

**EXXON  
OIL SPILL  
TRUSTEE  
COUNCIL  
HEARING**

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax: 907/276-7178



FEB 23 1998

*H. Hudson*

February 20, 1998

The Honorable Bill Hudson  
House of Representatives  
Alaska State Legislature  
State Capitol, M/S 3100  
Juneau, Alaska 99801-1182

~~Dear Representative Hudson:~~

I appreciated the opportunity to speak before the House Resources Committee last week. I hope the information provided by myself and the State Trustees was useful. As you requested, I am enclosing a list of the slides used in my presentation, and their location, if known. I have also added both yourself and co-chair Representative Scott Ogan to our mailing list for newsletters and annual reports, as well as notification regarding the planning process for the Restoration Reserve.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Molly McCammon".

Molly McCammon  
Executive Director

Enclosure

cc: Co-chair Representative Scott Ogan

mm/raw

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 403, Anchorage, AK 99501-3451 907/278-8012 fax: 907/276-7178



*Exxon Valdez Oil Spill Trustee Council slides presented to the House Resources Committee, February 12, 1998.*

## Slide descriptions and locations

- 1) Otolith marking from Prince William Sound pink salmon.
- 2) Coded wire tags imbedded in snouts of salmon fry. ADF&G file photo.
- 3) ADF&G biologist taking genetic samples from Kenai River.
- 4) Hydroacoustic surveys in Prince William Sound.
- 5) Alaska SeaLife Center in Seward.
- 6) Port Dick Creek (before and after reconstruction) taken at Port Dick, southern Kenai Peninsula.
- 7) Harbor seal sampling, ADF&G file photo, location unknown.
- 8) Sport fisherman, ADNR file photo, Kenai River.
- 9) Gratewalks or fishwalks, ADNR file photo, Kenai River.
- 10) Outside Alutiiq Museum, Kodiak.
- 11) Inside Alutiiq Museum, Kodiak.
- 12) 1997 oil spill cleanup, Sleepy Bay, Latouche Island, Prince William Sound.

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### **Federal Trustees**

U.S. Department of the Interior  
U.S. Department of Agriculture  
National Oceanic and Atmospheric Administration

### **State Trustees**

Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation  
Alaska Department of Law

Alaska State Legislature

*Handwritten initials*

MAR 19 1997

WHILE IN SESSION  
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DEVELOPMENT  
ALASKA COURT SYSTEM

Representative Joe Green  
District 10

TO: Representative Scott Ogan, Co-Chairman  
Representative Bill Hudson, Co-Chairman  
House Resources Committee

FR: Representative Joe Green *Joe*

RE: Resources Committee Schedule

DATE: March 19, 1997

*Handwritten notes:*  
OK -  
When?  
INTERIM?

During a recent hearing in the House Resources Committee on the topic of restricting the use of state land I suggested that the committee might dedicate a meeting to this topic so that the next time we consider such legislation, we would be better informed.

Please consider this memo a formal request for such a hearing.

*Shirley Jane Arisquell*

I would like someone from DNR, and possibly the Department of Law, to address the committee with detailed maps showing where the state has land, how it is classified or restricted, any plans they have for re-classification; lands for which we have applied, but have not yet received patent under the statehood act, whether or not there are disputes surrounding these lands, and how the division plans to classify or restrict the use of these lands after the state receives patent; land that has been selected and/or patented by native corporations; land selections that have been disputed by the state, native corporations, or the federal government; and a review of mental health and university lands. In this context I believe it would be important for them to discuss the regional plans being developed around the state, and any restrictions anticipated or planned for the use of the land.

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Representative Scott Ogan, Co-Chairman  
Representative Bill Hudson, Co-Chairman  
March 19, 1997  
Page 2

In addition it seems incumbent that the committee hear from the Exxon Valdez Oil Spill Trustees Council. As you know, this organization is directed by a board of three federal members and three state members. The three state members are Attorney General Bruce Botelho, Department of Fish and Game Commissioner Frank Rue, and Department of Environmental Conservation Commissioner Michelle Brown. The Council has a staff, headed by an Executive Director, Mollie McCammon. We should have at least one board member (preferably all three) and the executive director address the committee on the topic of the Council's land acquisition program. As you may know, the Council is buying large parcels of land in the so-called "spill area" and restricting the use of that land to "habitat restoration" which may or may not be the highest and best use for the state.

Finally, Mr. Jack Chenowith, of the Legislative Affairs Agency, Division of Legal Services, should be requested to discuss the process, and potential legal problems, of the Oil Spill Council restricting the use of state land. As you know, only the legislature can restrict the use of state land.

I believe it is important for the Resources Committee to have all of this background so we can make a more informed decision the next time we consider legislation to restrict the use of state land.

Thank you for your consideration.

cc: Members, House Resources Committee

November 20, 1997

Representative Scott Ogan, Co-Chairman  
House Resources Committee  
600 E. Railroad Avenue, #1  
Wasilla, Alaska 99654

Scott,

Enclosed please see a copy of a memorandum I sent you last March 19, along with a recent news article, both on the subject of the Exxon Valdez Oil Spill Restoration Council. The memo addresses the need for oversight of the Council's land acquisition activities in Alaska. The article describes Senator Frank Murkowski's effort to restrict those activities.

I think we're on to something here.

I would respectfully request that you schedule a meeting, early in the session, as described in the memo. Additionally, I would request that House Resources Committee staff work with Senator Murkowski's staff in preparation for such a hearing. It may even be appropriate, at the chairman's discretion, to have a member of the Senator's staff on teleconference to voice the Senator's concern.

While Mr. Jack Chenowith is no longer with Legislative Legal Services, I'm sure that, with enough lead time, someone from Legal Services could alert us to the potential legal problems of restricting the use of state land absent legislative approval.

Thank you for your consideration.

Sincerely,

Joe Green

# METRO

SUNDAY, November 9, 1997 ★

ANCHORAGE DAILY NEWS

SECTION B

## Spill-funds battle stalls in Congress

By DAVID WHITNEY  
Daily News Washington Bureau

WASHINGTON — A tussle between Alaska Sen. Frank Murkowski and state and federal trustees over the investment of proceeds from the Exxon Valdez oil spill settlement ended in a stalemate Saturday.

The consequence is that some \$280 million Exxon Corp. has yet to pay — and more than \$100 million the trustees want to sock away as

a kind of permanent spill-recovery endowment — cannot be invested to earn the highest possible interest rates for spill recovery work in Prince William Sound.

The trustee council, made up of federal and state repre-



Murkowski

sentatives appointed to determine how Exxon Corporation's \$900 million settlement of civil and criminal claims will be spent, had appealed to Congress for legislation allowing a more aggressive investment strategy.

Although the issue could be revived in the 1998 congressional session, the money now must be deposited in a court-administered fund that earns only about 5 percent interest. In compensation for

its costs, the court gets about 10 percent of the interest proceeds, effectively reducing the trustee council's return to only about 4.5 percent.

While Murkowski thought it was a good idea for the money to be freed from the court's control, the Republican senator was worried that higher interest income would mean more money for the council to use buying up private lands for protection.

More than a third of the to-

tal settlement proceeds, or roughly \$380 million, will have been spent on land purchases by the time the deals now on the table are wrapped up.

In total, the trustee council will have purchased title or conservation easements to about 700,000 acres, including about 1,000 miles of coastline in the area effected by the 1989 spill.

Insistent that enough land already had been bought by

the trustee council, Murkowski drew up a spending-bill rider that would have permitted the trustee council to invest the money but use the interest only on marine research and economic restoration projects sought by the fishing industry.

Murkowski's position drew strong objections from the council. Molly McCammon, executive director of the

Please see Page B-3, EXXON

## EXXON: Panelists' patience was running thin, and tempers were running hot

Continued from Page B-1

council, said last month that she would prefer to see no legislation rather than have Murkowski tying the council's hands.

The council's biggest concern is over the investment of about \$108 million it wants to set aside as an endowment for use after Exxon makes its last settlement payment in 2002.

McCammon said the council wants a higher rate of return on those funds because the plan is to spend only the investment interest. By investing the money at a higher rate, McCammon said the council could earn at least 9 percent, giving it several million dollars more annually to finance priorities that will

be determined following a public process.

Native corporations and environmentalists rallied behind the trustee council in opposition to Murkowski.

"Language restricting the uses of the interest to marine research and fishing industry projects could downgrade or eliminate many projects of great importance to our corporation, our shareholders and our community," wrote Uwe Gross, chief executive officer of Koniag Inc.

"Projects such as research on archaeological resources, subsistence and habitat acquisition would be restricted," Gross said in an Oct. 22 letter to the senator.

"If the (Murkowski) amendment passes, the losers would be the fish

and wildlife injured by the oil spill as well as those Americans who care strongly about conservation," wrote David Cline, chairman of the Kodiak Brown Bear Trust.

But Murkowski, despite efforts to strike a compromise with the council, persisted with his rider and counted on the help of Sen. Ted Stevens, chairman of the Senate Appropriations Committee, to attach it to a spending bill for the Commerce Department and other federal agencies.

The spending bill went to a House-Senate conference committee Friday, but the panel broke in the midst of angry exchanges involving other items without making any progress toward working out a compromise bill.

With time running out and sev-

eral federal agencies already technically operating without any money since midnight Friday, Stevens pulled the plug on the conference.

He convened the appropriations committee Saturday afternoon to fold several spending bills into a single pared-down package to send to the House in hopes that it would go along.

Murkowski's amendment was left on the cutting room floor, and Murkowski seemed miffed with his Alaska colleague.

"I was assured it was going to be brought up. ... but I'm not even a member of the committee," was all the senator had to say about Saturday's development, according to his press aide, Chuck Kleeschulte.

John Raffetto, spokesman for the Stevens' appropriations panel,

said there was no way controversial items such as Murkowski's were going to make it through in the closing bargaining sessions of the 1997 congressional session.

Patience was running thin and tempers were running hot, Raffetto said.

"It fell victim to a desire to break a logjam and get these spending bills moving," Raffetto said of Murkowski's provision. "It's unfortunate."

McCammon said in a telephone interview that she, too, is disappointed — but for different reasons.

"The council went to the congressional delegation for help," she said. "We're disappointed that it got politicized like this. We'll just keep plugging away at it and see where we go from here."

BARRY M. HARTMAN  
Acting Assistant Attorney General  
Environment & Natural Resources  
Division

Lodged

AUG 28 1991

STUART M. GERSON  
Assistant Attorney General  
Civil Division  
U.S. Department of Justice  
Washington, D.C. 20530

JOSEPH W. BOTTINI  
Assistant United States Attorney  
222 W. Seventh Street  
Anchorage, Alaska 99513  
(907) 271-5071

Attorneys for the United States of America

CHARLES E. COLE  
Attorney General  
State of Alaska  
Pouch K, State Capitol  
Juneau, Alaska 99811  
(907) 465-3600

Attorney for the State of Alaska

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF ALASKA,

Defendant and  
Counterclaimant.

Civil Action No.  
A91-081 CV

MEMORANDUM OF AGREEMENT AND CONSENT DECREE

This Memorandum of Agreement and Consent Decree (MOA) is made  
and entered into by the United States of America (United States)

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and the State of Alaska (State) (collectively referred to as the Governments).

#### INTRODUCTION

WHEREAS, Section 311 of the Clean Water Act, 33 U.S.C. § 1321, establishes liability to the United States and to States for injury, loss, or destruction of natural resources resulting from the discharge of oil or the release of hazardous substances or both and provides for the appointment of State and Federal Trustees;

WHEREAS, the United States and the State are trustees and/or co-trustees for natural resources injured, lost or destroyed as a result of the EXXON VALDEZ Oil Spill (Oil Spill);

WHEREAS, Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607, the National Contingency Plan, 40 C.F.R. § 300.615(a), and the Natural Resource Damage Assessment Regulations, 43 C.F.R. § 11.32(a)(1)(ii), provide a framework for and encourage the state and federal trustees to cooperate with each other in carrying out their responsibilities for natural resources;

WHEREAS, the Secretaries of the United States Departments of the Interior and Agriculture and the Administrator of the National Oceanic and Atmospheric Administration (NOAA), a bureau of the United States Department of Commerce, have been designated trustees (the Federal Trustees) for purposes of the Clean Water Act, 33 U.S.C. § 1321, and CERCLA, 42 U.S.C. § 9607, and otherwise have statutory responsibilities related to the natural

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resources injured, lost or destroyed as a result of the Oil Spill, and the United States Environmental Protection Agency (EPA) has been designated by the President of the United States to coordinate restoration activities on behalf of the United States;

WHEREAS, the Commissioners of the State Departments of Environmental Conservation and Fish and Game and the Attorney General of the State of Alaska have been designated trustees for purposes of the Clean Water Act, 33 U.S.C. § 1321, and CERCLA, 42 U.S.C. § 9607, and otherwise have statutory responsibilities relating to the natural resources injured, lost or destroyed as a result of the Oil Spill;

WHEREAS, the United States Coast Guard, an agency of the United States Department of Transportation, is the predesignated Federal On-Scene Coordinator (FOSC) to direct response efforts and to coordinate all other efforts at the scene of the Oil Spill, pursuant to the Clean Water Act, 33 U.S.C § 1321, and the National Contingency Plan, 40 C.F.R. § 300, and is coordinating its efforts with the Federal Trustees in accordance with the National Contingency Plan;

WHEREAS, the State Department of Environmental Conservation is the State On-Scene Coordinator (SOSC) to direct containment and cleanup of discharged oil pursuant to AS 46.04.020;

WHEREAS, the United States Department of Justice (Justice) and the Department of Law for the State of Alaska (Law) have constitutional and statutory responsibility for litigation

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management and specifically for prosecuting claims for damages for injury, loss or destruction to the natural resources affected by the Oil Spill;

WHEREAS, all of the above state and federal entities have determined that it is in furtherance of their statutory and trust responsibilities to ensure that all injuries, loss or destruction to state and federal natural resources are fully compensated and to ensure that such compensation is used in accordance with law;

WHEREAS, the United States has brought this action against the State, and the State has asserted counterclaims in this action against the United States, with respect to their respective shares in any recoveries for compensation for natural resource damages resulting from the Oil Spill;

WHEREAS, recognizing their mutual desire to maximize the funds available for restoration of natural resources, the United States and the State have determined that entering into this MOA is the most appropriate way to resolve their claims against one another in this action, and that the terms of this MOA are in the public interest and will best enable them to fulfill their duties as trustees to assess injuries and to restore, replace, rehabilitate, enhance, or acquire the equivalent of the natural resources injured, lost, or destroyed as a result of the Oil Spill;

NOW THEREFORE, in consideration of their mutual promises, the United States, acting through the United States Departments of the Interior, Agriculture, Transportation, and Justice, NOAA, and

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EPA, and the State of Alaska, acting through the State Departments of Fish and Game, Environmental Conservation, and Law (together "the Governments") have agreed to the following terms and conditions, which shall be binding on both Governments, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I.

**JURISDICTION**

The Court has jurisdiction over the subject matter of the claims set forth in the United States' Complaint and in the State's Counterclaim and over the parties to this MOA pursuant to, among other authorities, 28 U.S.C. §§ 1331, 1333, and 1345, and section 311(f) of the Clean Water Act, 33 U.S.C. § 1321(f).

II.

**DEFINITIONS**

For purposes of this MOA, the following terms shall have the meanings specified in this paragraph:

A. "Base Allowed Expenses" means (1) reasonable, unreimbursed costs obligated or incurred by either the United States or the State on or before March 12, 1991, for the planning, conduct, evaluation, and coordination, and oversight of natural resource damage assessment and restoration pursued by the Governments with respect to the Oil Spill, and (2) reasonable, unreimbursed costs obligated or incurred by the State on or before March 12, 1991, for experts and counsel in connection with the preparation of the Oil Spill Litigation.

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B. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. as amended.

C. "Clean Water Act" means the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1376, as amended.

D. "Joint use" means use of natural resource damage recoveries by the Governments in such a manner as is agreed upon by the Governments in accordance with Article IV of this MOA.

E. "National Contingency Plan" means the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.

F. "Natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976) and/or the State.

G. "Natural resource damage recovery" means any award, judgment, settlement or other payment to either Government which is received as a result of a claim or demand for Base Allowed Expenses or for damages for injury, destruction, or loss of natural resources arising from the Oil Spill and for costs incurred by the State for experts and counsel in connection with the Oil Spill Litigation. The term includes, without limitation, all recoveries upon claims for natural resource damages under the Clean Water Act, the Trans-Alaska Pipeline Authorization Act,

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state and federal common law, state statutes, admiralty law, state and federal right-of-way lease covenants and any recoveries for natural resource damages obtained from or in connection with a civil proceeding or criminal restitution, unless the parties otherwise agree that criminal restitution recoveries can be separately managed by either government consistent with this MOA. The term also includes all interest accrued on any such recoveries. Natural resource damage recovery excludes any reimbursement or other recovery by either Government for response and cleanup costs, lost royalty, tax, license, or fee revenues, punitive damages, federal or state civil or criminal penalties, federal litigation costs and attorney fees.

H. "Oil Spill" means the grounding of the T/V EXXON VALDEZ on Bligh Reef in Prince William Sound, Alaska on the night of March 23-24, 1989, and the resulting oil spill.

I. "Oil Spill Litigation" means any past, present, or future civil judicial or administrative proceeding relating to or arising out of the Oil Spill.

J. "Response and cleanup costs" means actual, unreimbursed response and/or cleanup costs incurred by either Government in connection with the Oil Spill, as certified for payment by the Federal On-Scene Coordinator or the State On-Scene Coordinator.

K. "Restore" or "Restoration" means any action, in addition to response and cleanup activities required or authorized by state or federal law, which endeavors to restore to their pre-spill condition any natural resource injured, lost, or destroyed

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as a result of the Oil Spill and the services provided by that resource or which replaces or substitutes for the injured, lost or destroyed resource and affected services. Restoration includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services.

L. "Trustees" means the officials now or hereafter designated by the President of the United States and the Governor of the State of Alaska to act as trustees, for purposes of CERCLA and the Clean Water Act, of natural resources injured, lost or destroyed as a result of the Oil Spill.

