant shall (a) identify in writing the nature of the document or information it seeks to withhold; and (b) provide an explanation in writing as to how said document or information is covered by the terms of a joint defense agreement.

6. The Defendant agrees to withdraw from all joint defense agreements with individuals or corporations, as of the date of this agreement. Despite withdrawal from the joint defense agreements, the Defendant will continue to preserve confidences under all applicable joint defense agreements unless all relevant parties waive the privilege.

7. The Defendant agrees to refrain in the future from entering into the same or any new joint defense agreements similar to and involving the same parties and subject matters as those that may exist as of the date of the signing of this document. However, nothing herein shall prevent DOYON DRILLING from entering into any joint defense agreement in the future as deemed necessary in anticipation of litigation other than criminal enforcement by the United

States pursuant to the terms of this Deferral Agreement, provided any future joint defense agreements do not compromise the Defendant's obligations to fully cooperate with the United States, as required by this Deferral Agreement.

8. The Defendant agrees that it has been fully advised of its statutory and constitutional rights, that it has been informed of the possible charges and allegations against it and the possible penalties, and that it understands them. For each count of a RCRA or CERCLA

conviction, the penalty is a maximum fine of \$500,000 or twice the gross gain or loss resulting from the unlawful conduct, 18 U.S.C. Section 3571; from one to five years organizational probation; and a special assessment of \$200.00, 18 U.S.C. Section 3013(a)(1)(B). The Defendant could also be required to make full restitution for damage to any person or natural resources.

9. The Defendant agrees to establish and maintain an effective environmental compliance program enforcing all state and federal environmental laws, regulations, and permits. Defendant DOYON DRILLING agrees that the environmental compliance program will be diligently enforced by the officers and managers of DOYON DRILLING. As part of establishing and maintaining an effective compliance program, DOYON DRILLING will do the following:

a) appoint a DOYON DRILLING employee as a responsible corporate officer (RCO), who will have the requisite knowledge of DOYON DRILLING's compliance obligations under this Agreement and the authority to insure that the obligations are fully implemented, and who will be directly responsible for monitoring, maintaining, and enforcing the provisions of the environmental compliance program. The U.S. Attorney's Office and the Court must approve the selection of the RCO. DOYON DRILLING will identify the RCO to the Court at the time of sentencing;

b) establish, at a time prior to sentencing, a Compliance Committee consisting of the RCO, the General Manager of DOYON DRILLING and the independent environmental consultant hired to develop DOYON DRILLING's compliance program, as described below or other suitable environmental consultant approved by the U.S. Attorney's Office and the Probation Office. This Compliance Committee shall report to the DOYON DRILLING board at each regularly scheduled board meeting;

c) retain, at a time prior to sentencing, the services of an independent environmental consultant to be approved by the U.S. Attorney's Office and Probation Office who will develop the environmental compliance plan, including the requisite employee training program. The consultant shall have full access to all DOYON DRILLING facilities, including but not limited to its drilling rigs and business offices, records relating to DOYON DRILLING's compliance with environmental laws, regulations and permits, and all present and past DOYON DRILLING employees;

d) identify all waste streams from the DOYON DRILLING rigs;

e) develop written work practice standards for DOYON DRILLING rigs regarding handling, storage, treatment, and proper disposal of all solid wastes and hazardous substances;

f) develop and implement a program to comply with all federal and state environmental laws, regulations, and permits. The program will adopt and implement the recommendations of the independent environmental consultant and will incorporate and employ the equipment and procedures necessary to prevent future noncompliance and violations. The program will include the development and maintenance of record keeping regarding the accumulation, treatment, storage, and proper disposal of all solid waste, as defined by RCRA. The program must be approved by the U.S. Attorney's Office, Environmental Protection Agency (EPA), and Probation Office prior to implementation. This program must be developed and fully implemented within one year of sentencing;

g) commence implementation of the compliance program and training following the government's review and approval. The Defendant shall submit quarterly reports to

the Court, U.S. Attorney's Office and Probation Office, signed by the RCO, describing the status of the implementation of the environmental compliance program and training. A status conference with the Court will be held on an annual basis commencing one year from the date of this Agreement is executed, or more frequently as requested by the United States and approved by the Court, during the period of probation. The environmental compliance program will remain under the supervision of the Court for the duration of the term of probation subject to periodic announced and unannounced inspections by government officials. This term shall not be interpreted in any way to limit any governmental agency's exercise of its statutory or regulatory access or inspection rights.

h) train all employees, and contractor employees that are normally and regularly present at DOYON DRILLING facilities on the North Slope or are involved with waste handling or disposal, annually about the requirements of environmental law, regulations and permits and about the necessity of personal responsibility in enforcement of environmental laws, regulations and permits. This internal employee training will be in addition to any training provided by DOYON DRILLING's clients;

i) train all new DOYON DRILLING employees, and new contractor employees that are normally and regularly present at DOYON DRILLING facilities on the North Slope or have responsibility for waste handling or disposal, within two months of hiring about the requirements of environmental laws, regulations and permits and about the necessity of personal responsibility in enforcement of environmental laws;

j) direct supervisors to provide written certification annually to the RCO that all supervised employees have been properly trained;

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k) hire an independent environmental auditor approved by the U.S.

