

## CHEVRON SETTLEMENT AGREEMENT

### Key Points

- The City's constant, consistent position has been that **Chevron needs to take responsibility** for the release and for bringing our natural resources and community back to health.
- This settlement does not relieve Chevron of an ongoing responsibility to clean up, restore and monitor the affected resources. **There is still more to do** to restore the Red Butte corridor.
- **This settlement reflects penalties and restitution for the resources and impacts that are under the jurisdiction of the City and the Utah Department of Environmental Quality.** It does not settle claims made by other parties or agencies for damages that are under their control or jurisdiction.

**Public health falls under the responsibility and jurisdiction of the Salt Lake Valley Health Department and the Utah Department of Health.** The City will continue to work with these agencies and advocate for programs and studies to support members of our community that have experienced negative health effects during the spill and cleanup, or who are concerned about long term health effects due to petroleum exposures.

- **The City is eager to move ahead** to repair the physical and emotional damage of our natural resources and our community. By finalizing this settlement and putting this penalty negotiation behind us, we can focus on restoring the Red Butte corridor.

**The City has made the right decision to settle with Chevron.** As with any settlement, there is an element of compromise. In the end, the City believes that it is in its best interests to focus on the mitigation and future protection of the affected areas, instead of continuing to pursue claims against Chevron.

### Elements of the Settlement Agreement

- **Q1: What is the 30-day comment public period and how will it work?**

This is a time when the State's Division of Water Quality (DWQ) will take public comments on the settlement terms. If, after review of the comments it receives, DWQ is satisfied with the terms of the settlement, the agreement will be signed. The comment

period will not apply to the City's settlement with Chevron, but the Mayor will be signing the Agreement when the State's comment period is completed.

- **Q2: What happens to the \$500,000 paid to the State as a civil penalty?**

The funds are paid into the State's general fund and will not be used to address the spills.

- **Q3: What happens to the \$3,000,000 paid to fund Mitigation Projects?**

The intent is to spend the funds on projects that that will protect and enhance the specific waterways (Red Butte Creek and the Jordan River to the north of the Red Butte inlet) that may have been affected by the oil spills or otherwise relate to the oil spills. DWQ will supervise the process for the use of the funds. DWQ, with the assistance of the City, will solicit potential projects that will be funded with the \$3million.

The City has already identified four categories of projects to be recommended: 1) Miller Park Bird Refuge Restoration; 2) Liberty Park Restoration; 3) Jordan River 900 South Oxbow Restoration; and 4) Jordan River Corridor Restoration. DWQ will then engage governmental agencies to review appropriate projects for funding. The agencies likely to be involved in the project review would be DWQ, Salt Lake City, Salt Lake Valley Health Dept, and U.S. Fish and Wildlife. The process to identify and prioritize appropriate projects will take approximately 90 days.

- **Q4: What happens to the \$1 million paid to the City?**

After the settlement agreement becomes final, the City will engage in its own public process to consider how those funds should be spent. The Mayor's office will provide a recommendation to the City Council for spending priorities and the Council will take public comments on how the money should be spent.

- **Q5: Will a portion of the \$1 million go to an endowment in the General Fund to help offset further costs?**

One option for the use of the funds that the Mayor's Administration is considering is a possible endowment to continue to maintain the affected areas and assure that the work done for the mitigation projects continues to be maintained and functions properly.

## **Ongoing Concerns Related to the Pipeline**

- **Q6: What about pipeline safety?**

The City continues to be concerned about pipeline safety and will continue to be actively involved with the Unified Command and others who are continuing to monitor Chevron's ongoing obligations. Those obligations include completion of any clean-up, remediation

actions and mitigation work. The City will continue to work with U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) which has oversight over pipeline safety and is evaluating various mitigation efforts both within and outside the City limits.

The U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) has already put into place several requirements of Chevron to make the pipeline safer. Some of these requirements include an improved leak detection response program, more immediate alarm system, regular inspection of the pipeline and related right-of-way areas, and projects to review waterway crossings.