### III.

#### EFFECT OF ENTRY OF MOA

Upon approval and entry of this MOA by the Court, this MOA shall constitute a final judgment between the United States and Alaska in accordance with its terms. The MOA is entered for the sole and exclusive benefit of the Governments and does not create any rights or privileges in any other parties.

### IV.

#### CO-TRUSTEESHIP

A. The Governments shall act as co-trustees in the collection and joint use of all natural resource damage recoveries for the benefit of natural resources injured, lost or destroyed as a result of the Oil Spill.

B. Nothing in this MOA shall be deemed an admission of law or fact by either Government concerning ownership, right, title,

or interest in or management or control authority over natural resources or the right to recover for injury to such resources. Except in matters concerning or relating to enforcement of this MOA, the Oil Spill Litigation, or the settlement of claims relating to the Oil Spill, the Governments agree that this MOA may not be used by one Government against the other for any reason.

C. Nothing in this MOA shall be construed to affect or impair in any manner the rights and obligations, if any, of any entities or persons not parties to this MOA, including without limitation:

1. The rights and obligations, if any, of Alaska Native villages to act as trustees for the purposes of asserting and compromising claims for injury to, destruction of, or loss of natural resources affected by the Oil Spill and expending any proceeds derived therefrom;

2. The rights and obligations, if any, of legal entities or persons other than the United States and the State who are holders of any present right, title, or interest in land or other property interest affected by the Oil Spill;

3. The rights and obligations, if any, of the United States relating to such Alaska Native villages and the entities or persons referred to in subparagraph 2 above.

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V.

## ORGANIZATION

A. General Provisions

1. All decisions relating to injury assessment, restoration activities, or other use of the natural resource damage recoveries obtained by the Governments, including all decisions regarding the planning, evaluation, and allocation of available funds, the planning, evaluation, and conduct of injury assessments, the planning, evaluation and conduct of restoration activities, and the coordination thereof, shall be made by the unanimous agreement of the Trustees. Such decisions, on the part of the Federal Trustees, shall be made in consultation with EPA.

2. The Governments shall cooperate in good faith to establish a joint trust fund for purposes of receiving, depositing, holding, disbursing and managing all natural resource damage recoveries obtained or received by the Governments. The joint trust fund shall be established in the Registry of the United States District Court for the District of Alaska or as otherwise determined by stipulation of the Governments and order of the court.

3. If the Trustees cannot reach unanimous agreement on a decision pursuant to paragraph A.1. of this Article, and either Government so certifies, either Government may resort to litigation in the United States District Court for the District of Alaska with respect to any such matter or dispute. At any time, the Governments may, by mutual agreement, submit any such

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matter or dispute to non-binding mediation or other means of conflict resolution.

4. Within 90 days after their receipt of any natural resource damage recovery, the Trustees shall agree to an organizational structure for decision making under this MOA and shall establish procedures providing for meaningful public participation in the injury assessment and restoration process, which shall include establishment of a public advisory group to advise the Trustees with respect to the matters described in paragraph V.A.1.

B. Injury Assessment and Restoration Process

1. Nothing in this MOA limits or affects the right of each Government unilaterally to perform any natural resource injury assessment or restoration activity, in addition to the cooperative injury assessment and restoration process contemplated in this MOA, from funds other than natural resource damage recoveries as defined in paragraph G of Article II.

2. Nothing in this MOA constitutes an election on the part of either Government to adhere to or be bound by the Natural Resource Damage Assessment Regulations codified at 43 C.F.R. Part 11.

3. Nothing in this MOA shall prevent the President of the United States or the Governor of the State of Alaska from transferring, pursuant to applicable law, trustee status from one official to another official of their respective Governments; provided that, in no event shall either Government designate more

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than three Trustees for the purposes of carrying out the provisions of this MOA. The designation of such substitute or successor Trustees by either Government shall not affect the enforceability of this MOA.

C. Role of the Environmental Protection Agency

The Governments acknowledge that the President has assigned to EPA the role of advising the Federal Trustees and coordinating, on behalf of the Federal Government, the long-term restoration of natural resources injured, lost or destroyed as a result of the Oil Spill.

VI.

DISTRIBUTION OF MONIES

A. Joint Use of Natural Resource Damage Recoveries

The Governments shall jointly use all natural resource damage recoveries for purposes of restoring, replacing, enhancing, rehabilitating or acquiring the equivalent of natural resources injured as a result of the Oil Spill and the reduced or lost services provided by such resources, except as provided in paragraph B of this Article. The Governments shall establish standards and procedures governing the joint use and administration of all such natural resource damage recoveries. Except as provided in paragraph B of this Article, all natural resource damage recoveries shall be placed in the joint trust fund for use in accordance with the terms and conditions of this MOA. Nothing in this MOA creates a right in or entitlement of

any person not a party to the MOA to share in any of the natural resource damage recoveries.

B. Reimbursement of Certain Expenses

1. The Governments agree that the following costs shall be advanced or reimbursed to each Government, at its election, out of any natural resource damage recoveries related to the Oil Spill and shall not be placed in the joint trust fund referred to in paragraph A: (1) Base Allowed Expenses; (2) reasonable unreimbursed costs jointly agreed upon by the Governments and incurred by either or both of them after March 12, 1991 for the planning, conduct, coordination, or oversight of natural resource damage assessment and restoration planning with respect to the Oil Spill or for restoration activities conducted under this MOA; and (3) other reasonable unreimbursed costs incurred by the State after March 12, 1991 for experts and counsel in connection with the Oil Spill Litigation provided that the total amount, in aggregate, deducted for such purposes shall not exceed \$1,000,000 per month and a total of \$40,000,000, and provided further that no such costs shall be deducted from any natural resource damages recovered as restitution in a criminal proceeding.

2. Solely for the purposes of the allocation of monies received by either or both of the Governments pursuant to any settlement(s) of the Governments' claims arising out of the Oil Spill, \$67 million shall be reimbursed to the United States for Base Allowed Expenses and for response and cleanup costs incurred by it before January 1, 1991, and \$75 million shall be reimbursed

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to the State for Base Allowed Expenses and for response and cleanup costs incurred by it before January 1, 1991; provided that this subparagraph shall not affect or impair in any way the rights of either Government to recover any costs, damages, fees, or expenses through litigation.

3. The Governments further agree that any monies received by either or both of them pursuant to a settlement of claims arising from the Oil Spill that remain after the costs referred to in subparagraphs 1 & 2 have been reimbursed shall be allocated as follows: (1) first, to reimburse the Governments for their respective response and cleanup costs incurred after December 31, 1990, and for their respective costs of natural resource damages assessment (including restoration planning) obligated or incurred after March 12, 1991 and; (2) second, to the joint trust fund for natural resource damage recoveries referred to in paragraph A of this Article.

C. Except as otherwise provided in this MOA, the Governments agree that all natural resource damage recoveries will be expended on restoration of natural resources in Alaska unless the Trustees determine, in accordance with Article V, paragraph A.1. hereof, that spending funds outside of the State of Alaska is necessary for the effective restoration, replacement or acquisition of equivalent natural resources injured in Alaska and services provided by such resources.

D. Nothing in this MOA shall be construed as obligating the

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Governments to expend any monies except to the extent funds are appropriated or are otherwise lawfully available.

VII.

**LITIGATION AND SETTLEMENT OF CLAIMS  
RELATING TO THE OIL SPILL**

A. Agreement to Consult and Cooperate. The Governments, through the Departments of Law and Justice, agree to act in good faith to consult and cooperate with each other to develop a common approach to the Oil Spill Litigation, to the settlement of civil claims and restitution claims in connection with criminal proceedings: provided, however, that this MOA shall not in any way limit or otherwise affect the prosecutorial discretion of the State of Alaska or the United States.

B. Legal Work Product and Privileged Information. The Governments, through the Departments of Law and Justice, agree that, except as may otherwise be provided by separate agreement of the parties, they may in their discretion share with each other or with private and/or other public plaintiff litigants scientific data and analyses relating to the injury to natural resources resulting from the Oil Spill, the products of economic studies, legal work product, and other confidential or privileged information, subject to the following terms and conditions:

1. Each Government will take all reasonable steps necessary to maintain work product and other applicable privileges and exemptions available under the Freedom of Information Act, 5 U.S.C. § 552 et seq., the Rules of Civil Procedure, and AS 09.25.110 et seq.

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2. No Government may voluntarily share with another party information jointly prepared or prepared by the other Government without the prior express written consent of the other Government's legal counsel.

#### VIII.

##### SCIENCE STUDIES

The Governments shall continue to work cooperatively to conduct all appropriate scientific studies relating to the Oil Spill.

#### IX.

##### COVENANTS NOT TO SUE

A. Each Government covenants not to sue or to take other legal action against the other Government with respect to the following matters:

1. The authority of either Government to enter into and comply with the terms of this MOA.
2. The respective rights of either Government to engage in cleanup, damage assessment or restoration activities with respect to the Oil Spill in accordance with this MOA.
3. Any and all civil claims (including, but not limited to, cross-claims, counter-claims, and third party-claims) it may have against the other Government arising from any activities, actions, or omissions by that other Government relating to or in response to the Oil Spill

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which occurred prior to the execution of this MOA, other than claims to enforce this MOA.

B. Solely for purposes of the Oil Spill Litigation and any other proceedings relating to the ascertainment, recovery, or use of natural resource damages resulting from the Oil Spill, each Government shall be entitled to assert in any such proceeding, without contradiction by the other Government, that it is a co-Trustee with the other Government over any or all of the natural resources injured, lost or destroyed as a result of the Oil Spill; and each Government covenants not to sue the other with respect to, or to take any other legal action to determine, the scope or proportionate share of either Government's ownership, rights, title or interest in or management, control, or trusteeship authority over any of the natural resources injured, lost or destroyed as a result of the Oil Spill.

C. Notwithstanding anything in this Article, each Government reserves the right to intervene or otherwise to participate in any legal proceeding concerning the claims of a third party with respect to the scope of either Government's Trusteeship and waives any objection to such intervention or participation by the other Government; provided that, in any such proceeding, neither Government may dispute that it is a co-Trustee with the other over the natural resources injured, lost, or destroyed as a result of the Oil Spill.

D. If the Governments become adverse to each other in the

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course of the Oil Spill Litigation, this MOA shall nevertheless remain in effect.

E. Notwithstanding the covenants contained in this Article, if both Governments are sued by a Third Party on a claim relating to or arising out of the Oil Spill, the Governments agree to cooperate fully in the defense of such action, and to not assert cross-claims against each other or take positions adverse to each other. Each shall pay its percentage of liability, if any, as determined in a final judgment.

F. Notwithstanding the covenants contained in this Article, if one of the Governments is sued by a Third Party on a claim relating to or arising out of the Oil Spill, the Governments agree that the non-sued Government shall cooperate fully in the defense of the sued Government, including intervening as a party defendant or consenting to its being impleaded, if necessary. If the non-sued Government thereby becomes a party to the action, the Governments agree not to assert cross-claims against each other, to cooperate fully in the defense of such action, and not to take positions adverse to each other. Each shall pay its percentage of liability, if any, as determined in a final judgment.

G. Notwithstanding Paragraphs E and F above, the Governments may assert any claim or defense against each other necessary as a matter of law to obtain an allocation of liability between the Governments. Any such actions shall be solely for the purpose of allocation of liability, if any, and neither Government shall

ACE 7339842

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enforce any judgment obtained against the other Government pursuant to this paragraph.

X.

#### RETENTION OF JURISDICTION

This MOA shall be enforceable by the United States District Court for the District of Alaska, which Court shall retain jurisdiction of this matter for the purpose of entering such further orders, directions, or relief as may be appropriate for the construction, implementation, or enforcement of this MOA.

XI.

#### MULTIPLE COPIES AND EFFECTIVE DATE

This MOA may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. This MOA shall be effective as of the date it is signed by all the parties hereto.

XII.

#### INTEGRATION AND MERGER

A. This MOA constitutes the entire agreement between the United States and the State as to the matters addressed herein, and there exists no other agreement of any kind which is inconsistent with this MOA with respect to the subjects addressed in this MOA; provided, that the agreement reached among the Trustees as to disbursements of the original \$15 million paid by Exxon in April, 1989 shall remain in full force and effect.

- 20 -

XIII.

TERMINATION

This MOA shall terminate when the Governments certify to the Court, or when the Court determines on application by either Government, that all activities contemplated under the MOA have been completed.

XIV.

JUDICIAL REVIEW

This MOA creates no rights on the part of any persons not signatory to this MOA and shall not, except as provided in Article X, be subject to judicial review.

XV.

MISCELLANEOUS

A. This MOA can be modified only with the express written consent of the Parties to the MOA and the approval of the Court, except that the Parties may correct any clerical or typographic errors in writing without court approval.

B. Each undersigned representative of a Party to this MOA certifies that he or she is fully authorized to enter into this MOA and to execute and legally bind such Party to this MOA.

ACE 7339844

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THE FOREGOING Memorandum of Agreement and Consent Decree among the United States of America and the State of Alaska is hereby APPROVED AND ENTERED THIS 28 DAY OF August, 1991.




Honorable H. Russel Holland  
United States District Judge  
District of Alaska

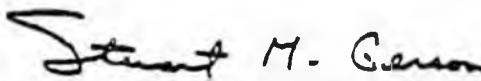
cc: J. Bottini (AUSA)  
B. Herman (AAG-K)

FOR THE UNITED STATES OF AMERICA

Date: Aug 27, 1991




Barry M. Hartman  
Acting Assistant Attorney General  
Environment and Natural Resources  
Division  
U.S. Department of Justice



Stuart M. Gerson  
Assistant Attorney General  
Civil Division  
U.S. Department of Justice

FOR THE STATE OF ALASKA

Date: Aug 27, 1991

  
Charles E. Cole  
Attorney General  
State of Alaska  
Pouch K  
Juneau, Alaska 99811

FRANK M. MURKOWSKI, Alaska, Chairman

PETE V. DOMENICI, New Mexico  
 DON NICKLES, Oklahoma  
 LARRY E. CRAIG, Idaho  
 BEN NICHYTHORSE CAMPBELL, Colorado  
 CRAIG THOMAS, Wyoming  
 JOHN KYL, Arizona  
 ROD GRAAKS, Minnesota  
 GORDON H. SMITH, Oregon  
 SLADE GORTON, Washington  
 CONRAD BURNS, Montana

DALE BUMPERS, Arkansas  
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 JEFF BINGAMAN, New Mexico  
 DANIEL K. AKAKA, Hawaii  
 BYRON L. DORGAN, North Dakota  
 BOB GRAHAM, Florida  
 RON WYDEN, Oregon  
 TIM JOHNSON, South Dakota  
 MARY L. LANDRUEU, Louisiana

GREGG D. RENKES, STAFF DIRECTOR  
 GARY G. ELLSWORTH, CHIEF COUNSEL  
 THOMAS B. WILLIAMS, STAFF DIRECTOR FOR THE MINORITY  
 SAM E. FOWLER, CHIEF COUNSEL FOR THE MINORITY

# United States Senate

COMMITTEE ON  
 ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

December 18, 1997

James F. Hinchman  
 Acting Comptroller General of the United States  
 General Accounting Office  
 Room 7125  
 441 G Street, NW  
 Washington, D.C. 20548

Dear Mr. Hinchman:

In October of 1991, the U.S. District Court for the District of Alaska approved settlements between Exxon, the federal government and the state of Alaska to resolve civil claims and criminal charges for damages caused by the 1989 grounding of the supertanker Exxon Valdez in Alaska's Prince William Sound. Under the civil settlement, Exxon agreed to pay a total of \$900 million in 11 annual payments. Under the criminal settlement, Exxon was fined \$150 million, \$125 million of which was forgiven, and required to pay \$50 million each to the federal government and to the state of Alaska as remedial and compensatory payments to be used exclusively for restoring natural resources damaged by the oil spill.

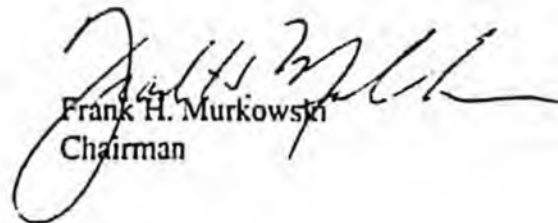
Guidelines for the use of the \$900 million civil settlement funds are set forth in a Memorandum of Agreement (MOA) between the federal government and the state of Alaska, which was approved by the U.S. District Court in August 1991. The MOA established a federal / state trusteeship--known as the Exxon Valdez Oil Spill Trustee Council--to review and approve the expenditures of civil settlement funds for such things as damage assessment and restoration projects. The MOA also mandated that the funds "must be used to restore, replace, rehabilitate, enhance, or acquire the equivalent of the natural resources injured, lost, or destroyed as a result of the oil spill and the reduced or lost services provided by such resources." Lastly, the MOA required the funds to be spent on the restoration of natural resources in Alaska unless the trustees unanimously agree otherwise.

Concerns have been raised regarding the implementation and administration of this historic settlement and whether or not the terms of it have been met. Concerns such as the amount of past, present, and future expenditures on administration and habitat acquisition vs enhancement appear to be legitimate issues to review as well as the relationship of the purchase price of acquisitions to the appraised value. Additionally, a review of the Council's actions could shed some light on the issue of the Secretary of the Interior fulfilling his trust responsibility to Alaska Natives while at the same time encouraging the purchase of their land.

I therefore would request the GAO to review the Council's operations and expenditures to date, as well as its future plans to ensure that all its actions have been consistent with the terms and conditions of the MOA. I would also request that in outlining the issues to be explored in this review that you take the time to meet with staff from the Energy and Natural Resources Committee. Brian Malnak of my staff would be the appropriate person to contact regarding this at 224-8119. Upon completion of your review it is possible the Senate Committee on Energy and Natural Resources may hold an oversight hearing to examine these issues further and additional assistance from you may be required at that point.

Thank you for your consideration of this request.

Sincerely,



Frank H. Murkowski  
Chairman

## Spill land bill likely to top appraisals

By NATALIE PHILLIPS  
Daily News reporter

Government officials plan to vote next week to spend millions of dollars to buy 67,000 acres of land and easements in Prince William Sound, the seventh in a series of large government land purchases.