Attorney's Office and the Probation Office to conduct annual audits of all DOYON DRILLING rigs in operation to determine compliance with all environmental laws, regulations and permits, adequacy of the compliance program, and adequacy and frequency of environmental training. The auditor will not be associated with the independent consultant hired to develop the compliance and training programs. The auditor shall have full access to DOYON DRILLING's drilling rigs, business offices, facilities, records relating to DOYON DRILLING's compliance with environmental laws, regulations and permits and DOYON DRILLING employees;

l) convey the independent auditor's annual reports to the EPA, the U.S. Attorney's Office, the Probation Office, and the Court;

m) provide any rebuttal of, or explanations by DOYON DRILLING in response to, the auditor's annual report to the EPA, the U.S. Attorney's Office, the Probation Office, and the Court;

n) assume all costs associated with the implementation, maintenance and governmental and Court review of this condition of probation.

10. The Defendant understands this agreement does not confer any immunity on the Defendant or any of its officers, employees or directors for making false statements to the government or giving untruthful testimony under an oath at any judicial proceeding, nor does this agreement provide use immunity or derivative use immunity to the Defendant or any of its officers, employees or directors for any statements.

11. If it is determined the Defendant violated a condition of this Deferral Agreement during the five year deferral, the United States' obligations under this Deferral

Agreement are immediately terminated and the United States can, in its discretion, withdraw from this Deferral Agreement. The United States may then prosecute the Defendant on charges it has agreed to defer or forego. The Defendant waives any statute of limitation defense that could be asserted to charges described in Section II(B)(1)&(2) should prosecution be reinstituted following breach of this Deferral Agreement by the Defendant.

B. In exchange for the Defendant's full and complete compliance with the terms of this Deferral Agreement throughout the five year deferral period and DOYON DRILLING's agreement to plead guilty to 15 misdemeanor counts charging the negligent discharge of oil and hazardous substances upon the shorelines adjoining the waters of the United States and in a manner that may have affected resources belonging to or appertaining to the United States, in violation of Title 33, United States Code, Sections 1319(c)(1)(A) and 1321(b)(3), the United States agrees that:

1. It will not prosecute the Defendant for the RCRA and CERCLA violations described in Section II(A)(2)(a) & (A)(2)(b) above.

2. It will not seek additional criminal prosecution in the District of Alaska against DOYON DRILLING, or any other affiliated or related corporate entity, for environmental criminal violations and general criminal violations (1) relating to waste disposal and rig operations at Rig 15 from 1992 to 1995, or (2) based on any matters that were the subject of the government's criminal investigation involving DOYON DRILLING and were known to the government as of the time of this Deferral Agreement. This Deferral Agreement does not limit the government's right to prosecute any offenses based on facts of which it was unaware as of the date of this Deferral Agreement. The parties understand that this Deferral Agreement does not

apply to any individuals, including but not limited to present and former employees, officers, agents and contractors. The parties further understand that this Deferral Agreement applies only to federal criminal charges and only binds the U.S. Attorney's Office for the District of Alaska and the Department of Justice Environmental Crimes Section. The Defendant has discussed with its attorneys and understands that nothing contained in this Deferral Agreement is meant to limit the rights and authority of the United States to take further civil or administrative action against the Defendant including but not limited to, any listing and debarment proceedings to restrict rights and opportunities of the Defendant to contract with or receive assistance, loans and benefits from United States government agencies.

III. ELEMENTS

A. Resource Conservation and Recovery Act

The elements of a RCRA treatment or disposal without a permit offense are as follows:

(1) the defendant is a person who; (2) knowingly, (3) treated, stored, or disposed of; (4) a hazardous waste; (5) without a permit or interim status authority. 42 U.S.C. § 6928(d)(2)(A).

B. Comprehensive Environmental Response, Cleanup, and Liability Act

The elements of a CERCLA offense for failure to report a release are as follows: (1) a

hazardous substance; (2) in an amount equal to or greater than the reportable quantity; (3) was released into the environment; (4) from a facility or vessel; (5) the release was other than a federally permitted release; and (6) the defendant, who was a person in charge of the facility or vessel; (7) failed to notify the appropriate agency of the United States immediately as soon as he or she became aware of the release. 42 U.S.C. § 9603.

