

EXECUTIVE COUNCIL**CONFIDENTIAL**

Title of Report: Wildlife Rehabilitation Facility

Paper No: 49/15

Date: 8th April 2015

Report of: Environmental Officer
Head of Environmental Planning
Head of Policy

1.0 Purpose

- 1.1 One of the key issues raised through discussions on the Noble Energy exploration drilling Environmental Impact Statement and Oil Spill Response Plan has been where responsibility for dealing with oiled wildlife would rest in the event of a spill. An agreement has been reached over this, including a financial retainer. This paper seeks approval for this, to be paid by Noble to FIG, who would then pay Falklands Conservation.

2.0 Recommendations

- 2.1 It is recommended that Executive Council:

- agree that the level of mitigation in relation to oiled wildlife is realistic and sufficient (within the context of the EIS and OSRP – the subject of separate reports);
- agree to retain an amendment to the, “Falkland Islands Oiled Wildlife Contingency Plan” as set out in 4.8;
- agree to retain a variation to the existing MoU between FC and FIG to cover responding to wildlife incidences that comprise 20 or less penguins for the period of the Noble Energy drilling campaign;
- an increase to the FC subvention from FIG amounting to £1,500 a month for the increased responsibilities for the period of the Noble drilling campaign; and
- agree to recharge the cost of this additional service to Noble Energy.

Responsible Officer: Head of Environmental Planner

Due Date: April 2015

3.0 Additional Budgetary Implications

	2014/15	Annual Recurring
Operating Revenue	(£6,000)	£nil
Operating Expenditure	£6,000	£nil
Net cost	£nil	£nil

- 3.1 Revenues and expenditures may extend further should the drilling campaign be longer than four months.

4.0 Background

- 4.1 The potential likelihood of a spill affecting oiled wildlife needs to be considered within the context of mitigation which reduces the likelihood of a spill, and the likelihood of wildlife encountering the material. Nevertheless, there is the potential for a spill (either of crude oil or of operational fuel) during the exploration campaign which could result in oiled wildlife and therefore clarity on roles and responsibilities is very important. It should be noted that the recent approval for Premier Oil (paper 35/15) to utilise the Falklands Conservation wildlife rehabilitation facility, concerns the likely scenario of a waxy oil being encountered, whereas the Noble development is likely to encounter a light crude oil which may be more damaging to wildlife. The most likely scenario for a small scale spill to occur is within Stanley harbour, which would entail the accidental loss of fuels from support vessels. This is the same scenario considered under the Premier Oil approval.

Current Provision

- 4.2 The MOU between FIG and FC agreed by ExCo on 29 January 2014 runs for three years until 30 November 2016. It states that amongst other things FC will “subject to sufficient resources being made available ... Respond to (and report on) small-scale wildlife emergencies”. The Falkland Islands Oiled Wildlife Contingency Plan was approved by the Falkland Islands Government Environmental Committee in March 2010. It clarifies that it is, “not aimed at delivering a response of an oil spill resulting from the oil exploration industry in the Falkland Economic Exclusion Zone”.
- 4.3 The plan sets out three tiers of response and indicates that it is intended to cover up to tier 2:
- Tier 1 (Minor): 1- 20 birds
 - Tier 2 (Moderate): 21- 200 birds
 - Tier 3 (Major): >201 birds
- 4.4 It also clarifies that, “the plan does not set out any rescue or rehabilitation procedures for marine mammals due to the lack of rehabilitation facilities and expertise in the Islands. This plan focuses primarily on the rehabilitation and rescue requirements for penguins - this is the group of seabirds which are most likely to be successfully rescued and rehabilitated following an oil spill”. It does, however, include some consideration of Black-browed albatross and Petrels (notably Giant petrels, White-chinned petrels and Sooty Shearwaters). It is noted that FC have confirmed that the maximum capacity of the existing facility is 20 birds (the limit coming from the physical size of the building).
- 4.5 Taken together the above indicate that the current level of response is that FC will respond to incidents which involve up to 20 penguins, albatross and/or petrels (and acknowledges that an effective response for the latter two may not be possible) where the oil spill does not result from oil exploration.

Proposed Offer / Contribution

- 4.6 In discussions, both Noble and Premier have asked what would happen in practical terms if small numbers of oiled birds were found during the drilling campaign and, as would likely be the case, the cause was unattributable (i.e. FC would surely deal with them). Having discussed this with FC it is acknowledged that this would indeed be

the case. However, as noted in the EIS, oil exploration brings with it the risk of increased small scale events (both attributable and non-attributable). Therefore oil exploration will increase the risk/pressure and should respond to this by providing mitigation, which may include a financial contribution to the running, maintenance and preparedness of the wildlife rehabilitation facility.