And as in the previous land deals, the price that the Exxon Valdez Oil Spill Trustee Council members plan to pay for the Chenega Corp. land is a lot more than what their own appraisers say the land is worth, according to Molly McCammon, the council's executive director.

McCammon would not say what that price is.

She said that the council is scheduled to vote on the final

Please see Back Page, TRUSTEES

## TRUSTEES: Cour

Continued from Page A-1

deal Friday, but negotiations are still going on. The council didn't plan to release the appraisals until after the vote, but the Anchorage Daily News obtained them last week through a Freedom of Information Act request. Late last week, McCammon said the council also may vote to buy about 49,000 acres of land owned by English Bay Corp.

Government appraisers say the Chenega land and easements are worth \$8.8 million.

An appraisal done by Chenega Corp., a Native corporation that owns the land, did not specify a figure, but McCammon said Chenega officials were asking \$60 million to \$70 million.

"I don't know how they came up with it," she said.

Chenega Corp. president Chuck Totehoff said he could not comment on the deal because negotiations were still under way.

McCammon said trustees considered the government's appraisals in negotiations, but have found them lacking. Appraisers must calculate the land's value based on its development potential, such as how much its timber is worth, but Trustee Council members are willing to pay restoration value, or how well the land serves to provide good habitat for different species injured by the 1989 Exxon Valdez oil spill.

Restoration value has no upper limit, but is kept in check through tough negotiations and the requirement that the Trustee Council's six members agree unanimously on every council expenditure, said Deborah Williams, a trustee representing the Department of the Interior.

The Trustee Council, created to spend \$900 million in oil spill settlement money, is made up of three federal and three state government agency representatives. About two years ago, council members identified a dozen large parcels of land in the spill area, and the top price they would pay for each. Trustee Council biologists then spent months evaluating the land for its restoration value. The council's final offers would depend on what the government appraisers found.

The biologists ranked about two-thirds of the Chenega land as having moderate-to-high restoration value; the rest was rated low. The Trustee Council approved spending up to \$48 million for the land.

# Council ready to buy

Since then, nearly all of the government appraisals have come in much lower than the benchmark figures the council set. In most cases, the council has paid two to three times the appraised values. In one, though, the council paid well under what government appraisers said the land was worth.

For the most part, Trustee Council members have not released the government appraisals or information about how they reached the negotiated final purchase prices until they were ready to vote on the purchases. Last year, the Anchorage Daily News filed a dozen public information requests and obtained the appraisals and some of the correspondence on five of the land deals. Those documents are now available to the public in the Oil Spill Public Information Center downtown.

As in the other land deals, information on the Chenega deal will be presented at the time of the final vote, said Craig Tillery, a trustee representing the Alaska attorney general's office.

That's not how the Trustee Council handles its other expenditures. For example, last year when the Trustee Council considered spending \$177,000 on a whale study, the proposal was put out for public comment two months before the council's final vote.

"They have been playing (the deal) pretty close to the vest, which is what they always do," said Pam Brodie, a Sierra Club spokeswoman and member of the Trustee Council's public advisory group. Brodie said the citizen's group has been briefed on the Chenega deal "in a general way, but nothing specific." The group was not given appraisals.

Brodie said the Sierra Club supports the Chenega acquisition, which she views as important in the Trustee Council's overall plan for spending the settlement money. She said she, too, has found the government appraisals unreliable and "very short-sighted."

But Becky Gay, vice chairwoman of the Heritage Land Bank, which manages Anchorage's inventory of vacant land, questioned why details of the council's land deals are not released for public review before a final vote.

"This would never fly with the Heritage Land Bank," Gay said. "Our process has come under great scrutiny by the non-development groups. I don't believe they haven't demanded more public process."



KEVIN POWELL / Anchorage Daily News

Malcolm Ford, an associate director of the Alaska Center for the Environment, said, "I would imagine the environmental community is very much in favor (of the Trustee Council's land deal), so there may be less of a move to press them on this."

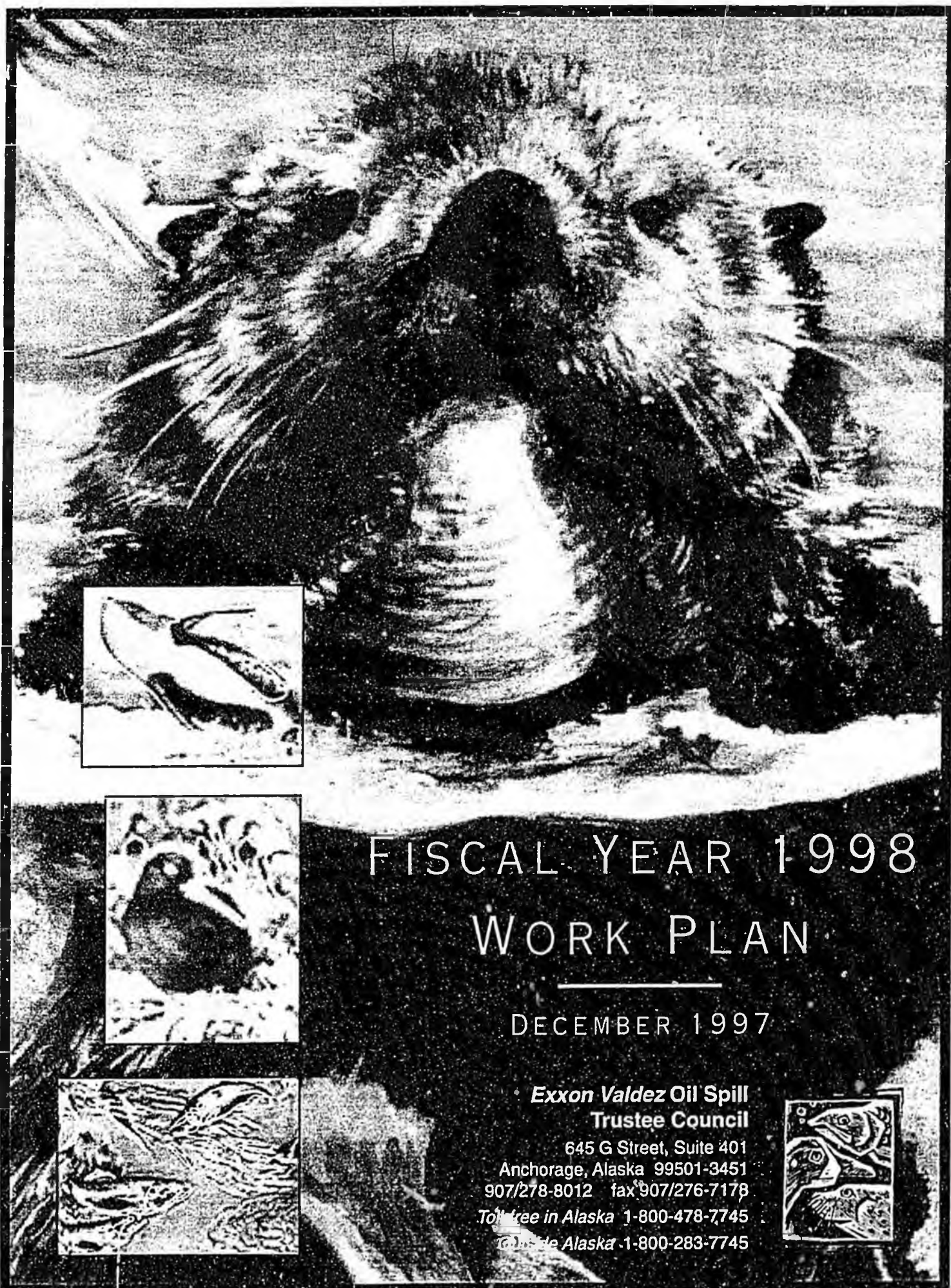
The appraisals released last week give some hint as to what is being negotiated. They were based on an earlier stage of negotiations, and the total acreage has gone up to 67,000 since the appraisals were done.

The documents said 37,000 acres of Chenega land would be purchased outright. Appraisers valued it at \$7.2 million. The parcel includes Jackpot Bay, Paddy Bay, Ewan Bay, Eshamy Bay, Eshamy Lake and Eshamy Lagoon, which are considered pristine coastal lands and which are surrounded by Chugach National Forest. The deal allows the corporation to select 40 acres of that land for development.

An additional 26,000 acres would be purchased as easements that the appraisers said are worth \$1.6 million. Most of the easements, including areas on Chenega, Knight, Latouche and Bainbridge islands, are largely aimed at stopping any timber harvesting. The public will have access to most of the land, but Chenega Corp. will be allowed to charge an access fee.

The public will be barred from about 3,000 acres of the easement land on South Chenega Island because, McCammon said, the area holds an old village site. Also, the corporation will get to pick three development sites of not more than 40 acres each in that area.

*Interesting  
May want to explore  
why this is case  
why Sierra Club  
was lulled!*



# FISCAL YEAR 1998 WORK PLAN

DECEMBER 1997

**Exxon Valdez Oil Spill  
Trustee Council**

645 G Street, Suite 401  
Anchorage, Alaska 99501-3451  
907/278-8012 fax 907/276-7178  
Toll free in Alaska 1-800-478-7745  
Outside Alaska 1-800-283-7745



## Summary of Fiscal Year 1998 Projects

For FY 98, the Trustee Council received 119 research, monitoring, and general restoration proposals requesting a total of \$23 million. In August and December 1996, the Council authorized 66 projects totaling \$14,098,100. The table on the following page summarizes the Trustee Council's funding decisions by "resource cluster," as well as the expected cost of completing the projects authorized in FY 98. (Note: Regarding future year costs, a "\$0" in the table means that no funding is expected. A blank space means that the estimated funding level is not known or that a tentative decision on future funding has not been made.)

Many of the projects funded are the continuation of efforts funded in FY 97. As illustrated in Table 2, several new projects also were funded.

**Table 2. New and Continuing Projects**

	Number of Projects Funded	Total Cost of Projects Funded
New Projects	17	\$1,977,700
Continuing Projects	49	\$12,120,400

In addition to funding research, monitoring, and general restoration projects, the Trustee Council authorized funds for the administrative costs of the restoration program (\$2.8 million, primarily for public information, independent scientific review, and operating expenses), habitat protection support (\$851,400, for services such as negotiations, land surveys, and appraisals), and the fifth \$12 million payment to the Restoration Reserve.

**Table 3. Summary of Funding by Resource Cluster**

<b>Resource Cluster</b>	<b>FY 98 Approved</b>	<b>FY 99 Estimate</b>	<b>FY 00 Estimate</b>	<b>FY 01-02 Estimate</b>	<b>Total FY98-02</b>
Pink Salmon	\$1,202.3	\$606.9	\$234.0	\$0.0	\$2,043.2
Pacific Herring	\$735.3	\$80.6	\$0.0	\$0.0	\$815.9
SEA and Related Projects	\$2,669.6	\$841.0	\$53.7	\$62.8	\$3,627.1
Sockeye Salmon	\$11.7	\$0.0	\$0.0	\$0.0	\$11.7
Cutthroat Trout, Dolly Varden, Rockfish, and Pollock	\$357.9	\$271.8	\$272.0	\$571.0	\$1,472.7
Marine Mammals	\$739.3	\$390.1	\$262.8	\$91.4	\$1,483.6
Nearshore Ecosystem	\$2,249.1	\$626.6	\$0.0	\$0.0	\$2,875.7
Seabird/Forage Fish and Related Projects	\$2,992.1	\$2,364.5	\$1,395.0	\$360.1	\$7,111.7
Archaeological Resources	\$206.6	\$161.5	\$0.0	\$0.0	\$368.1
Subsistence	\$1,481.9	\$354.1	\$343.7	\$491.1	\$2,670.8
Habitat Improvement	\$631.1	\$359.7	\$0.0	\$0.0	\$990.8
Ecosystem Synthesis	\$261.1	\$265.5	\$0.0	\$0.0	\$526.6
Project Management	\$560.1				\$560.1
<b>Total Research, Monitoring, and General Restoration Projects:</b>	<b>\$14,098.1</b>	<b>\$6,322.3</b>	<b>\$2,561.2</b>	<b>\$1,576.4</b>	<b>\$24,558.0</b>
Habitat Protection/Acquisition Support	\$851.4				\$851.4
Public Information/Science Mgt./ Admin.	\$2,796.3	\$2,500.0			\$5,296.3
Restoration Reserve	\$12,000.0	\$12,000.0	\$12,000.0	\$24,000.0	\$60,000.0
<b>Total All Activities:</b>	<b>\$29,745.8</b>	<b>\$20,822.3</b>	<b>\$14,561.2</b>	<b>\$25,576.4</b>	<b>\$90,705.7</b>

## HABITAT PROTECTION AND ACQUISITION

---

The *Exxon Valdez* Trustee Council funds the acquisition and protection of land in order to protect the habitat of injured resources. Project 98126 continues the support services necessary for these land acquisitions, such as negotiations staff, appraisals, title reports, on-site inspections, and hazardous materials surveys.

### Funding Approved for Fiscal Year 1998

Project Number and Title		FY 98 Approved	FY 99 Estimate	FY 00 Estimate	FY 01-02 Estimate	TOTAL 98-02
98126	Habitat Acquisition Support	\$851.4				\$851.4

As of December 1997, the Council has committed \$269.6 million to protect 597,490 acres of land in large parcels, including inholdings in Kachemak Bay State Park, land adjacent to Seal Bay/Tonki Cape on Afognak Island, commercial timber rights on land along Orca Narrows, a parcel on Shuyak Island, and lands owned by Akhiok-Kaguyak, Inc., Old Harbor Native Corporation, Koniag, Inc., Chenega Corporation, Eyak Corporation, English Bay Corporation, and Tatitlek Corporation. Final acceptance of the offer from the Tatitlek Corporation depends on a vote of the shareholders. Negotiations continue with Afognak Joint Venture and Koniag, Inc. to protect additional habitat.

The Council also has authorized offers to purchase 44 small parcels of land at appraised fair market value, a contribution of \$4 million to acquire a package of lands owned by the Kenai Natives Association, and up to \$1 million to acquire key waterfront parcels that were forfeited to the Kodiak Island Borough for tax delinquency. If all of the offers result in land acquisitions, about 7,500 acres of habitat on small parcels will have been protected for about \$20 million. Fourteen additional small parcels are under active consideration.

Interests in the lands protected by the Council range from acquisition of fee simple title to various forms of conservation easements.

## PUBLIC INFORMATION/SCIENCE MANAGEMENT/ADMINISTRATION

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The cost of the administrative functions necessary to efficiently implement the restoration program (project 98100) continue to decline, from a high of \$4.1 million in FY 94 to \$2.8 million in FY 98. Further reductions are expected through FY 2002, consistent with the planned transition to the Restoration Reserve in FY 2003.

Project 98100 includes funds for the independent scientific review of project proposals and results, the Trustee Council's 17-member Public Advisory Group (PAG), the Oil Spill Public Information Center which at the end of FY 97 merged with Alaska Resources Library and Information Services (ARLIS), the Council's Annual Restoration Workshop, public meetings and other communication efforts such as the Council's newsletter and radio program, operations and staff support for the Trustee Council itself, an annual financial audit, and a variety of smaller items.

### Funding Approved for Fiscal Year 1998

Project Number and Title		FY 98 Approved	FY 99 Estimate	FY 00 Estimate	FY 01-02 Estimate	TOTAL 98-02
98100	Public Info/Science Mgt/ Administration	\$2,796.3	\$2,500 0			\$5,296.3

## RESTORATION RESERVE

---

In recognition of the fact that complete recovery from the oil spill may not occur for decades, the Trustee Council established the Restoration Reserve to hold funds to be used for restoration after the last annual payment is received from Exxon Corporation in September 2001. For FY 98, the Trustee Council deposited \$12 million in the reserve account. This deposit, the Council's fifth, brings the total in the account to \$60 million. Annual deposits of \$12 million in each of the next four years would provide a reserve of \$108 million plus interest.

Funds in the Restoration Reserve will be used for restoration activities, but allocation of the funds to specific activities has not yet been made. During FY 98, the Trustee Council will solicit public input from throughout the spill area on possible uses of the funds. The Council is scheduled to make a decision on the future of the Restoration Reserve by October 1998.

### Funding Approved for Fiscal Year 1998

Project Number and Title		FY 98 Approved	FY 99 Estimate	FY 00 Estimate	FY 01-02 Estimate	TOTAL 98-02
98424	Restoration Reserve	\$12,000.0	\$12,000.0	\$12,000.0	\$24,000.0	\$60,000.0

NOTE: During the fiscal years 1994 through 1997, the Trustee Council deposited \$48 million in the Restoration Reserve. The additional \$12 million deposited in FY 98 and the \$48 million in deposits projected for FY 99-02 would bring the total in the year 2002 to \$108 million plus interest.