IV. FACTUAL BASIS

The conduct described below constitutes a factual and legal basis for the RCRA and CERCLA violations described in Section II(A)(2)(a) & (A)(2)(b) above. The Defendant, a corporation, is criminally liable for the acts of its employees comprising the elements of the offenses charged. At all times described below, the employees whose conduct is described were acting for the benefit of DOYON DRILLING and within the scope of their employment.

A. The Defendant

Defendant DOYON DRILLING is an Alaskan corporation that provides oil-field drilling services throughout the North Slope of the state of Alaska. DOYON DRILLING owns and operates several drilling rigs on the North Slope, including Rig 15.

DOYON DRILLING has operated Rig 15 on Endicott Island (Endicott) since approximately 1986. Endicott consists of two man-made islands located in the Beaufort Sea off the North Slope of Alaska. The islands were constructed in the late 1980's to facilitate oil production.

Rig 15 has several employee positions, including the toolpusher, who oversees the drilling rig on behalf of DOYON DRILLING. The toolpusher is in charge of the rig and is the highest ranking DOYON DRILLING employee regularly onsite. The rockwasher worked in a separate unit of Rig 15, used during the period relevant to this matter, called the rockwashing unit or rockwasher. This rockwashing unit processed fluids that were used to lubricate the drill bit and lift cuttings to the surface, separating out sand, gravel and rocks from the lubricant, called drilling mud. The waste drilling mud was injected from tanks in the rockwasher into the outer annuli of wells.

When drilling a well, Rig 15 drills a hole to a certain depth, then lowers a steel pipe called the surface casing into the hole and cements that casing into place. The rig then drills a second, smaller hole, within the surface casing. A second casing is then lowered and cemented into place. Finally, an even smaller hole is drilled within this second casing and the production tubing is lowered into the hole and cemented into place. The space inside the production tubing is where the oil and gas are brought to the surface.

The space between production tubing and the second casing is the inner annulus. On most Endicott wells, the inner annulus is closed to the ground formation. Fluids pumped down the inner annulus remain in the inner annulus until removed. The space between the second casing and the outer, surface casing is called the outer annulus. The surface casing extends to a depth of between 2000 feet to 4500 feet. On most Endicott wells, fluids pumped down the outer annulus reach the 2000 to 4500 foot depth, then flow into the ground formation and are released into the environment.

At the completion of drilling, the top 2000 feet of both the inner and outer annuli of a well require "freeze protection." Since Endicott is located in the permafrost zone, the top 2000 feet of the earth are permafrost. If a well is not freeze protected, the contents could freeze, potentially damaging the casing. To prevent this, an anti-freezing type substance is pumped into the annuli. Several different substances can be used to protect a well from freezing. The freeze protection fluids used by Rig 15 were new diesel and dead crude.

B. The Defendant's Unlawful Conduct

Beginning approximately in late 1992 and lasting until approximately September 1995, in the manner and frequency discussed below, employees of DOYON DRILLING discharged waste

oil and hazardous substances by injecting barrels of these waste materials down the outer annuli of oil-producing wells. The barrels contained a variety of wastes, including waste paint thinner, waste paint, waste oil, waste glycol, and waste solvents. Many of the waste materials placed into the rockwasher tanks and injected into the outer annuli were hazardous waste under the Resource Conservation and Recovery Act, including ignitable wastes, and lead-contaminated oil and solvents. Some of these wastes were F-listed hazardous wastes under RCRA. F-listed hazardous wastes are certain spent halogenated and non-halogenated solvents which contain a certain level of chemicals, such as methylene chloride, toluene, xylene, benzene and ethyl benzene.

Waste materials from throughout the rig and Endicott production facility were accumulated in barrels. DOYON DRILLING employees did not segregate waste materials when placed in the accumulation barrels on Rig 15, resulting in the unlawful mixing of wastes. Once full, the accumulation barrels were routinely taken to a designated storage area.

Once several barrels of waste materials had accumulated at the storage area, the rig toolpusher and roustabout pushers would direct that the barrels be taken to the rockwasher for disposal. A forklift operator would transport the barrels to the rockwashing unit, where a DOYON DRILLING rockwasher would inject the waste materials, either by dumping the wastes into a collection tank and then injecting the tank contents, or pumping and injecting the wastes directly from the barrel.

DOYON DRILLING employees injected waste materials as frequently as once every two weeks. On occasion, as many as 25-30 barrels were injected at one time. Approximately seven rockwashers were directed to inject hazardous waste at various times. The rockwashers were instructed to falsely report the waste materials that were annularly inject as mud.

Rockwashers complained about the severity of the fumes released during injection of the waste. Some rockwashers wore respirators provided by DOYON DRILLING to protect them from the fumes. No environmental laboratory testing was done by DOYON DRILLING to determine the nature of the wastes and whether the wastes were hazardous prior to workers' exposure and release of the waste materials into the environment.