- **Q7: Are prevention projects (valves, detention basins, etc) included in the mitigation projects?**

No. Those projects are being dealt with separately and are being handled by PHMSA. Pipeline upgrades for safety and prevention are required by PHMSA and are not part of the settlement. There is a possibility that some of the mitigation projects considered by DWQ could end up coordinating with the PHMSA-related projects.

- **Q8: Has anything changed? Are we any safer?**

As a result of the spill, PHMSA has required Chevron to make substantial improvements in management of its Right-of-Way as well as in leak detection and response. While the City does not have regulatory authority over pipelines, we have been strongly advocating to PHMSA for stronger oversight and requirements and have been working to ensure that PHMSA is fully exercising its regulatory responsibility.

## **Does the Settlement Make Sense for the City and its Residents?**

- **Q9: Is the City satisfied with the settlement?**

The City is satisfied with the settlement. We have engaged in a lengthy assessment of the impacts of the spills to the City's assets as well as other community assets. Instead of instituting costly and time consuming formal administrative or legal proceeding against Chevron, the City pursued a resolution of potential claims directly with Chevron to achieve a timely settlement of such claims.

The City has been particularly pleased that the State DWQ (represented by Walt Baker and John Whitehead) has been willing to coordinate settlement discussions among the City, Chevron and the State. As with any settlement, there is an element of compromise. In the end, the City believes that it is in its best interests to focus on the mitigation and

future protection of the affected areas, instead of continuing to pursue claims against Chevron.

- **Q10: The Settlement Agreement identifies amounts spent by Chevron to address the spills – has the City verified those numbers?**

No. Chevron has not provided back-up information to the City for those numbers. The amount paid to the City so far is accurate. The City has no reason to believe that the numbers are not accurate.

- **Q11: What else is the City going to do to address the spills?**

The City intends to carefully review its ordinances to consider if they are strong enough to discourage future spills and address polluters in general. If it is determined that our ordinances can be improved, the City Administration will make recommendations to the City Council to adopt stricter laws to prevent pollution within the City and to be able to pursue violators of those new laws. The City's legal authority is limited and other State, County and Federal agencies have their own roles in addressing the spills and pollution in general.

- **Q12 Does this settlement impact the private claims individuals may be pursuing against Chevron?**

No. The settlement only relates to the claims of the City and the State, not other individuals.

## **Environmental and Health Issues**

- **Q13: Is mitigation of wildlife impact being addressed?**

Yes. Pursuant to an agreement with the Utah Department of Wildlife Resources (DWR), Chevron has agreed to fund a fish restocking program to be conducted by DWR to restock approximately 3,000 Bonneville Cutthroat Trout in a three-mile stretch of Red Butte Creek in the fall of 2011 and 2012. Pursuant to another agreement with DWR, Chevron Pipe Line Company shall fund one or more waterfowl mitigation projects in the amount of \$100,000.

- **Q14: Is Chevron released from all the obligations to work with the State and Federal Agencies on other ongoing efforts to review the effects of the spills?**

No. Chevron has a continuing obligation to submit information, conduct sampling and monitoring and implement work plans that are required under the State's Notices of Violation (NOV), including funding the state's completion of a Human Health Risk

Assessment and an Ecological Risk Assessment, and to reimburse the Utah Department of Environmental Quality (DEQ) for ongoing oversight costs and other work performed under the NOV's. Chevron has an ongoing obligation to provide reports to agencies monitoring Chevron's efforts in response to the spills.

- **Q15: Is there still oil in Red Butte Creek or Liberty Lake?**

Monitoring performed by the State DWQ and Chevron indicates that the **water** in Red Butte Creek and Liberty Lake does not contain oil contamination associated with the spill. **Sediments and bank soil** in some locations in the Red Butte Creek channel do contain residual amounts of petroleum compounds that are due to the oil spill. The affected sediments and bank soils in and around Liberty Lake were removed last winter, so the lake is no longer impacted by the spilled oil.