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# **Fiscal Year 1997 Draft Work Plan**

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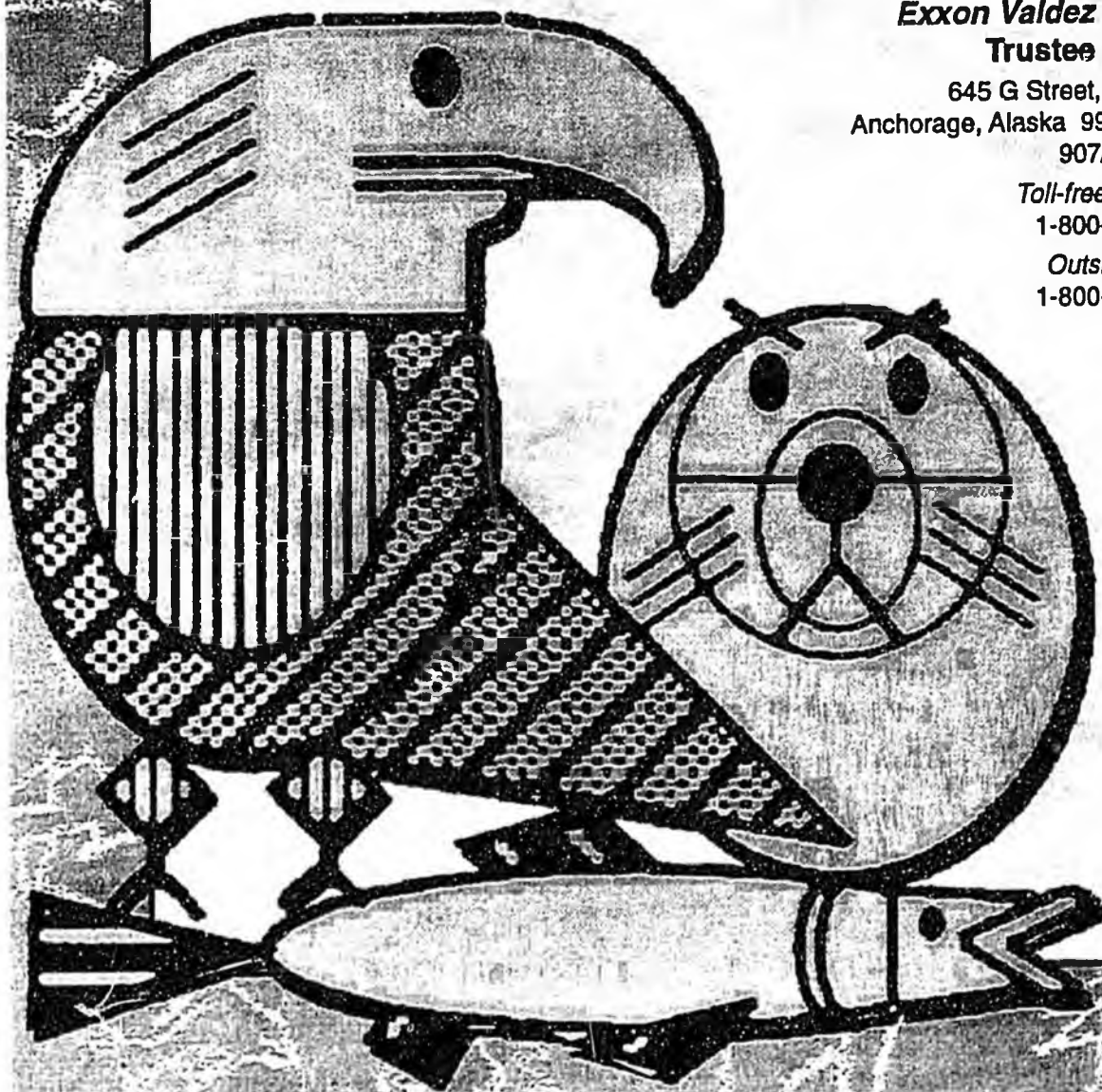
Prepared by:

**Exxon Valdez Oil Spill  
Trustee Council**

645 G Street, Suite 401  
Anchorage, Alaska 99501-3451  
907/278-8012

*Toll-free in Alaska*  
1-800-478-7745

*Outside Alaska*  
1-800-283-7745



**June  
1996**

---

# ***Fiscal Year 1997 Draft Work Plan***

---

**June 1996**

**Prepared by:  
Exxon Valdez Oil Spill  
Trustee Council**

**BRUCE BOTELHO**  
Attorney General  
State of Alaska

**MICHELE BROWN**  
Commissioner  
Alaska Department of  
Environmental Conservation

**GEORGE T. FRAMPTON, JR.**  
Assistant Secretary  
U.S. Department of the Interior

**PHIL JANIK**  
Regional Forester  
Alaska Region  
U.S. Department of Agriculture

**STEVE PENNOYER**  
Director, Alaska Region  
National Marine Fisheries Service

**FRANK RUE**  
Commissioner  
Alaska Department of Fish & Game

This draft work plan is presented for public review and comment. It does not reflect a final decision by the Trustee Council. Projects in this draft are also subject to further review by the Trustee Council's Public Advisory Group, Chief Scientist, and legal advisors. The Trustee Council will make funding decisions for most projects in this draft on or about August 28, 1996.



## PLEASE COMMENT

---

You can help the Trustee Council by reviewing this draft work plan and letting them know your priorities for Fiscal Year 1997. To be most useful, your comments should be received by the Trustee Council on or before **August 9, 1996**. However, all comments received prior to final action on the work plan, which is tentatively scheduled for late August, will be reviewed by the trustees. To comment, contact the Trustee Council by:

**Mail:** Exxon Valdez Oil Spill Trustee Council  
645 G Street; Suite 401  
Anchorage, AK 99501  
Attn: Draft Fiscal Year 1997 Work Plan

**Telephone:** Telephone (907) 278-8012  
Toll free in Alaska: 1-800-478-7745  
Toll free outside Alaska: 1-800-283-7745  
Collect calls will be accepted from fishermen and boaters who call through the marine operator.

**Fax:** (907) 276-7178

**E-mail:** sandras@oilspill.state.ak.us  
Attn: Sandra Schubert

**Public Hearing:** 7 PM on August 6, 1996  
Access to the public hearing will be available via teleconference to all communities and villages in the oil spill region. Contact your local Alaska Legislative Information Office or Rebecca Williams at the telephone numbers above if you would like to participate.

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# Fiscal Year 1997 Draft Work Plan

## June 1996

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## **Dear Reviewer,**

Each year the *Exxon Valdez* Trustee Council asks for public comments on its annual plan of work to restore the resources and services injured by the oil spill. This year's draft work plan reflects the fact that FY 97 is seven years after the oil spill and that the 10th anniversary of the spill will be soon upon us.

In general, the collection of projects recommended for funding represents a continued shift from funding routine management actions (such as lake stocking and improved stock assessment capabilities) to funding research that should lead to long-term improvements in resource management (such as the pink salmon genome project and the Sound Ecosystem Assessment). The package of projects recommended for funding also represents a continued emphasis on ecosystem-level analyses and understanding (primarily the Sound Ecosystem Assessment, the Nearshore Vertebrate Predator Project, and the Alaska Predator Ecosystem Experiment), in contrast to an individual species approach (such as population monitoring of sea otters or bald eagles). The ecosystem approach maximizes the efficiency of research and monitoring efforts and should lead to scientific results with wide application and lasting benefits.

Several of the projects recommended for funding are designed to inform the public of the progress of restoration, with efforts culminating in a public symposium to be held at the time of the 10th anniversary of the oil spill in 1999. Such projects range from preparation of a one-hour television program about the restoration and recovery of the spill area to development of a sophisticated ecosystem model that would integrate the data collected by various projects funded by the Trustee Council. In addition, funding is being recommended in FY 97 for a number of researchers to prepare manuscripts on their study results for publication in the scientific literature and to present study results at national scientific conferences.

The Trustee Council's commitment to community involvement in the restoration process remains strong. Projects to involve local youth in ongoing restoration projects and to fund a network of local experts in oil spill communities who serve as liaisons and facilitators are recommended for continuation in FY 97. A number of projects proposed by communities to replace or enhance subsistence resources injured by the oil spill are also recommended for funding again in FY 97. In addition, with encouragement and support from the Council, several projects anticipate hiring local workers or collecting local and indigenous knowledge that may benefit restoration.

Another important trend worth highlighting is the necessary decrease in the size of the research, monitoring, and general restoration program. The Trustee Council has adopted a declining schedule of expenditures through the year 2002 to

coincide with the final payment from Exxon Corporation in 2001. This means that the administrative costs of the program are declining (from \$3.4 million in FY 96 to approximately \$3.0 million in FY 97), as is the amount of money available to fund research, monitoring, and general restoration activities (from \$18 million in FY 96 to \$16 million in FY 97). In an effort to find savings in FY 97 project budgets, the Restoration Office staff took a hard look at proposed activities that may be considered normal agency management. Agency project management costs, which are separately identified for the first time in FY 97, also will decline.

A final comment concerns some activities that are not a part of this work plan, but which help to complete the picture of the Trustee Council's restoration effort.

- The Council's program to protect habitat important to the recovery of injured resources and services is continuing. Recent actions include an agreement with Chenega Corporation for \$34 million to protect 61,000 acres of habitat in Prince William Sound.

- Clean-up of some remaining residual oil on several beaches near the community of Chenega Bay, one of the areas hardest hit by the oil spill, is scheduled to take place in the summer of 1997.

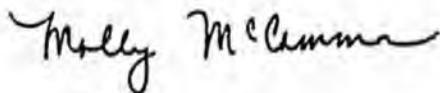
- Preparation of a plan for monitoring and restoring archaeological resources in Prince William Sound and lower Cook Inlet will be completed later this summer. The Council may invite proposals to implement the plan, which may include one or more facilities for storing and displaying artifacts in spill-area communities.

- The Alaska SeaLife Center, which has been funded in part by the Trustee Council and which will provide unique, technologically advanced facilities for research on marine mammals, fish and seabirds, is under construction and should be open for business in Spring 1998.

- The Council plans to make an additional \$12 million deposit into the Restoration Reserve in FY 97, bringing the total in the reserve account to \$48 million plus interest. These funds will be used for restoration activities, but no allocation of the funds to specific activities has yet been made.

As always, I am interested in your thoughts and ideas in regard to the draft work plan, as well as on our restoration efforts in general. Comments on this document will be most useful if they are received by August 9, but I welcome hearing from you at any time. Also contact me if you would like more information on any of the projects discussed in the draft work plan or about the restoration program in general.

Sincerely,



Molly McCammon  
Executive Director

## The Work Plan Process

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Each year the *Exxon Valdez* Oil Spill Trustee Council funds activities to restore the resources and services injured by the 1989 *Exxon Valdez* oil spill. This draft work plan describes restoration activities being considered for federal Fiscal Year 1997 (October 1, 1996 through September 30, 1997).

The Trustee Council has not decided which projects to fund. They will make their decision on or about August 28, 1996, using comments from the public and the Public Advisory Group, evaluations of independent scientific reviewers and legal advisors, and recommendations from the Executive Director.

Milestones in development of the FY 97 work plan are described in Table 1. The work plan process begins each year with a restoration workshop. The Trustee Council usually makes funding decisions in late August so that projects can begin on October 1.

**Table 1. Milestones for FY 97 Work Plan**

Jan. 16-18, 1996	Annual Restoration Workshop discussed results of FY 95 work and directions for FY 97.
Feb. 15, 1996	<i>Invitation to Submit Restoration Proposals for Federal Fiscal Year 1997</i> was issued.
April 15, 1996	Restoration Office received 126 proposals requesting \$38 million for FY 97.
May 16-18, 1996	Chief Scientist and core reviewers met to discuss the scientific and technical merits of proposals.
May 23, 1996	Executive Director discussed proposals with agencies, Chief Scientist, and Public Advisory Group representatives and drafted preliminary recommendations.
June 5, 1996	Public Advisory Group discussed proposals and preliminary recommendations and advised Executive Director.
⇒ June 24, 1996	<i>FY 97 Draft Work Plan</i> is distributed for public comment.
Aug. 6, 1996	Public hearing will be held on <i>FY 97 Draft Work Plan</i> .
Aug. 7, 1996	Public Advisory Group will meet to advise Trustee Council on final work plan.
Aug. 28, 1996	Trustee Council is expected to decide on <i>FY 97 Final Work Plan</i> .
Oct. 1, 1996	Fiscal year 1997 (FY 97) will begin.

## Funding Targets

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After considering the cash flow for restoration funds, the Trustee Council has tentatively set a funding target of \$16 million for the FY 97 work plan, which includes all research, monitoring, and general restoration projects. As illustrated in Table 2, the target for the annual work plan is lower in FY 97 than in FY 96 and will continue to decline through FY 2002, when the final payment from Exxon Corporation will be spent and funding for the restoration program will rely solely on the Restoration Reserve.

**Table 2. Tentative Work Plan Funding Targets FY 96 and Beyond**

FY 96	\$18.2 million (authorized)
⇒ FY 97	\$16.0 million
FY 98	\$14.0 million
FY 99	\$12.0 million
FY 00	\$10.0 million
FY 01	\$8.0 million
FY 02	\$6.0 million
FY 03 +	Restoration Reserve

## Preliminary Recommendations

This section summarizes the Executive Director's preliminary recommendations for FY 97. These recommendations are made for public review and may be revised before they are provided to the Trustee Council in late August.

For FY 97, the Trustee Council received 126 proposals totaling \$38,078,200. Of these, 120 proposals totaling \$33,195,200 are for research, monitoring, and general restoration projects, which are the subject of this draft work plan. The remaining six projects also will be considered by the Council in August, and are discussed under "other projects" on page 7.

### Research, Monitoring, and General Restoration Projects

The Trustee Council has targeted approximately \$16 million for research, monitoring, and general restoration projects in FY 97. The Executive Director's preliminary recommendation of which proposals should be funded is summarized in Table 3.

**Table 3. Summary of Executive Director's Preliminary Recommendation: Research, Monitoring, and General Restoration Projects**

<b>Category</b>	<b>Explanation</b>	<b>No. Proj.</b>	<b>FY 96 Cost</b>
<b>Fund</b>	Project has high technical merit with significant contribution toward achieving restoration objectives. Project recommended for Trustee Council approval.	13	\$1,882,400
<b>Fund Contingent</b>	Same as above except that certain issues need to be resolved before funding is approved. Project recommended for Trustee Council approval if these issues can be resolved.	43	\$12,732,800
<b>Defer Decision</b>	A decision on whether or not to fund project in FY 97 cannot be made without more information. In many cases, needed information will not be available until after this summer's field season. For such projects, a recommendation will be made to the Trustee Council in November or December 1996.	15	\$2,129,000
<b>Total:</b>		<b>71</b>	<b>\$16,744,200</b>
<b>Do Not Fund</b>	Project not recommended for funding in FY 97. In some cases, it is recommended that a project be re-evaluated in the future. In other cases, the project is not legally permissible, has technical problems, or would not significantly contribute to restoration objectives.	49	\$13,978,200

The sum of the projects in the *fund*, *fund contingent*, and *defer decision* categories is \$16,744,200. This amount is somewhat above the \$16 million target identified by the Trustee Council. To meet the \$16 million target, project budgets will be reviewed further for possible cost reductions. In addition, it is likely that some projects in the *fund contingent* category will not be funded because their issues will not be resolved, and some projects in the *defer* category will not prove feasible or appropriate when additional information is evaluated. Finally, further review may result in some projects currently recommended for funding not being recommended in August, or not being approved by the Trustee Council.

Of the projects in the *fund*, *fund contingent*, and *defer decision* categories, many are continuing efforts also funded by the Trustee Council in FY 96. As illustrated in Table 4, several new projects are also being recommended for funding.

**Table 4. New and Continuing Projects: Fund, Fund Contingent, and Defer**

	Number of Projects Recommended for Funding	Total Cost of Projects Recommended for Funding
New Projects	23	\$2,114,100
Continuing Projects	48	\$14,630,100

## Other Projects

In addition to funding projects through the annual work plan, in FY 97 the Trustee Council will approve funds for the administrative costs of the restoration program (primarily public information, independent scientific review, and administration), habitat protection support (such as negotiations, land surveys, and appraisals), and the Restoration Reserve. The Council will also consider approving funds for five proposals submitted for capital construction projects in FY 97.

Table 5 summarizes these "other projects." If funds are approved for these projects, they will be in addition to the \$16 million work plan. Public comment is being sought on these other projects as well as on the work plan itself.

**Table 5. Summary of Executive Director's Preliminary Recommendation:  
Other Projects**

<b>Project</b>	<b>FY 97 Request</b>	<b>FY 97 Exec. Dir. Recommendation</b>
Public Information/Science Management/Administration	\$3,000.0	Fund, but continue budget review
Habitat Protection Support (97126)	\$1,195.6	Fund, but defer decision on amount of funding
Restoration Reserve	\$12,000.0	\$12,000.0
Research Facilities (97151, 97197)	\$1,282.7	Defer decision
Reduction of Marine Pollution (97115, 97229)	\$2,086.2	Fund 97115 contingent on further budget review; defer decision on 97229
Archaeological Repositories (97277)	\$318.5	Defer decision until archaeology planning project is complete

With respect to archaeological repositories, the Trustee Council is aware that residents of some communities have expressed a strong interest in having archaeological artifacts returned to the spill area. Last year the Council funded Project 96154 to develop a comprehensive plan for monitoring and restoring archaeological resources in Prince William Sound and lower Cook Inlet, including strategies for storing and displaying artifacts at appropriate locations within these areas. Chugach Heritage Foundation, the contractor for this project, has recently completed a draft plan. After considering the draft plan, the Council may issue a separate invitation for proposals to protect archaeological resources through, for example, site stewardship programs or archaeological repositories or artifact displays.

## Highlights of the Preliminary Recommendations

### *Ecosystem Projects*

More than 45% of the \$16 million dollars in FY 97 work plan funding would go to the Trustee Council's three ongoing ecosystem studies:

- The Sound Ecosystem Assessment (SEA, Project 97320) is exploring and developing models of the processes influencing productivity of pink salmon and Pacific herring in Prince William Sound;
- The Nearshore Vertebrate Predator project (Project 97025) is examining whether or not sea otters, river otters, harlequin ducks, and pigeon guillemots are recovering and what factors might be constraining recovery;
- The Alaska Predator Ecosystem Experiment (APEX, Project 97163) is exploring the link between forage fish and seabird productivity.

In addition, Project 97300 would begin the process of synthesizing across projects and among species and habitats the information collected to date on the injury and recovery of injured species.

### *Community Initiatives*

Due in part to the Trustee Council's funding of a network of local facilitators in communities in the oil spill area, a total of 35 restoration proposals were submitted by communities or at the request of communities this year. Although several of the projects proposed were determined to have a weak link to restoration or otherwise not be appropriate for Trustee Council funding, 22 of the projects are in the *fund*, *fund contingent*, or *defer* category and under consideration for funding.

In addition, two community initiatives that are outside of the work plan process also may get underway in FY 97. The Trustee Council has given tentative approval to a plan to clean some of the remaining residual oil on several beaches in western Prince William Sound near the community of Chenega Bay. A process funded in FY 96 (96154) to develop a comprehensive plan for monitoring and restoring archaeological resources in Prince William Sound and lower Cook Inlet is nearing completion. The Council may issue an invitation in the fall of 1996 to implement all or part of the plan.