The injection of ignitable used solvents and listed hazardous wastes constituted disposal in violation of RCRA, although the practice was called "freeze protection." According to DOYON DRILLING toolpushers, used solvents and other waste products were not used to freeze protect Endicott wells that had just been drilled. Instead, new diesel and dead crude oil were used. The practice of illegal disposal, falsely disguised as legitimate freeze protection, was stopped when a whistleblower disclosed the practice to the Operator of Endicott in September 1995, as described below.

On approximately January 16, 1995, 23 barrels of waste oil and waste solvent were delivered to the rockwasher on Rig 15 for injection. The rockwasher decided not to pump the chemicals into the rockwasher tank and inject them into the well. He told the forklift driver and toolpusher that he refused. After consulting with representatives of the Operator of the Endicott facility, the toolpusher on duty instructed the rockwasher to inject the 23 barrels. Rockwashers say that the toolpusher instructed the rockwashers to falsely report it on the injection log as "mud."

On approximately January 17, a sample was taken of the 23 barrels prior to injection and later tested by the EPA. According to the lab analysis, the sample was ignitable and contained chemical constituents found in specific listed halogenated and non-halogenated solvents identified

by EPA as hazardous. Some of the particular constituents included: methylene chloride, naphthalene, toluene, benzene, xylene, ethyl benzene, 1,2,4-trimethylbenzene and 1,3,5-trimethylbenzene.

The invoices and purchase orders of DOYON DRILLING revealed the following products in use at Rig 15 during the relevant period that contain some of the hazardous constituents found in the sample: lacquer thinner (toluene) and paint thinner (xylene and toluene).

In late February 1995, a rockwasher went to the DOYON DRILLING office in Anchorage to report the disposal practices on Rig 15. He spoke with Benjamin Shafsky, DOYON DRILLING's Assistant Operations Manager, and Michael Krupa, DOYON DRILLING's Health, Safety and Environmental (HSE) Coordinator, whom Shafsky supervised. The employee recorded the conversation without Shafsky's or Krupa's knowledge. During the meeting, the rockwasher informed Shafsky and Krupa about the injections. He reported the types of substances being injected, the volume and frequency of the injections, the toolpusher who directed the disposal, and the rockwasher's failed attempts to stop the practice. Both Krupa and Shafsky acknowledged that the state of Alaska's general wastewater disposal permit for annular disposal of drilling fluids did not allow the injection of used solvents, paints, and paint thinners and that it was illegal. Krupa said that the practice had been done for years and that the products being injected were supposed to be shipped off the North Slope. Krupa further acknowledged that the wastes were not exempt from the Resource Conservation and Recovery Act under the oil exploration and production exemption, noting that because the materials had not been "downhole," they could not be disposed of by annular injection.

Despite receiving this report of illegal injection, no report was made regarding the January 17 release or the continued illegal injection practices until October 12, 1995, when DOYON DRILLING notified the National Response Center and EPA. This notification occurred after DOYON DRILLING learned that EPA had been informed of the whistleblower's allegations.

The Defendant agrees that these facts provide a sufficient factual and legal basis to establish the violations of RCRA and CERCLA described in Section II(A)(2)(a) & (A)(2)(b) above. Defendant further agrees that the waste materials, including waste solvents, waste oils, waste paint, and waste paint thinners, disposed of through the rockwasher down the outer annuli of oil wells, were not used for freeze protection and, further, were not exempt from RCRA pursuant to the exploration and production exemption.

The parties agree that this Deferral Agreement is not a judgement involving DOYON DRILLING.

Dated this ____ day of April, 1998.

FOR THE UNITED STATES:

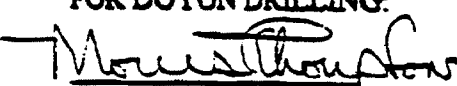
ROBERT C. BUNDY
UNITED STATES ATTORNEY

TIMOTHY M. BURGESS
ASSISTANT U. S. ATTORNEY


DEBORAH M. SMITH
DEPUTY CHIEF
ENVIRONMENTAL CRIMES SECTION
U.S. DEPARTMENT OF JUSTICE

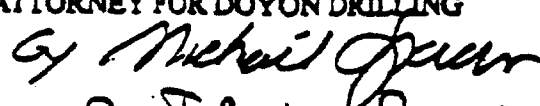
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FOR DOYON DRILLING:


MORRIS THOMPSON
PRESIDENT FOR DOYON DRILLING


MICHAEL SPAAN
ATTORNEY FOR DOYON DRILLING


DAVID MARSHALL
ATTORNEY FOR DOYON DRILLING


By Michael Spaan
Per Telephone Request