- **Q16: What is the plan to finish cleaning up oil in sediments/soils along Red Butte Creek?**

The DWQ currently is completing a human health risk assessment and an ecological risk assessment of Red Butte Creek to determine what levels of petroleum could safely remain in the soils and be allowed to degrade naturally over time. Once DWQ has established these levels, then site-specific determinations about cleanup can be made. In some cases, the removal of more soil could be much more damaging to the stream ecosystem than allowing small residual levels of petroleum to degrade in place. However, in no case is the City comfortable allowing levels of petroleum to remain that pose an unacceptable risk to human health or the ecological health of the stream.

- **Q17: Why do I still smell odors along the creek?**

The human nose is a very sensitive detector – often much more sensitive to many chemicals than instruments and analytical methods used for detection. The petroleum odors that you smell are probably an indication that somewhere in the vicinity there are some residual petroleum hydrocarbons. When these odors are strong and persistent, they can be helpful in locating the source of the hydrocarbons. When they come and go, move around, or are very faint, we don't have much luck using them to find the source.

- **Q18: Are you monitoring airborne concentrations of petroleum? How do I know if the odors will make me sick?**

The City continues to support residents that believe they are being affected by petroleum odors and vapors by collecting air samples for laboratory analysis. This sampling effort is effective in areas where the odors are relatively noticeable and persistent (continuous over 2 hours or more). The City compares the detected levels with community health criteria established by EPA for short, medium and long period exposures. So far, the

levels of petroleum compounds detected have generally been below established health criteria.

- **Q19: What happens when you find residual hydrocarbons in the creek?**

Whenever we find residual hydrocarbons (through a complaint that is filed, through our own inspection, etc.), a response team of agencies and Chevron go look at the residual oil area. If the area appears to be moderately or strongly contaminated, Chevron cleans up the spot immediately. If the area seems very lightly impacted, the team may take samples to assess whether it needs to be cleaned up or if the residual concentrations are safe and low enough to degrade in place. In some cases, safe, low level residual concentrations may be cleaned up if the cleanup activity isn't going to damage the stream ecosystem. However, residual hydrocarbon concentrations may be left in place if removing them is more damaging than leaving them, and if they are present at safe levels. Decisions regarding balancing cleanup actions against ecological health are made on a case-by-case basis by the agencies.

- **Q20: What about a community health study?**

Salt Lake Valley Health Department and the State Department of Health are responsible for health-related issues that have arisen related to the spills. The decision to conduct a long-term health study within the community will be made by these two agencies. Citizens should contact the Salt Lake Valley Health Department about any health concerns.

- **Q21: How will you decide when Chevron is done cleaning up the creek?**

Chevron is required to continue monitoring water, sediment, bank soil and macroinvertebrates on a quarterly basis until several consecutive rounds of sampling show that the corridor meets cleanup goals. The actual cleanup goals will be refined once DWQ finishes preparing the human health risk assessment and ecological risk assessment for the Red Butte corridor. (A third-party expert has been retained by the state to perform a human health risk assessment and an ecological risk assessment. These studies will help guide the nature and extent of future cleanup efforts by establishing what residual concentrations could pose a risk to people, animals, or stream biota.)

DWQ continues to work with Chevron to refine and finalize the long-term monitoring plan and final cleanup criteria.

- **Q22: When will all the damage to the corridor be repaired?**

Under the State's NOV, Chevron is required to repair and restore damage done to the Riparian Corridor during the spill and cleanup, such as re-vegetating new paths, restoring damaged vegetation, and repairing destabilized slopes. Chevron is currently completing an assessment of the damage and will be submitting the required restoration plan to DWQ and the City. The City is anxious for Chevron to develop and implement the restoration plan and expects the pipeline company to put a high priority on completing this work.

- **Q23: What is the future of the Unified Command?**

The regulatory agencies that sit on the Unified Command (the City, DWQ and the SLVHD) and Chevron will continue to meet frequently, as needed, to address ongoing activities and new issues that arise.