### *Project Management*

For the first time, in FY 97 the costs of project management are separately identified in Project 97250. Project management is provided by resource managers in the six trustee agencies and provides essential accountability to the work plan process. It includes such functions as tracking the progress of restoration projects; ensuring

that projects meet their stated goals, objectives, and schedules; monitoring project expenditures; and ensuring that all reports and other contract deliverables are properly performed.

Prior to FY 97, project management funds were included in each individual restoration project. The amount of funding to be provided each agency for this function in FY 97 is currently under discussion.

#### *Habitat Protection*

The *Exxon Valdez* Trustee Council funds the acquisition and protection of land in order to protect the habitat of injured resources and services. Project 97126 would continue the support services necessary for these land acquisitions, such as title reports, appraisals, on-site inspections, hazardous materials surveys, land surveys and timber cruises. The estimated cost of these services for FY 97 is \$1.2 million, although the actual cost will depend on specific Council decisions about land acquisitions and the progress of negotiations.

As of June 1996, the Council has committed \$195.3 million to protect 422,000 acres of land in large parcels, including inholdings in Kachemak Bay State Park, land adjacent to Seal Bay/Tonki Cape on Afognak Island, commercial timber rights on land along Orca Narrows, lands owned by Akhiok-Kaguyak, Inc., Old Harbor Native Corporation, Koniag, Inc., and Chenega Corporation, and a parcel on Shuyak Island. Acceptance of the offer to the Chenega Corporation depends on a vote of shareholders. Negotiations continue with six landowners to protect an additional 307,000 acres of land. The landowners are Tatitlek Corporation, Eyak Corporation, Port Graham Corporation, English Bay Corporation, Afognak Joint Venture, and Koniag, Inc.

The Council has also authorized offers to purchase 24 small parcels of land at appraised fair market value, a contribution of \$4 million to acquire a package of lands owned by the Kenai Natives Association, and up to \$1 million to acquire key waterfront parcels that were forfeited to the Kodiak Island Borough for tax delinquency. Twenty-three additional small parcels are under consideration.

#### *Restoration Reserve*

In recognition of the fact that complete recovery from the oil spill may not occur for decades, the Trustee Council established the Restoration Reserve to hold funds to be used for restoration after the last annual payment is received from Exxon Corporation in September 2001. The \$12 million recommended for deposit in FY 97 would be the fourth deposit into the reserve account, and would bring the total in the account to \$48 million. Annual deposits of \$12 million in each of the next five years

would provide a reserve of \$108 million plus interest. These funds will be used for restoration activities, but no allocation of the funds to specific activities has yet been made.

*Public Information, Science Management, and Administration*

The cost of the administrative functions necessary to efficiently implement the restoration program will decline again in FY 97 – from \$4.2 million in FY 95 to \$3.4 million in FY 96 to \$3.0 million in FY 97. Further reductions are expected through FY 2002, consistent with the planned transition to the Restoration Reserve in FY 2003. Table 6 shows projected funding levels for the administrative budget.

**Table 6. Projected Funding Levels:  
Public Information, Science Management and Administration**

	FY 96	\$3.4 million (authorized)
⇒	FY 97	\$3.0 million
	FY 98	\$2.8 million
	FY 99	\$2.5 million
	FY 00	\$1.7 million
	FY 01	\$1.5 million
	FY 02	\$1.5 million

This component includes funds for the independent scientific peer review of project proposals and findings, the Trustee Council's 17-member Public Advisory Group, the Oil Spill Public Information Center, the Council's Annual Restoration Workshop, communication efforts such as the Council's newsletter and radio program, operations and staff support for the Trustee Council itself, and a variety of smaller items.

## Description of Projects and Recommendations

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A project-by-project list of the Executive Director's preliminary recommendations follows.

Spreadsheet A is a summary spreadsheet which shows FY 97 and future years' costs of research, monitoring, and general restoration projects recommended as *fund*, *fund contingent*, or *defer decision*. (Note: A "\$0" in the spreadsheet means that no funding is recommended. A blank space means that the estimated funding level is not known or that a decision on funding has not been made.)

Spreadsheet B describes each project received by the Trustee Council (research, monitoring, and general restoration projects as well as other projects), and contains the text of the Chief Scientist's and the Executive Director's preliminary recommendations. It also indicates who proposed each project, which Trustee agency would be responsible for project management, and whether the project is continuing (i.e., was also funded by the Council in FY 96) or new.

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# **EXXON VALDEZ OIL SPILL RESTORATION PLAN**

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Prepared by:

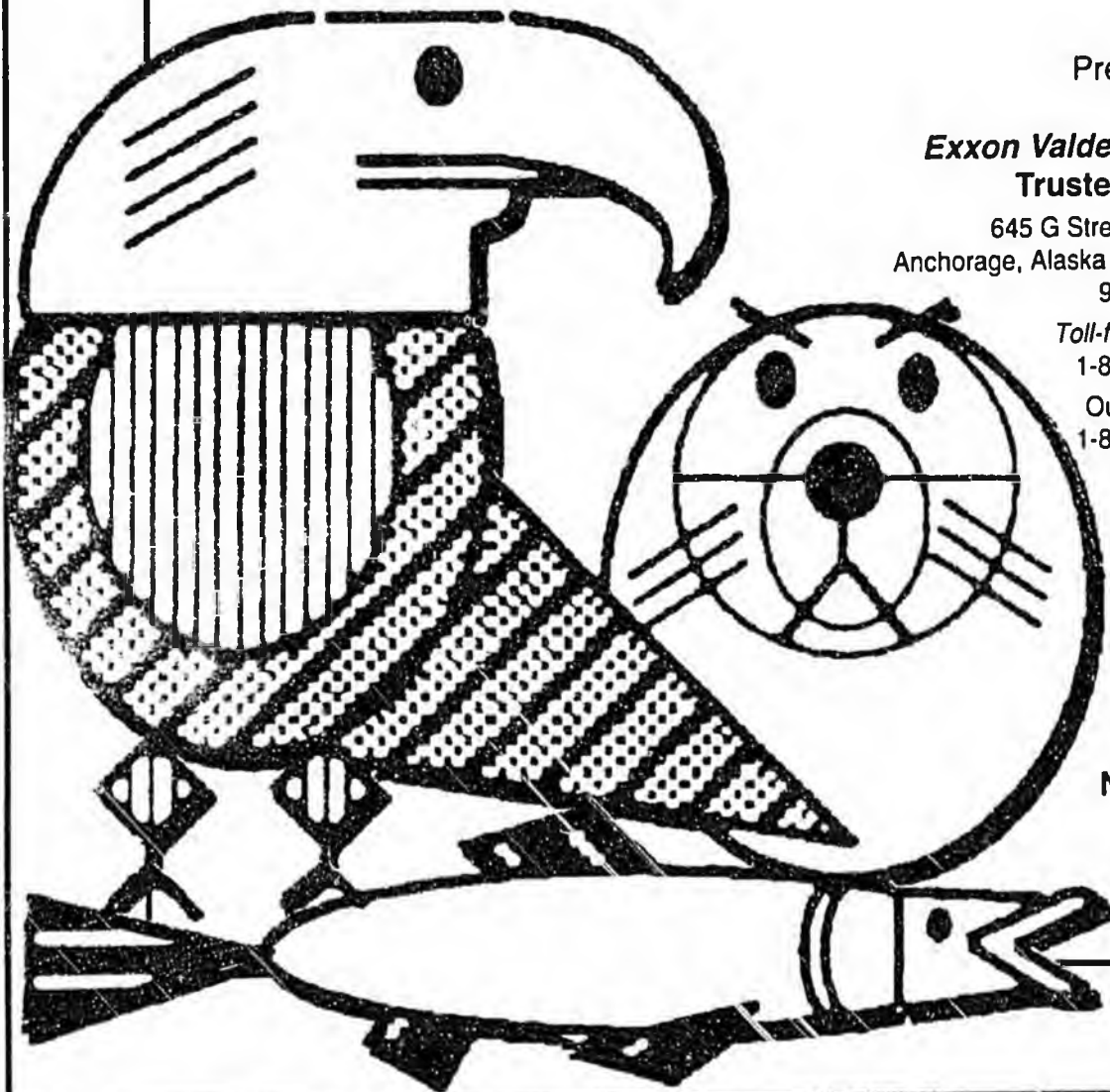
**Exxon Valdez Oil Spill  
Trustee Council**

645 G Street, Suite 401  
Anchorage, Alaska 99501-3451  
907/278-8012

*Toll-free in Alaska*  
1-800-478-7745

*Outside Alaska*  
1-800-283-7745

**November  
1994**



## Chapter 2 Mission and Policies

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### **Mission Statement**

The mission of the Trustee Council is to efficiently restore the environment injured by the *Exxon Valdez* oil spill to a healthy, productive, world renowned ecosystem, while taking into account the importance of the quality of life and the need for viable opportunities to establish and sustain a reasonable standard of living.

The restoration will be accomplished through the development and implementation of a comprehensive, interdisciplinary recovery and rehabilitation program that includes:

- Natural Recovery
- Monitoring and Research
- Resource and Service Restoration
- Habitat Acquisition and Protection
- Resource and Service Enhancement
- Replacement
- Meaningful Public Participation
- Project Evaluation
- Fiscal Accountability
- Efficient Administration

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## Policies

The policies below reflect a comprehensive, balanced approach to restoration. They give direction to the restoration program while allowing flexibility so that the Trustee Council can respond to changing restoration needs.

### An Ecosystem Approach

1. Restoration should contribute to a healthy, productive and biologically diverse ecosystem within the spill area that supports the services necessary for the people who live in the area.
2. Restoration will take an ecosystem approach to better understand what factors control the populations of injured resources.

These policies recognize that recovery from the oil spill involves restoring the ecosystem as well as restoring individual resources. An ecosystem includes the entire community of organisms, including people, that interact with one another and their physical surroundings. The ecosystem will have recovered when the population of flora and fauna are again present, healthy, and productive; there is a full complement of age classes; and people have the same opportunities for the use of public resources as they would have had if the oil spill had not occurred. Restoration proposals should, as much as practical, reflect an understanding of their impact on ecosystem relationships of related resources and services.

For General Restoration activities, preference is given to projects that benefit multiple species rather than to those that benefit a single species. However, effective projects for restoring individual resources will also be considered. This approach will maximize benefits to ecosystems and to injured resources and services.

Habitat Protection and Acquisition emphasizes protection of multiple species, ecosystem areas, such as entire watersheds, or areas around critical habitats. This approach will be more likely to ensure that the habitat supporting an injured resource or service is protected. In some cases, protection of a small area will benefit larger surrounding areas, or provide critical protection to a single resource or service.

Monitoring and Research activities require more than resource-specific investigations to understand the factors affecting recovery from the oil spill. Restoration issues are complex, and research must often take a long-term approach to understand the physical and biological interactions that affect an injured resource or service, and may be constraining its recovery.

The results of these efforts could have important implications for restoration, for how fish and wildlife resources are managed, and for the communities and people who depend upon the injured resources.

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### **Injuries Addressed by Restoration**

3. Restoration activities may be considered for any injured resource or service.
4. Restoration will focus upon injured resources and services and will emphasize resources and services that have not recovered. Resources and services may be enhanced, as appropriate, to promote restoration. Restoration actions may address resources for which there was no documented injury if these activities will benefit an injured resource or service.
5. Resources and services not previously identified as injured may be considered for restoration if reasonable scientific or local knowledge obtained since the spill indicates a spill-related injury.
6. Priority will be given to restoring injured resources and services which have economic, cultural and subsistence value to people living in the oil spill area, as long as this is consistent with other policies.
7. Possible negative effects on resources or services must be assessed in considering restoration projects.

As required by the Consent Decrees, restoration must benefit the resources and services injured by the spill. Table 2 in Chapter 4 lists resources and services injured by the spill. The table is based on the best available information but may be amended if new information demonstrates additional spill-related injuries. The process for amending the list is described in Chapter 4. In addition, an ecosystem approach to restoring injured resources and services may require restoration activities that address a resource's prey or predators, or the other biota and physical surroundings on which it depends.

Continuing injuries to resources and services with important economic, cultural and subsistence value to people living in or using the oil spill area cause continuing hardship. For example, subsistence users say that maintaining a subsistence culture depends upon uninterrupted use of subsistence resources. The more time users spend away from subsistence activities, the less likely they will return to it. Continuing injury to natural resources used for subsistence may affect the way of life of entire communities. Similarly, each year that commercial fish runs remain below prespill levels compounds the injury to the fishermen and, in many instances, the communities in which they live or work.

The policies recognize that waiting for natural recovery may be the most effective approach in many instances, but that the time required for natural recovery can have important adverse consequences for resources and services upon which the people of the spill area rely.

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Finally, restoring one resource or service should not come at the cost of injuring another. An assessment of possible negative effects on non-target resources or services will be part of the project proposal evaluation process.

### **Location of Restoration Actions**

**8. Restoration activities will occur primarily within the spill area. Limited restoration activities outside the spill area, but within Alaska, may be considered under the following conditions:**

- when the most effective restoration actions for an injured population are in a part of its range outside the spill area, or
- when the information acquired from research and monitoring activities outside the spill area will be significant for restoration or understanding injuries within the spill area.

The vast majority of restoration funds will be focused on the spill area, where the most serious injury occurred and the need for restoration is greatest. At the same time, the policy provides the flexibility to restore and monitor outside the spill area under limited circumstances. Examples include some restoration and monitoring activities for migratory seabirds and marine mammals.

### **Restoring a Service**

**9. Projects designed to restore or enhance an injured service:**

- must have a sufficient relationship to an injured resource,
- must benefit the same user group that was injured, and
- should be compatible with the character and public uses of the area.

The restoration fund may be used to restore reduced or lost services provided by injured resources. The relationship between the proposed activity and the injured resource which caused the reduced or lost service is the subject of the first part of this policy. The policy requires that a project to restore or enhance an injured service must be sufficiently related to a natural resource. The project can be related to a natural resource in various ways: it could directly restore a resource, provide an alternative resource, or restore people's access to or use of the resource. The strength of the required relationship has not been defined by law, regulation, or the courts. However, a clear connection with an injured resource is necessary. In determining whether to fund a project to restore services, the strength of the project's relationship to injured resources will be considered.

A few examples may help explain this relationship. One way to aid commercial fishing is to restore injured salmon runs or to provide alternative runs. However, the restoration fund cannot be used to give cash grants to fishermen to cover spill-related losses. This latter idea is unrelated to an injured resource.

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As a second example, subsistence was injured, in part, because the resources it relies on were injured. Habitat may be purchased to provide alternative areas for subsistence where uninjured resources exist. The restoration fund may also be used to enhance or establish alternate subsistence resources, or provide information about the safety and availability of subsistence resources, or even to provide facilities such as a shelter cabin that provides for easier access to alternate resources. In these cases, the restoration activity has a relationship to injured resources — it provides replacement resources, allows users to make better judgement about use of the resources, or provides easier access to alternative resources. However, the restoration fund could not be used to help subsistence users in general, such as providing a warehouse or generator in a subsistence community, because there is no relationship to an injured resource.

The second part of the principle ensures that the injured user groups are the beneficiaries of restoration. If the justification for an action is to restore a service, it is important that the user group that was injured be helped.

The last part of the principle addresses a public concern about possible changes in the use of the spill area. It allows improvements in the services without producing major changes in use patterns. For example, a mooring buoy may improve boating safety without changing patterns of use. Projects to be avoided are those that create incompatible uses for an area, such as constructing a small-boat servicing facility in an area that is wild and undeveloped.

### **Competition and Efficiency**

#### **10. Competitive proposals for restoration projects will be encouraged.**

Most restoration projects to date have been undertaken by state or federal agencies. However, the number of competitive contracts awarded to nongovernmental agencies has increased each year and will continue to increase.

This policy encourages active participation from individuals and groups in addition to the trustee agencies and may generate innovation and cost savings. This approach may be inappropriate for some restoration projects, but, where appropriate, competitive proposals will be sought for new project ideas and to implement the projects themselves.

#### **11. Restoration will take advantage of cost sharing opportunities where effective.**

#### **12. Restoration should be guided and reevaluated as information is obtained from damage assessment studies and restoration actions.**

Activities should be coordinated to decrease project costs and be designed to assess and incorporate available and late-breaking information to ensure the most effective restoration program.

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- 13. Proposed restoration strategies should state a clear, measurable and achievable endpoint.**

A clear, measurable, and achievable endpoint is necessary to determine whether a strategy is successful.

- 14. Restoration must be conducted as efficiently as possible, reflecting a reasonable balance between costs and benefits.**

This policy reflects the important fact that there is not sufficient money available to complete all useful restoration activities. Implementation of this policy will not be based on a quantified cost/benefit analysis, but on a broad consideration of the activity's direct and indirect costs, and the primary and secondary benefits. It will also take into account whether there is a less expensive method of achieving substantially similar results.

- 15. Priority shall be given to strategies that involve multi-disciplinary, interagency, or collaborative partnerships.**

Projects that use this type of approach are more likely to take advantage of diversity in viewpoints, skills, and strengths and will be more likely to result in cost-effective restoration.

### **Scientific Review**

- 16. Restoration projects will be subject to open, independent scientific review before Trustee Council approval.**

This policy continues an existing practice. Independent scientific review gives an objective evaluation of the scientific merits of the project. It also assures the public that scientific judgements are without bias.

- 17. Past performance of the project team should be taken into consideration when making funding decisions on future restoration projects.**

The ability to complete projects in a timely and effective manner is essential to the restoration effort.

- 18. Restoration will include a synthesis of findings and results, and will also provide an indication of important remaining issues or gaps in knowledge.**

To the extent possible, all restoration actions will take into account other relevant activities to help the Trustee Council conduct an integrated research program. In addition, a synthesis of findings and results will be available for the public, scientists, and agency staff to help understand the status of injured resources and services, and to plan for future restoration.