- 4.7 FC are an independent environmental charity and a key function within their own business plan indicates that they aim to be, “Independent and objective in its advice”. The MOU also states that, “FC is conscious of its role as an independent adviser to government and will avoid taking on any commercial activity which creates a potential conflict”. Within that context it is clearly inappropriate for FC to be directly paid by the hydrocarbons industry. Furthermore, in the event of a large scale spill, FC would doubtless wish to be able to comment impartially on whether or not the response was effective. Thus any financial contribution/agreement would need to be between the hydrocarbons industry and FIG.
- 4.8 Assuming a suitable contribution is provided, it would be reasonable to retain the amendment to the Falkland Islands Oiled Wildlife Contingency Plan (as agreed under the arrangements for Premier Oil) to state it is, “not aimed at delivering a response of an oil spill resulting from the oil exploration industry in the Falkland Economic Exclusion Zone, *but may provide a response to small-scale events that occur during hydrocarbon exploration activities*” (additional wording in italics and underlined).
- 4.9 Given the timescales involved, capital investment in upgrading this is unlikely to be feasible. However, FIG have indicated that they will be willing to ensure that the facility is maintained, stocked and available for use (and would fund FC to deliver this, but without any FIG or FC staff or volunteers) in the event of a larger spill. It should be noted that, if this were to happen and birds were already in the facility (from a separate spill) then the ongoing rehabilitation of these would need to be taken on by the hydrocarbon operator. To deliver the above it is suggested that a retainer in the region of £1,500 per month would be required.
- 4.10 Noble have indicated in principle agreement (see appendix 1) and FC have set out by letter their exact offer (see appendix 2).

Response by Noble to a larger spill

- 4.11 FC have confirmed that they will not be able to staff the rehabilitation centre for large oil spills, although the facility would be made available for use by Noble-sourced staff. In conjunction with Premier Oil, Noble Energy arranged for oiled wildlife specialist organisation to deliver training sessions for local responders and Falklands Conservation in February - March, as per the agreed joint oiled wildlife response approach. As part of that response strategy, both operators are currently working jointly with a local response provider and have committed to submitting a document outlining the detail required by Falklands Conservation once negotiations and relevant plans are complete.

As detailed in the OSRP, where Tier 3 response is required it would take 4-6 days for oiled wildlife response capabilities to arrive in the Falklands. Under call-out arrangements with Oil Spill Response Limited (OSRL), a specialist oil spill management contractor, dedicated surveillance aircraft with imaging equipment and trained surveillance crew will be on-site in around 72-96 hours. Basic spill surveillance training has already been provided to FIGAS and Bristows pilots.

- 4.12 Noble have stated in the OSRP:

“Tier 2 response, by definition, relies on regional or national oil spill response resources, and as such, any oiled wildlife response would necessarily become a Tier 2 spill. FIG have made available the wildlife rehabilitation facility in Stanley, which will be maintained, stocked and available for use by NEFL, if required. It is understood that this facility has the capacity to care for up to 20 penguins. As such, anything more than 20 penguins raises the event to a Tier 3 spill. In the event that the facility is near or at capacity, NEFL will mobilise their Tier 3 response capabilities, as detailed below. It should be noted that, based on the capability of the Stanley wildlife facility, is capable of rehabilitation of up to 20 penguins; rehabilitation of other birds and marine mammals is unlikely to be feasible. In the event that Tier 3 resources are not yet in country, best efforts would be made to rehabilitate these birds, with the resources available. If no rehabilitation is possible, they would be euthanized.”

- 4.13 Connected to this are the criteria for mobilising Tier 3 resources and the decision-making process that would lead to such a mobilisation. Noble have clarified in the OSRP the decision making criteria and process if it is unclear whether local responders are capable of responding or whether further external support is required. The OSRP notes that, “It is always recommended to take a precautionary approach and mobilise extra resources if there is any uncertainty as to the level of response required”.

5.0 Financial Implications

- 5.1 It is anticipated that the payment would be made monthly to Falklands Conservation and that the recharge to Noble would be received by the 15th day of the month in which drilling was undertaken. The net cost is therefore neutral to FIG.

6.0 Legal Implications

- 6.1 As set out in the paper.

7.0 Human Resources Implications

- 7.1 None.

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March 18, 2015

Mr. Roddy Cordeiro
Department of Mineral Resources
Ross Road
Stanley, Falkland Islands

RE: Provision of Funds – Oiled Wildlife Facility

Dear Mr. Cordeiro,

Please accept this letter as confirmation by Noble Energy Falklands Limited that the 1,500/month retainer to secure FIG's commitment that Falkland Conservation's Wildlife Response facility is maintained, stocked and available for use for the duration of the current exploratory drilling operations campaign currently undertaken utilizing the Eirik Raude drilling unit.

Please provide confirmation of receipt of this letter at your earliest convenience with notification to Mr. Nick Rendell of compliance on our behalf.

Kindest regards,

A handwritten signature in blue ink, appearing to read 'Richard Winkelman'.

Richard Winkelman
Country Manager
Noble Energy Falklands Limited

Cc: Mr. Nick Rendell
Mr. Steve Butler
Mr. Richard Eggleston

16 February 2015

Dear Steve

Falklands Conservation Wildlife Rehabilitation Services

As you requested (13 Feb 2015), please find outlined below the wildlife rehabilitation services that Falklands Conservation (FC) would provide to FIG for a retainer of £1500 per calendar month during the period March to November 2015 (or exploration period):

The £1,500 would cover responding to wildlife incidences that comprise 20 penguins or less, *inter alia**:

- Equipment costs – detergents, oils, etc and renewal costs for equipment
- Utility overheads (including electricity and gas)
- Staff / volunteer time for keeping the equipment ready for a response
- Logistics/transport costs for staff/volunteers to attend incidents
- Staff time for carrying out a coordinated response on whether to bring in penguins or whether euthanasia is appropriate, and then an attempt to rehabilitate
- Staff time during response and potential rehabilitation
- Provision of food for penguins

*If for reasons beyond our control the Wildlife Rehabilitation Service cannot be provided we would give suitable notice to FIG.



Andrew Stanworth
Conservation Officer



Patron: HRH The Duke of York KG KCVO ADC

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