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## **Public Participation**

- 19. Restoration must include meaningful public participation at all levels — planning, project design, implementation and review.**

Public participation is not a once-a-year government activity limited to commenting on draft documents. Rather, to the greatest extent possible, individual projects should integrate the affected and knowledgeable public in planning, design, implementation, and review. Some projects have a more easily identifiable public, for example those designed to affect services or the resources that support them. However, incorporating public preferences and information into any project is likely to improve its cost-effectiveness, take advantage of available knowledge, and help ensure that the restoration program is understood and accepted by the public.

The Trustee Council has emphasized its commitment to involve the public in all phases of restoration activities. Evidence of meaningful public involvement will be sought as part of the project evaluation process.

- 20. Restoration must reflect public ownership of the process by timely release and reasonable access to information and data.**

Information from restoration projects must be available to other scientists and to the general public in a form that can be easily used and understood. An effective restoration program requires the timely release of such information. This policy underscores the fact that since the restoration program is funded by public money, the public owns the results.

## **Normal Agency Activities**

- 21. Government agencies will be funded only for restoration projects that they would not have conducted had the spill not occurred.**

This policy addresses the concern that restoration funds should not support activities that government agencies would do anyway. It also affirms the practice that has been in effect since the beginning of the restoration process. To determine whether work would have been conducted had the spill not occurred, the Trustee Council will consider agency authorities and the historic level of agency activity.

GAO

Briefing Report to the Chairman,  
Committee on Natural Resources,  
House of Representatives

August 1993

# NATURAL RESOURCES RESTORATION

## Use of *Exxon Valdez* Oil Spill Settlement Funds



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August 20, 1993

ALASKA STATE LIBRARY

The Honorable George Miller  
Chairman, Committee on  
Natural Resources  
House of Representatives

Dear Mr. Chairman:

The March 1989 grounding of the supertanker Exxon Valdez in Alaska's Prince William Sound spilled 11 million gallons of crude oil--the largest oil spill in U.S. history. The spilled oil affected more than 1,200 miles of Alaskan shoreline, killed or injured large numbers of wildlife, and touched off massive cleanup and restoration efforts by Exxon<sup>1</sup> and federal and state of Alaska agencies.

In October 1991, the U.S. District Court for the District of Alaska approved settlements between Exxon and the federal government and the state of Alaska to resolve civil claims and criminal charges for damages caused by the oil spill. Under the civil settlement, Exxon agreed to pay a total of \$900 million in 11 annual payments. Under the criminal settlement, Exxon was fined \$150 million (\$125 million of which was forgiven because of, among other things, Exxon's cooperation during the cleanup) and required to pay \$50 million each to the federal government and to the state of Alaska as remedial and compensatory payments to be used exclusively for restoring natural resources damaged by the oil spill.

Oil from the Exxon Valdez affected the natural resources managed by the state of Alaska and three federal agencies --the Departments of Agriculture; Commerce, through the National Oceanic and Atmospheric Administration (NOAA); and the Interior. Federal and state trustees have been designated to assess the damage to the natural resources

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<sup>1</sup>As used in this report, the name Exxon includes the Exxon Corporation and its subsidiaries: the Exxon Pipeline Company and the Exxon Shipping Company, which owned the Exxon Valdez.

caused by the oil spill and to restore these resources. Currently, the federal trustees are the Secretary of the Interior; the Secretary of Agriculture; and the Administrator, NOAA.<sup>2</sup> The state of Alaska trustees are the Commissioner, Department of Environmental Conservation; the Commissioner, Department of Fish and Game; and the Alaska Attorney General, Department of Law.

In May 1989, the federal government and the state of Alaska established a trustee council to (1) coordinate damage assessment activities and (2) provide the framework to seek funds from responsible parties to restore or replace natural resources damaged by the oil spill. In August 1991, the federal government and the state of Alaska converted the original trustee council into the Exxon Valdez Oil Spill Trustee Council (Trustee Council)<sup>3</sup> to jointly direct the restoration. After the civil claims and criminal charges were settled in October 1991, the Trustee Council became responsible for jointly managing the distribution of the civil settlement funds. (See sec. 1 for additional background information.)

In response to your request and subsequent agreements with your office, this briefing report provides information on

- the amount of money that Exxon has paid through December 1992 under the settlements and the distribution of this money and
- issues surrounding the functioning of the Trustee Council.

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<sup>2</sup>In 1989, the then Secretary of Commerce recused himself of his duties as a trustee in matters related to the Exxon Valdez oil spill because of a potential conflict of interest. Since then, the Administrator, NOAA, has served as Commerce's trustee instead.

<sup>3</sup>The Trustee Council comprises three federal and three state members. The federal members are the Alaska-based representatives of the federal trustees--the Alaska Regional Forester, U.S. Forest Service, Department of Agriculture; a Special Assistant to the Secretary of the Interior; and the Director, Alaska Region of the National Marine Fisheries Service, NOAA. The state members are the state of Alaska trustees.

On March 19, 1993, we briefed your office on the preliminary results of our review. Following that briefing, we provided--at your office's request--two similar briefings: one on May 12, 1993, to senior officials from the Departments of Agriculture, Commerce, and the Interior in Washington, D.C.; and a second, on May 26, 1993, to federal and state members of the Trustee Council in Alaska. As subsequently agreed with your office, this letter and the following sections summarize and update the information provided at these briefings.

EXXON PAYMENTS AND DISTRIBUTION  
OF SETTLEMENT FUNDS

Through December 1992, Exxon paid two annual installments --totaling \$240 million--on the \$900 million to be paid under the civil settlement. As of February 1993, the \$240 million was distributed as follows:

- \$107 million was returned to federal and state agencies as reimbursement for presettlement cleanup and damage assessment costs,
- \$40 million was offset against Exxon's payments, as provided in the settlement, for cleanup costs that Exxon incurred in 1991,
- \$19 million was approved by the Trustee Council for expenditure on damage assessment and restoration projects and administrative costs, and
- \$74 million remained in a joint federal/state trust fund for future use.

Both an August 1991 Memorandum of Agreement between the federal government and the state of Alaska and the civil settlement placed a limit of \$142 million on the amount of presettlement cleanup and damage assessment costs that can be reimbursed--\$67 million for federal agencies and \$75 million for state agencies. Trustee Council members believe that reimbursements will not exceed the \$142 million limit.

About 40 percent of the \$19 million for projects approved by the Trustee Council through February 1993 was used for damage assessment. The remainder was split almost evenly between restoration projects and administrative costs. Furthermore, the \$19 million was divided almost evenly

between federal and state agencies. The Trustee Council has approved a resolution to use \$21.1 million of the \$74 million remaining in the joint trust fund for damage assessment and restoration projects, habitat protection, and administrative costs for 1993. Of the \$21.1 million, about \$7.5 million was allocated for restoration work and habitat protection each.

In accordance with the criminal settlement, Exxon has paid \$25 million of the \$150 million fine, which was deposited into the North American Wetlands Conservation Fund (16 U.S.C. sec. 4401-4413) and the Victim Compensation and Assistance Act (42 U.S.C. 10601-10605) account. Under the terms of the settlement, the \$125 million balance of the fine was forgiven because of Exxon's cooperation during the cleanup. Exxon has also paid \$100 million in remedial and compensatory (restitution) payments--\$50 million each to the federal government and to the state of Alaska. Plans have been proposed or are under way to use these funds for such measures as acquiring land for habitat protection, building a marine mammal rehabilitation center, and restoring subsistence resources or services lost or damaged in rural communities. (See sec. 2.)

#### ISSUES SURROUNDING THE FUNCTIONING OF THE TRUSTEE COUNCIL

Issues surrounding the functioning of the Trustee Council fall into three categories: restoration planning, habitat protection, and overall organization and administration.

##### Restoration Planning

A key ingredient--which the Trustee Council does not yet have--in the transition from the Trustee Council's role of assessing damage to taking action to restore the natural resources affected by the oil spill is an approved restoration plan. The plan is scheduled to be issued in December 1993. At present, however, the Trustee Council's annual work plans are not tied to a comprehensive restoration plan, and some projects do not appear to have a direct link to the oil spill or else appear to duplicate existing agency responsibilities. In addition, some participants in and observers of the Trustee Council's activities believe that the damage assessment and restoration work carried out to date has been dominated by federal and state agencies and that, as a consequence, few nongovernmental organizations have been able to

participate in the process. For example, almost all of the 1992 and 1993 work projects were not open for competitive bid and were carried out by federal and state agency personnel. The Trustee Council's chief scientist believes that open competition would encourage more timely completion of projects at reduced costs. According to Trustee Council members, there was a need for federal and state agencies to do most of the damage assessment work; however, as more restoration projects are undertaken, less use will be made of federal and state agencies and more projects will be subject to bid proposals from nongovernment sources. (See sec. 3.)

#### Habitat Protection

The Trustee Council is facing increasing public pressure to acquire land to protect habitat. However, land acquisition is expensive, as is illustrated by the Trustee Council's estimates to acquire land for habitat protection that run as high as \$3 billion. Currently, land acquisition activities are not yet tied to an approved land acquisition plan that is linked to an approved restoration plan. Meanwhile, using interim evaluation criteria approved by the Trustee Council, a habitat protection/acquisition work group classified about 42,000 acres as critical habitat to help the recovery of injured wildlife species. This land was identified as "imminently threatened" because of its vulnerability to activities, such as logging, that would significantly lessen the land's ability to provide habitat protection for wildlife species injured by the oil spill. The Trustee Council has approved over \$60 million to acquire 24,500 acres, which includes the work group's two top-ranked imminently threatened parcels totaling 22,500 acres. The work group classified another 338,000 acres as "opportunity-to-buy" parcels--land that is important as habitat protection but not imminently threatened. (See sec. 4.)

#### Overall Organization and Administration

The Trustee Council's current procedures and practices lead many to view the Trustee Council's objectivity with some skepticism. Among other things, the individuals making up the Trustee Council and its organization, which includes a restoration team and several work groups, are, for the most part, employees of the various federal and state trustee agencies. The same agencies--and sometimes the same individuals--that recommend a project for funding

also approve and carry out the project. Moreover, financial reviews or audits have not been conducted of the federal and state agencies' reimbursement claims or of the use of civil settlement funds.

In addition, required project reports on damage assessment and restoration efforts are frequently submitted late and often require extensive revision because of such problems as incomplete analyses, overreaching conclusions, and imbalanced presentations. Consequently, the Trustee Council has often made decisions on follow-on projects without the knowledge of the final conclusions of earlier, related studies. Also, there are some who believe that the Trustee Council organization has not sufficiently sought meaningful public participation or independent scientific viewpoints in deciding which studies and restoration activities should be undertaken. Because of the importance placed on the public's views, the Trustee Council has held numerous public meetings and has established a 17-member public advisory group to facilitate the gathering of the views of individuals and various interest groups throughout Alaska. (See sec. 5.)

#### CONCLUSIONS

Our review raised a number of issues surrounding the functioning of the Trustee Council. These issues require attention before adequate assurance can be provided that the \$1 billion being received as a result of the Exxon Valdez oil spill civil and criminal settlements are expended as intended. Several of the issues relate to the completion of a comprehensive restoration plan to guide such things as annual work plans and land acquisitions, more timely and better quality project reports, and more open competition for restoration projects. Other issues involve the adequacy of internal controls, including (1) financial reviews and program audits to ensure the propriety of reimbursements and subsequent expenditures of settlement funds and (2) a separation of duties among agency personnel involved in recommending, approving, and carrying out the projects.

#### RECOMMENDATIONS

We recommend that the three federal trustees proactively work with the three state of Alaska trustees to better ensure that the \$1 billion being received as a result of the Exxon Valdez oil spill settlements is expended as

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intended. Among other things, attention should be given to (1) completing restoration and land acquisition plans, (2) requiring more timely and better quality project reports, (3) providing for more open competition for restoration projects, and (4) improving internal controls.

AGENCY COMMENTS

At your office's request, we did not obtain written agency comments on a draft of this report. We did, however, discuss the information in the report with members of the Trustee Council. They generally agreed with the information in the report and provided comments and suggestions, which we incorporated where appropriate.

More specifically, the Trustee Council members suggested that we more clearly distinguish between the role and makeup of the presettlement and postsettlement trustee councils, which we did. They also commented that we had understated the extent of public participation actively sought and used for the Trustee Council's decisions. We revised the report as necessary to more clearly reflect the extent and form of public participation.

The Trustee Council members expressed concern that we had not fully reflected the magnitude of the challenge they faced in establishing a joint federal/state organization, process, and plan for addressing the restoration of resources damaged and services affected by the largest oil spill on record. We believe that the report does recognize the magnitude and complexity of the challenges faced by the trustees and the Trustee Council, and that this is all the more reason for the trustees to address the issues identified in the report to ensure that settlement funds are expended efficiently, effectively, and as intended.

Finally, the Trustee Council members believe that we should have addressed the multiplicity of federal and state procedures and requirements that must be met in developing a restoration plan. Although the scope of our review did not include an in-depth analysis of all the statutes, laws, and regulations affecting the Trustee Council's operations, we believe that the report does provide a fairly comprehensive overview of its operations, including the restoration planning process.

SCOPE AND METHODOLOGY

To determine how much Exxon has paid to date under the settlement and how the money has been distributed, we obtained documents and interviewed officials from federal agencies in Washington, D.C., and their regional offices in Alaska, as well as state of Alaska agencies. The federal agencies we contacted were the Departments of Agriculture, Commerce (NOAA), the Interior, Justice, and Transportation (U.S. Coast Guard). The state of Alaska agencies included the Departments of Environmental Conservation, Fish and Game, and Law.

To identify issues surrounding the functioning of the Trustee Council, we interviewed the six federal and state members of the Trustee Council and various other officials of the Trustee Council organization, including members of the Trustee Council's restoration team, work groups, the public advisory group, and the chief scientist. We also reviewed the Trustee Council's documents, including transcripts of the Trustee Council's monthly meetings; annual budgets and work plans; and analyses prepared by the chief scientist.

We conducted our review between February and July 1993 in accordance with generally accepted government auditing standards. As agreed, however, we did not verify the accuracy or reliability of the annual budgets or actual distributions of funds.

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As requested, unless you publicly announce its contents earlier, we plan no distribution of this briefing report until 30 days from the date of this letter. At that time, we will make copies available to the Secretary of Agriculture; the Secretary of Commerce and the Administrator, NOAA; the Secretary of the Interior; designated federal and state members of the Trustee Council at Anchorage, Alaska; and other interested parties. Copies will also be made available to others on request.

This work was performed under the direction of James Duffus III, Director, Natural Resources Management Issues, who can be reached at (202) 512-7756 if you or your staff have any questions. Other major contributors to this briefing report are listed in appendix I.

Sincerely yours,

  
J. Dexter Peach  
Assistant Comptroller General

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ABBREVIATIONS

30	GAO	General Accounting Office
30	NOAA	National Oceanic and Atmospheric Administration
31	NRDA&R	Natural Resources Damage Assessment and Restoration Fund

## SECTION 1

### BACKGROUND

Shortly after midnight on March 29, 1989, the supertanker Exxon Valdez struck a reef and ran aground in Prince William Sound, off the coast of Alaska, spilling 11 million gallons of crude oil, the largest oil spill in U.S. history. The spilled oil spread to more than 1,200 miles of Alaska's coastline, including portions of one national forest, four national wildlife refuges, three national parks, five state parks, four state critical habitat areas, and one state game sanctuary. This coastline is rich in fish and wildlife, such as herring, salmon, sea otters, whales, bald eagles, and seabirds. The spill killed and injured large numbers of many of these wildlife species. Services dependent upon these natural resources--such as native subsistence, commercial and sport fishing, sport hunting, camping, boating, and tourism--were also reduced or lost.

Oil from the Exxon Valdez affected the natural resources managed by the state of Alaska and three federal agencies--the Departments of Agriculture; Commerce, through the National Oceanic and Atmospheric Administration (NOAA); and the Interior. The Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. sec. 9607); the Clean Water Act (33 U.S.C. sec. 1321); and implementing regulations provide for the designation of federal and state officials to act as trustees to ensure that responsible parties pay to restore, rehabilitate, or replace natural resources damaged or destroyed by an oil spill. The federal trustees were the Secretary of the Interior; the Secretary of Agriculture; and the Administrator, NOAA. The state of Alaska trustee was the Commissioner, Department of Fish and Game.

Although the response of the state of Alaska and of the various federal agencies to the oil spill was swift, a need soon emerged for a formal interagency structure to coordinate response and damage assessment activities. In May 1989, the trustees established a trustee council to coordinate activities. The council was composed of three Alaska-based representatives of the federal trustees--the Alaska Regional Forester, U.S. Forest Service, Department of Agriculture; the Director, Alaska Region of the U.S. Fish and Wildlife Service, Department of the Interior; and the Director, Alaska Region of the National Marine Fisheries Service, NOAA--and the state's Commissioner, Department of Fish and Game. The U.S. Environmental Protection Agency participated in the council's activities as an adviser on the long-term revival of Prince William Sound.

During 1989, state and federal agency efforts focused on containing and cleaning up the spill and rescuing oiled wildlife. Although winter storms helped in cleaning many beaches,

additional cleanup work was needed in 1990 and 1991. Along with the cleanup effort, the state and federal trustee agencies--under the coordination of the trustee council--also planned and directed natural resources damage assessment studies to determine the nature and extent of injuries sustained in the oil spill area. The results of these studies were to be used as evidence in pending civil and criminal claims against Exxon and to help in the restoration of the damaged resources.

Both the state of Alaska and the federal government filed claims against Exxon seeking to recover damages for injuries to and the restoration and replacement of natural resources affected by the oil spill. In October 1991, the U.S. District Court for the District of Alaska approved agreements that settled the claims of the United States and the state of Alaska against Exxon for civil damages and criminal charges. Under the major terms of the civil settlement, Exxon (1) agreed to pay the federal government and the state of Alaska a total of \$900 million in 11 annual payments (see table 1.1) beginning in December 1991 and ending in September 2001 and (2) might be liable for up to an additional \$100 million between 2002 and 2006 for projects to restore populations, habitats, or species that had suffered a substantial loss or decline not anticipated on the effective date of the settlement.

Table 1.1: Schedule of Exxon's Civil Settlement Payments

Dollars in millions

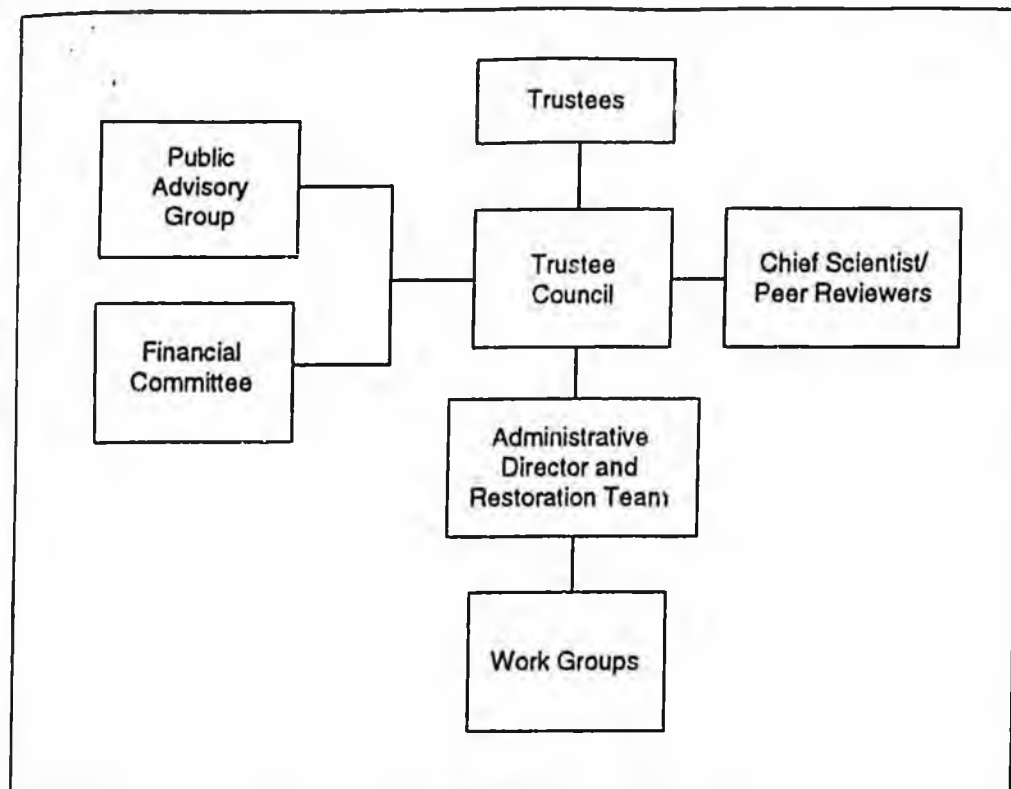
Scheduled payment date	Amount
Dec. 1991	\$90
Dec. 1992	150
Sept. 1993	100
Sept. 1994	70
Sept. 1995	70
Sept. 1996	70
Sept. 1997	70
Sept. 1998	70
Sept. 1999	70
Sept. 2000	70
Sept. 2001	70
Total	\$900

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Under the criminal settlement, Exxon agreed to plead guilty to four criminal charges arising from the oil spill and be fined \$150 million. The \$150 million fine was the largest fine ever imposed for an environmental crime. Of this amount, \$125 million was forgiven because of Exxon's cooperation during the cleanup, timely payment of many small claims, and environmental precautions taken since the spill. The remaining \$25 million was paid into the North American Wetlands Conservation Fund (16 U.S.C. sec. 4401-4413) and the Victim Compensation and Assistance Act (42 U.S.C. sec. 10601-10605) account. In addition, Exxon agreed to pay \$100 million (\$50 million to the federal government and \$50 million to the state of Alaska) as remedial and compensatory (restitution) payments to be used exclusively for the restoration of natural resources damaged by the oil spill.

Guidelines for the use of the \$900 million civil settlement funds are set forth in a Memorandum of Agreement between the federal government and the state of Alaska, which was approved by the U.S. District Court in August 1991. The agreement established a federal/state trusteeship--known as the Exxon Valdez Oil Spill Trustee Council (Trustee Council)--to review and approve the expenditure of civil settlement funds for such things as damage assessment and restoration projects. The federal members of the Trustee Council are the same as those on the earlier trustee council, except that a Special Assistant to the Secretary of the Interior replaced the Director, Alaska Region of the U.S. Fish and Wildlife Service. The Memorandum of Agreement also designated as state of Alaska trustees and as members of the Trustee Council the Commissioner, Department of Environmental Conservation; the Commissioner, Department of Fish and Game; and the Alaska Attorney General, Department of Law. Figure 1.1 shows the postsettlement Trustee Council organization.

Figure 1.1: Exxon Valdez Oil Spill Trustee Council Organization



Under the Memorandum of Agreement, civil settlement funds must be used to restore, replace, rehabilitate, enhance, or acquire the equivalent of the natural resources injured, lost, or destroyed as a result of the oil spill and the reduced or lost services provided by such resources. The funds must be spent on the restoration of natural resources in Alaska unless the trustees unanimously agree that spending funds outside of the state is necessary for effective restoration. The agreement also established a joint trust fund, within the jurisdiction of the U.S. District Court, as a depository for Exxon's payments. The use of the \$100 million restitution funds from the criminal settlement was not covered by the Memorandum of Agreement; however, these funds must be used by the federal government and the state of Alaska for restoration activities, within the state, relating to the Exxon Valdez oil spill.

The six-member Trustee Council receives input and advice from a contracted chief scientist and a peer review group of scientists, a financial committee, a public advisory group, and the public at large. The primary day-to-day activities of the Trustee Council organization are performed by an interim administrative director, a six-member restoration team, and

various work groups. The restoration team reviews and recommends proposed actions to the Trustee Council, and the work groups prepare plans and documents as directed by the restoration team, including annual work plans and a long-term habitat-protection plan. The work groups are staffed by officials from state and federal agencies represented on the Trustee Council or restoration team. The Trustee Council's first of generally monthly meetings occurred in December 1991. All Trustee Council meetings are open to the public under Alaska's open-meeting laws. Teleconferencing is used in many of these meetings as a means of involving individuals from up to 10 communities throughout the state who, otherwise, would be unable to participate. A significant part of each meeting is devoted to the public comments received on the issues being considered by the Trustee Council.

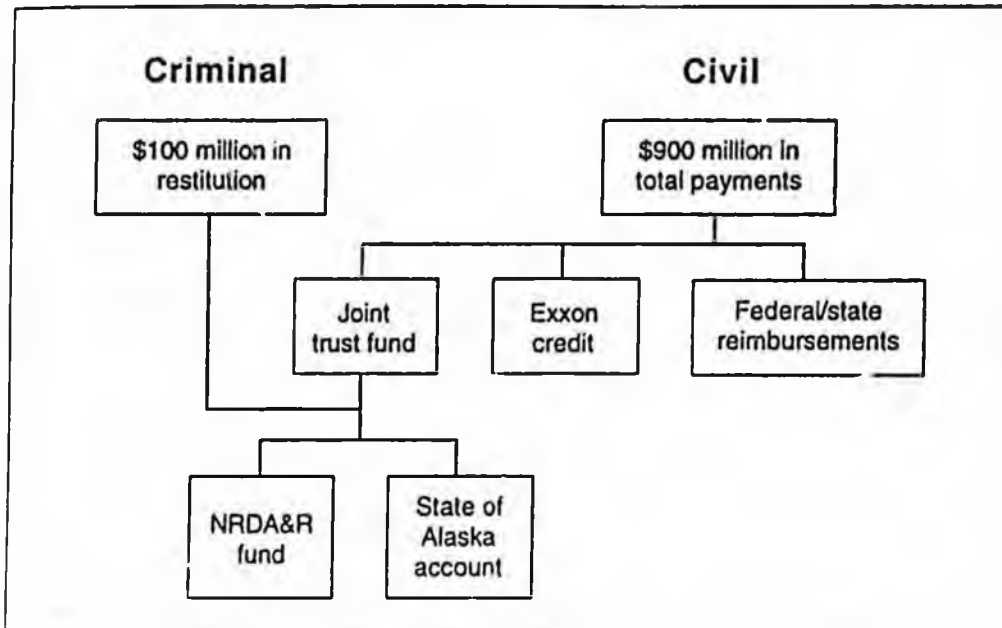
According to Trustee Council members, settlement fund expenditure decisions are made in the following manner. The annual work plan group initially develops a proposed list of damage assessment and restoration projects, including projects proposed by the public. The group then forwards the recommended list of proposed projects to the restoration team. At least five of the six members of the restoration team must approve a proposed project before it is recommended to the Trustee Council. The Trustee Council may also consider projects in addition to those recommended by the restoration team. The chief scientist reviews the proposed projects and provides comments to the Trustee Council. The list of proposed projects is also available for public review and comment. A unanimous vote is required by all six members of the Trustee Council to approve a project's funding. After a project begins, periodic progress reports and a final completion report for the project must be submitted to the chief scientist for review and approval.

SECTION 2

EXXON PAYMENTS AND SETTLEMENT  
FUND DISTRIBUTIONS

Figure 2.1 shows the flow of dollars resulting from the criminal and civil settlements. As mentioned earlier, Exxon owed \$100 million in criminal restitution payments--half to the federal government and half to the state of Alaska. The \$50 million payment to the federal government was deposited into the Department of the Interior's Natural Resource Damage Assessment and Restoration (NRDA&R) Fund and the state of Alaska's \$50 million was deposited into a state account.

Figure 2.1: Exxon Payments and Settlement Fund Distributions



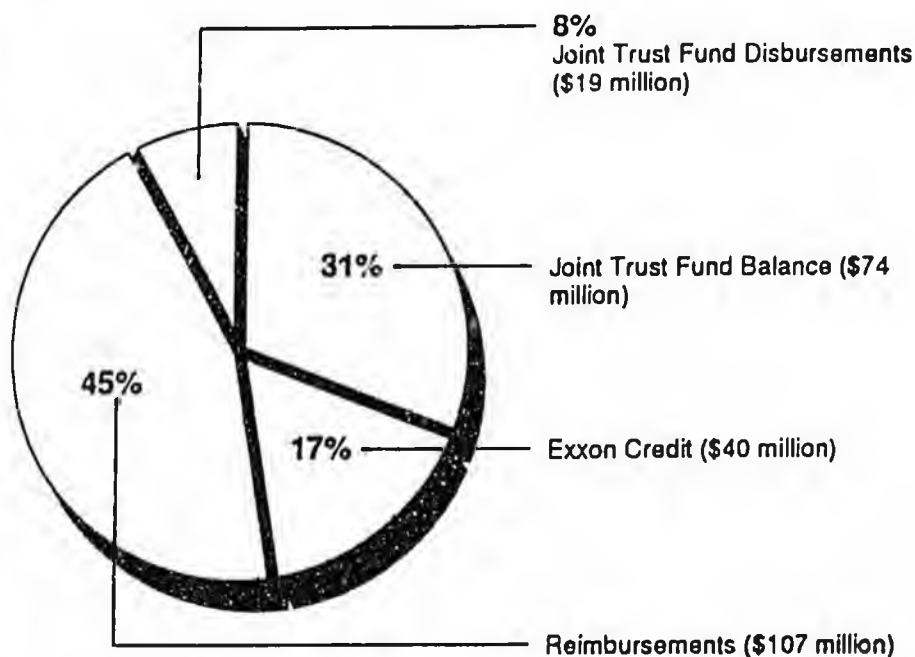
Exxon's payments from the \$900 million civil settlement flow to three areas:

- reimbursements to federal and state agencies of up to \$142 million for past spill-related work,
- a credit of \$40 million to Exxon for the reimbursement of certain agreed-upon cleanup work performed at the direction of a federal on-scene coordinator, and
- deposits of the remaining funds from 11 annual payments from Exxon into the joint federal/state trust fund held in a depository under the jurisdiction of the U.S. District Court.

After the Trustee Council approves damage assessment and restoration projects and the administrative costs of the Trustee Council organization, the U.S. District Court is petitioned to release funds from the joint trust fund to cover these activities. For projects carried out by federal agencies, the funds are transferred from the joint trust fund to the NRDA&R fund. Interior then transfers funds from the NRDA&R fund to the federal agency carrying out the activity. For Alaska agencies' projects, the funds are transferred from the joint trust fund to the state's general fund for subsequent distribution to the various state agencies.

Through December 1992, two civil settlement payments totaling \$240 million were made by Exxon. The next Exxon payment, in the amount of \$100 million, is scheduled for September 1993. Prior to each of Exxon's annual civil settlement payments, the respective federal and state agencies reach agreement on the amount of the payment that will apply toward reimbursements and the amount that will be deposited into the joint trust fund for activities authorized by the federal and state trustees. Figure 2.2 shows the distribution of the \$240 million in Exxon payments through February 1993.

Figure 2.2: Distribution of \$240 Million in Exxon Payments Through February 1993



Most of the funds distributed to date have been used to reimburse various government agencies and Exxon for past cleanup costs; some have been used for the Trustee Council's activities such as administration, damage assessment and restoration projects, and restoration planning; and the remainder resides in the joint trust fund. The \$40 million Exxon credit was provided for in the settlement. The credit was to reimburse Exxon for expenditures it made for cleanup costs incurred at the direction of a federal on-scene coordinator in early 1991 as well as specified cleanup costs performed at a later date. The Coast Guard performed a financial review of Exxon's claims and allowed the \$40 million credit. Additional credits against future Exxon payments may result if federal/state on-scene coordinators direct Exxon to perform additional cleanup work. According to the Trustee Council, cleanup work that met federal and state standards was completed as of August 1992.

Both the Memorandum of Agreement and the civil settlement place a limit of \$142 million on the amount of presettlement cleanup and damage assessment costs that can be reimbursed. The limit is divided into maximums of \$67 million for federal agencies and \$75 million for state agencies. Trustee Council members believe that reimbursements will not exceed the \$142 million limit. Through December 1992, approximately \$107 million was used to reimburse federal and state agencies for

presettlement response, cleanup, and damage assessment costs incurred before January 1991. Certain additional reimbursements, including litigation costs, incurred since then may also be claimed but must be jointly agreed to by the federal and state trustees. Of this \$107 million, federal agencies have been reimbursed \$49 million and state agencies \$58 million. Table 2.1 shows a summary of reimbursements to federal agencies through December 1992. A detailed breakdown of the reimbursements to state agencies was not available at the time of our review.

Table 2.1: Reimbursements to Federal Agencies Through December 1992

Dollars in millions unless otherwise noted

Federal agency	Amount
Department of Army: Corps of Engineers	\$5.5
Department of Agriculture: Forest Service	10.4
Department of Commerce: NOAA	11.7
Department of the Interior	10.2
Department of Transportation: Coast Guard Federal Aviation Administration	7.2 <sup>a</sup>
Environmental Protection Agency	4.2
Total <sup>b</sup>	\$49.2

<sup>a</sup>Less than \$10,000.

<sup>b</sup>Reimbursements do not include about \$226,000 in interest paid by Exxon between the scheduled and actual dates of the first payment under the civil settlement. This amount was distributed proportionately among the federal agencies being reimbursed from the first payment.

Of the \$240 million paid by Exxon through December 1992, about \$93 million was deposited into the joint trust fund to fund activities approved by the Trustee Council. Of this amount, about \$19 million was authorized by the Trustee Council to fund damage assessment and restoration projects included in the restoration work plan approved by the Trustee Council for 1992. Table 2.2 shows how these funds were distributed among damage

assessment projects, restoration projects, and administration through February 1993. The \$19 million was about equally divided between federal and state agencies. On the federal side, the Forest Service received the most funds--about 20 percent--and for the state of Alaska, the Department of Fish and Game received the most--about 40 percent. The balance--about \$74 million--remains in the joint trust fund and is earning interest.

Table 2.2: Distribution of Funds From the Joint Trust Fund Through February 1993

Dollars in millions

Category	Amount
Damage assessment	\$7.5
Restoration	6.6
Administration	5.1
Total	\$19.2

In April 1993, the Trustee Council approved a resolution to draw \$21.1 million from the joint trust fund to finance damage assessment projects, restoration projects, the Trustee Council's administrative costs, and other activities included in the 1993 work plan. (See table 2.3.) The 1993 work plan reflects a phasing out of damage assessment studies and an increase in restoration projects. Overall, about 25 percent of the \$21.1 million will fund federal agencies' work, and 75 percent will fund state agencies' work.

Table 2.3: Planned 1993 Distribution of Funds From the Joint Trust Fund

Dollars in millions

Category	Amount
Damage assessment	\$1.5
Restoration	7.5
Administration	2.8
Other	9.3
Total	\$21.1

Note: Distribution of these funds is for the period March 1, 1993, to September 30, 1993.

Included in the \$9.3 million "other" category is \$1.5 million to fund an archaeological repository on Kodiak Island. The repository will preserve and protect artifacts from about 17 sites on Kodiak Island that were destroyed or discovered as a result of the cleanup following the spill. Also, the Trustee Council approved \$7.5 million to be used by the state, along with about \$14 million from the state's restitution funds from the criminal settlement and another source of state funds, to purchase 7,500 acres of privately owned land within the boundaries of Kachemak Bay State Park on the Kenai Peninsula across from Homer, Alaska. The purchase is intended to provide additional lands to protect habitat from further degradation and to allow recovery of various species. Following the drawdown to fund the 1993 work plan, a balance of about \$52.9 million will remain in the joint trust fund. This balance will increase when Exxon makes its third annual civil settlement payment--in the amount of \$100 million--in September 1993. The actual amount to be deposited into the joint trust fund will depend on how much of Exxon's payment is used for reimbursements.

As of June 1993, none of the \$100 million in criminal restitution funds had been expended. However, as shown in table 2.4, several projects have been proposed by the federal and state governments. In March 1993, the federal trustees proposed that \$25 million be used to acquire private land concentrated within the boundaries of the Chugach National Forest, Kenai Fjords National Park, Kodiak National Wildlife Refuge, and the Maritime Wildlife Refuge Islands. Although the precise use of the remaining \$25 million has yet to be determined, agencies are considering the funds for various habitat acquisition, restoration, and monitoring projects.

Table 2.4: Proposed Use of Criminal Restitution Funds

Dollars in millions

Federal share	\$50.0
Proposed uses:	
Habitat acquisition	25.0
Other (habitat acquisition, restoration, and monitoring)	25.0
State share	\$50.0
Proposed uses:	
Build marine center	12.5
Buy land for habitat protection	7.0
Restore subsistence areas	5.0
Oil spill research programs	5.0
Restore recreation sites	4.8
Enhance hatchery system	4.0
Other smaller projects	11.7

Using its share of the restitution funds, the Alaska state legislature, in May 1993, approved funding for a variety of projects, the larger of which include the following:

- the design and construction of a recreation and marine mammal rehabilitation center for education and research;
- the partial funding of the acquisition of private land within the Kachemak Bay State Park to add habitat for recovering wildlife species;
- the restoration, replacement, or enhancement of subsistence resources or services lost or damaged in rural communities; and
- the development of research programs directed at the prevention, containment, cleanup, and amelioration of oil spills.

### SECTION 3

#### RESTORATION PLAN AND ANNUAL WORK PLAN ISSUES

We identified several issues relating to the development of the Trustee Council's restoration plan for damaged resources and services and its annual work plans.

#### RESTORATION PLAN

Table 3.1 shows issues relating to the Trustee Council's development of a restoration plan.

Table 3.1: Issues Related to the Restoration Plan

- No restoration plan in place
- Plan scheduled to be issued in December 1993, but issuance date may slip

An approved restoration plan is a key ingredient in the transition from the Trustee Council's role of assessing damage to taking action--as provided for in the August 1991 Memorandum of Agreement--to restore, replace, rehabilitate, enhance, or acquire the equivalent of natural resources injured as a result of the oil spill and the reduced or lost services provided by such resources. Moreover, according to the Trustee Council, the restoration plan is a primary means for the public to help the Trustee Council prioritize restoration activities. However, an overall restoration plan is not yet in place to provide direction to restoration planning for Prince William Sound. Restoration planning began in late 1989. In April 1992, a restoration framework document was published that proposed a process to guide the trustees in restoration efforts, discussed possible action alternatives, and invited public comment.

A year later, in April 1993, a brochure providing an advance description of a draft restoration plan was distributed for public comment. Five potential restoration alternatives were presented:

1. Natural recovery: No action.
2. Habitat protection: Over 90 percent of the settlement funds would be used for habitat protection and acquisition. Restoration activities would be limited to the spill area.

3. Limited restoration: About 75 percent of the settlement funds would be used for habitat protection and acquisition. Some effort would be directed at restoring only the most severely injured species with declining populations within the spill area.
4. Moderate restoration: About 50 percent of the settlement funds would be used for habitat protection and acquisition. An additional one-third of the funds would be used to restore all injured species, including those whose populations did not decline and are located outside of the spill area.
5. Comprehensive restoration: About one-third of the settlement funds would be used for habitat protection and acquisition. About one-half of the settlement funds would be used to restore all injured species, including those whose populations did not decline and are located outside of the spill area.

The public was asked to comment on the plan and the five restoration alternatives by August 6, 1993. In addition, the Trustee Council scheduled public meetings in 21 communities throughout the state to solicit input. Trustee Council members told us that about 1,200 responses from the public were received and will be considered in further development of the plan. A draft environmental impact statement analyzing the impacts of the alternatives on the physical, biological, social, and economic aspects of the environment was due to be released for public comment in June 1993, but it had not been released as of the end of July 1993. The final restoration plan is scheduled to be issued in December 1993, but according to Trustee Council members, this too may slip.

#### ANNUAL WORK PLANS

Table 3.2 shows three issues relating to the Trustee Council's development of annual work plans.

Table 3.2: Issues Related to Annual Work Plans

- Not tied to restoration plan
- Some projects may not be directly linked to the oil spill or appear to duplicate agencies' responsibilities
- Few projects competitively bid

First, the Trustee Council's 1992 and 1993 annual work plans were not linked to an approved restoration plan. About 90 projects totaling nearly \$40 million were approved during this time. Although not directly linked to a restoration plan, Trustee Council members have reported that they have strived to work within the restoration framework by approving projects measuring damage or monitoring injured resources that either were time-critical or represented a lost opportunity if not conducted. Some Trustee Council members claimed that if action had been postponed until a restoration plan were developed, work projects would not have been approved until 1995 or 1996. Because of the lead time needed to implement approved work projects, the Trustee Council will approve the 1994 work plan before issuing the final restoration plan. Trustee Council members advised us that the 1994 work plan decisions will be based on a synopsis of public comments related to the restoration plan, scientific data available from past studies, and input from the public and the chief scientist on the merits of the proposed projects.

Second, certain projects either do not appear to be directly linked to the oil spill, as required in the settlement, or appear to duplicate existing responsibilities of federal and state agencies, particularly several sockeye salmon and killer whale projects. According to Trustee Council members, where linkage or contribution of the spill to an injured resource is unclear, Trustee Council members have been inclined to approve data collection projects so that members are put in a better position to evaluate the causes and extent of damage to the resource resulting from the oil spill.

To illustrate, the management of the sockeye salmon fishery has historically been a responsibility of the Alaska Department of Fish and Game, including the development and maintenance of a state plan for the rehabilitation, enhancement, and development of the state's salmon fisheries. One particular problem that the Alaska Department of Fish and Game has been dealing with for several years--both before and after the oil spill--is the overescapement of sockeye salmon into the Kenai River during migration to their spawning areas upstream. Overescapement occurs when too many migrating adult fish reach the spawning areas and produce too many juvenile fish that deplete the available food supplies needed to sustain them until they are ready to migrate downstream and out to sea. The depletion of the food supplies causes reduced growth and high mortality of current and future generations.

The overescapement of sockeye salmon occurred on the Kenai River system in 1987 and 1988--before the oil spill occurred--and again in 1989 when the sockeye salmon fishery was closed because of the presence of oil in the fishing areas from the Exxon Valdez oil spill. Consequently, the problems associated with the overescapement of sockeye salmon entering the Kenai River

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probably are only partially due to the closure of the salmon fishery following the oil spill. Thus far, the Trustee Council has approved five projects totaling about \$3 million to study the Kenai River sockeye salmon fishery. According to Trustee Council officials, although there may not be a direct link between the situation with the sockeye salmon and the oil spill, there is enough of an indirect link to justify the spending of settlement funds to study the problem.

Several killer whale studies also illustrate projects which do not appear to have a direct link to the oil spill or appear to duplicate existing agency responsibilities. Between 1989 and 1992, the Trustee Council approved four studies totaling about \$700,000 to examine the mortality rate of the approximately 245 killer whales in Prince William Sound. However, the chief scientist believes that the disappearance of some killer whales has not been convincingly linked to the oil spill. Nevertheless, in 1993, the Trustee Council approved an additional \$127,000 to further assess the disappearance of 13 out of a group of 36 killer whales since the oil spill occurred. NOAA's National Marine Mammal Laboratory is responsible for the general monitoring of killer whales off Alaska, and it has been studying these whales for several years both before and after the oil spill. For example, from 1989 through 1993, the laboratory's budget--in addition to the oil spill funds provided through the Trustee Council--for killer whale studies totaled about \$665,000. Trustee Council officials stated that the chief scientist is not an expert on all issues and that public comments received on the work plans indicated a very high interest in determining whether the whales' disappearance was linked to the oil spill.

Last, some participants in and observers of the Trustee Council organization believe that the carrying out of damage assessment and restoration work to date has been dominated by federal and state agency personnel and that, as a consequence, few nongovernment organizations have been able to competitively bid for these projects. For example, almost all of the 1992 and 1993 work projects were not open for competitive bid and were carried out by federal and state agency personnel. The Trustee Council's chief scientist believes that open competition would encourage more timely completion of projects at reduced costs. According to Trustee Council members, as more restoration projects are undertaken, less use will be made of federal and state agencies and more projects will be subject to bid proposals from nongovernment sources.

## SECTION 4

### HABITAT PROTECTION AND ACQUISITION ISSUES

We identified several issues relating to the Trustee Council's activities to protect and acquire habitat to aid in the restoration of the natural resources damaged by the oil spill. These issues are shown in table 4.1.

Table 4.1: Issues Related to Habitat Protection and Acquisition

- Acquisition plan not approved or tied to restoration plan
- Interim criteria used to identify acquisition parcels
  - 42,000 acres identified as imminent threat
  - 338,000 acres identified as opportunity parcels
- Pressure is building for Trustee Council to acquire land and protect habitat
- Much of the remaining \$660 million may be used for land purchase

An acquisition plan has neither been approved by the Trustee Council nor tied to an approved restoration plan. The Trustee Council, however, has approved interim evaluation criteria for use by its habitat protection/acquisition work group. Using these criteria, in February 1993 the work group classified 42,000 acres as being "imminently threatened." The group concluded that various parcels of land were significant ecologically and that they were threatened by actions--such as imminent logging--which would significantly lessen the land's ability to provide habitat protection for wildlife species injured by the oil spill. The two top-ranked imminently threatened parcels were 7,500 acres within Kachemak Bay State Park near Homer, Alaska, and 15,000 acres near Seal Bay on Afognak Island north of Kodiak Island. Both of these parcels of land were described in the Trustee Council's ranking analysis as essential habitat sites for injured species, such as bald eagles and marbled murrelet, and were located within the area affected by the oil spill. These wildlife species are considered vulnerable or threatened by human activity. The Trustee Council has approved, subject to appraisal, the purchase of these two parcels--the 7,500 acres of private land in Kachemak Bay State Park for \$21.5 million and

42,000 acres (25,000 acres of which are to be donated by the land owner) near Seal Bay, which includes the 15,000 acres classified as imminently threatened, for \$38.7 million. The work group classified an additional 338,000 acres as "opportunity-to-buy" parcels--land important as habitat protection, but not imminently threatened.

1e

Public pressure is building for the Trustee Council to acquire more land to protect habitat because many consider land acquisition to be an effective restoration activity. The Trustee Council's habitat protection/acquisition work group received comments from various public interest groups encouraging the Trustee Council to protect habitat. Comments included the following:

- ". . . habitat acquisition is the most meaningful form of restoration . . . ."
- ". . . habitat protection is [the] best means of protecting natural and cultural resources . . . ."
- ". . . the acquisition process [is] taking too much time; no more talk--start using funds to buy land."

With the pressure building for the Trustee Council to approve the acquisition of land to protect habitat, some Trustee Council officials believe that much of the remaining Exxon payments--about \$660 million--may be used for land acquisitions rather than for other restoration purposes. The Trustee Council's estimate of the cost to acquire parcels of land classified as "imminently threatened" and "opportunity to buy," and additional parcels of land that may eventually be classified as such, runs as high as \$3 billion. Because Exxon's settlement payments will continue until 2001, it appears that difficult land acquisition choices will have to be made throughout the period.

## SECTION 5

### TRUSTEE COUNCIL ORGANIZATION AND ADMINISTRATION ISSUES

We identified several issues relating to the Trustee Council organization and its day-to-day administration.

#### TRUSTEE COUNCIL ORGANIZATION

Table 5.1 shows four issues relating to the Trustee Council organization.

Table 5.1: Issues Related to the Trustee Council Organization

- Agencies propose, review, approve, and carry out projects
- No executive director to lead efforts
- Meaningful public participation and independent scientific viewpoints not always sought
- Financial audits and program reviews not conducted

First, the current makeup and process of the Trustee Council organization leads many to view the objectivity of the organization with some skepticism. The federal and state agencies that propose damage assessment and restoration projects are the same agencies that review, approve, and carry out the projects. This organization has the same general makeup as the presettlement organization responsible for measuring the nature and extent of the injuries, losses, and destruction of resources as part of the litigation process leading up to criminal and civil law suits against Exxon. Trustee Council members believe the organization has provided the best source of expertise for cleanup and damage assessment, and foresee a gradual lessening of dependence on federal and state agency personnel to conduct projects as damage assessment is completed and the restoration plan is implemented.

Second, no executive director or chief executive officer is in place to lead and direct day-to-day operations. The Trustee Council currently employs an interim administrative director who mainly functions as a coordinator of Trustee Council organization activities. In March 1993, the Trustee Council advertised

nationally for an executive director position. Eighty-eight applications were received, and the Trustee Council is in the process of selecting a director, who it hopes will be in place by the fall of 1993.

Third, some participants in and observers of the Trustee Council organization have faulted the state and federal agencies represented on the Trustee Council for not seeking meaningful public participation or independent scientific viewpoints in deciding which studies and restoration activities should be undertaken. To date, expert assessments of the merits of various proposed projects have been predominantly those of the chief scientist, who is under contract to the Trustee Council, or the agencies' personnel proposing the projects. In 1992, many of the 58 approved projects in the 1992 work plan were started and partially funded before the public review process was completed. Although the Trustee Council members pointed out that all of the Trustee Council's meetings have been open to the public and public comment is encouraged on issues facing the Trustee Council, the time available to both solicit and analyze the comments is generally insufficient, according to critics. A review of some of the transcripts of the Trustee Council's meetings indicates that the public would like more time to review and comment on the draft plans being considered by the Trustee Council. Because of the importance placed upon the public's views, the Trustee Council has held numerous public meetings separate from the Trustee Council's meetings and has made available to the public, for review and comment, transcripts of Trustee Council meetings as well as drafts of annual work plans and restoration plans. In addition, the Trustee Council has established a 17-member public advisory group to facilitate the gathering of the views of various interest groups throughout Alaska. This group has met five times since its establishment and is in the process of developing and clarifying its role.

And fourth, although almost \$150 million either has been used to reimburse federal and state agencies for presettlement response, cleanup, and damage assessment costs or has been approved to fund Trustee Council activities, no financial audits or program reviews have been conducted to ensure the propriety of reimbursement and subsequent expenditures of civil settlement funds. Furthermore, at the time of our review, there were no federal or state plans to conduct such audits or reviews of past or future expenditures, in spite of their magnitude.

#### TRUSTEE COUNCIL'S ADMINISTRATION

Table 5.2 shows three issues relating to the Trustee Council's day-to-day administration.

Table 5.2: Issues Related to the Trustee Council's Administration

- Few project reports approved by the chief scientist
- Some planning meetings lacked procedures and focus
- High travel costs incurred (Juneau/Anchorage)

First, only 8 of about 91 scheduled project reports have been approved by the Trustee Council's chief scientist. Many reports have been returned by the chief scientist to the projects' principal investigators for needed revision because of his belief that they were poorly organized and contained unclear messages, incomplete analyses, overreaching conclusions, and imbalanced presentations. For example, the chief scientist returned for revision 10 of the 20 reports due in 1992. Of the remaining 10, 4 were approved, 3 were still under review, and 3 had not been received for review by the chief scientist as of May 1993. Because of these types of delays, the Trustee Council is forced to make decisions on follow-on projects without the knowledge of the final conclusions of earlier, related studies. Trustee Council members stated that they are aware of reporting problems and that they would like reports to be (1) completed on time and (2) of acceptable quality. We were told that the Trustee Council has directed that all project reports be submitted before the Trustee Council deliberates the 1994 annual work plan this fall.

Second, although the restoration team and the work groups have held frequent meetings to develop proposed plans and approaches that need to be acted upon by the Trustee Council, the work groups did not have final operating procedures until November 1992. Many products resulting from this process have been late, required substantial rework, and have not reflected the consensus of the restoration team. This, in turn, often caused the public to comment on plans and the Trustee Council to make decisions without sufficient time to thoroughly review the plans and supporting material.

And third, many of the federal and state officials on the Trustee Council's restoration team and various work groups live in Juneau but must travel to Anchorage to attend frequent work sessions and meetings. This travel increases administrative costs for the Trustee Council organization. For example, the round-trip airfare between Juneau and Anchorage is about \$450.

Trustee Council members anticipate that travel costs will diminish in the future as the restoration plan is implemented and the number of restoration team and various work group meetings is reduced.

MAJOR CONTRIBUTORS TO THIS BRIEFING REPORT

RESOURCES, COMMUNITY, AND ECONOMIC  
DEVELOPMENT DIVISION, WASHINGTON, D.C.

Ralph W. Lamoreaux, Assistant Director  
Larry D. Hamner, Assignment Manager

OFFICE OF THE GENERAL  
COUNSEL, WASHINGTON, D.C.

Stanley G. Feinstein, Senior Attorney

SEATTLE REGIONAL OFFICE

Sterling J. Leibenguth, Issue Area Manager  
Paul E. Staley, Jr., Evaluator-in-Charge

(140682)

## 1996-1998 Public Advisory Group

Mary McBurney	Anchorage	Aquaculture
Torie Baker	Cordova	Commercial Fishing
Eleanore Huffines	Palmer	Commercial Tourism
Chip Dennerlein	Anchorage	Conservation
Pamela Brodie	Homer	Environmental
Howard Valley	Kodiak	Forest Products
Dave Cobb	Valdez	Local Government
Charles Totemoff	Anchorage	Native Landowner
Stacey Studebaker	Kodiak	Recreation User
Rupert Andrews	Juneau	Sport Hunt/Fish
Nancy Yeaton	Nanwalek	Subsistence
Charles Meacham	Juneau	Science/Academic
Chris Beck	Anchorage	Public at Large
Sheri Burette	Anchorage	Public at Large
James King	Juneau	Public at Large
Brenda Schwantes	Kodiak	Public at Large
<b>Ex-Officio Members</b>		
Sen. Loren Leman		Alaska State Senate
Rep. Mark Hodgins		Alaska House of Representatives

Alaska

Index Map of Oil Spill Area

**THE EXXON VALDEZ OIL SPILL AREA  
GENERAL LAND STATUS  
SOUTHCENTRAL ALASKA**

0 50 miles

**LEGEND**

— O3 Spill Area Boundary

**FEDERAL LANDS**

- National Forest
- National Parks, Monuments or Preserves
- National Wildlife Refuges
- Bureau of Land Management

**STATE OR MUNICIPAL LANDS**

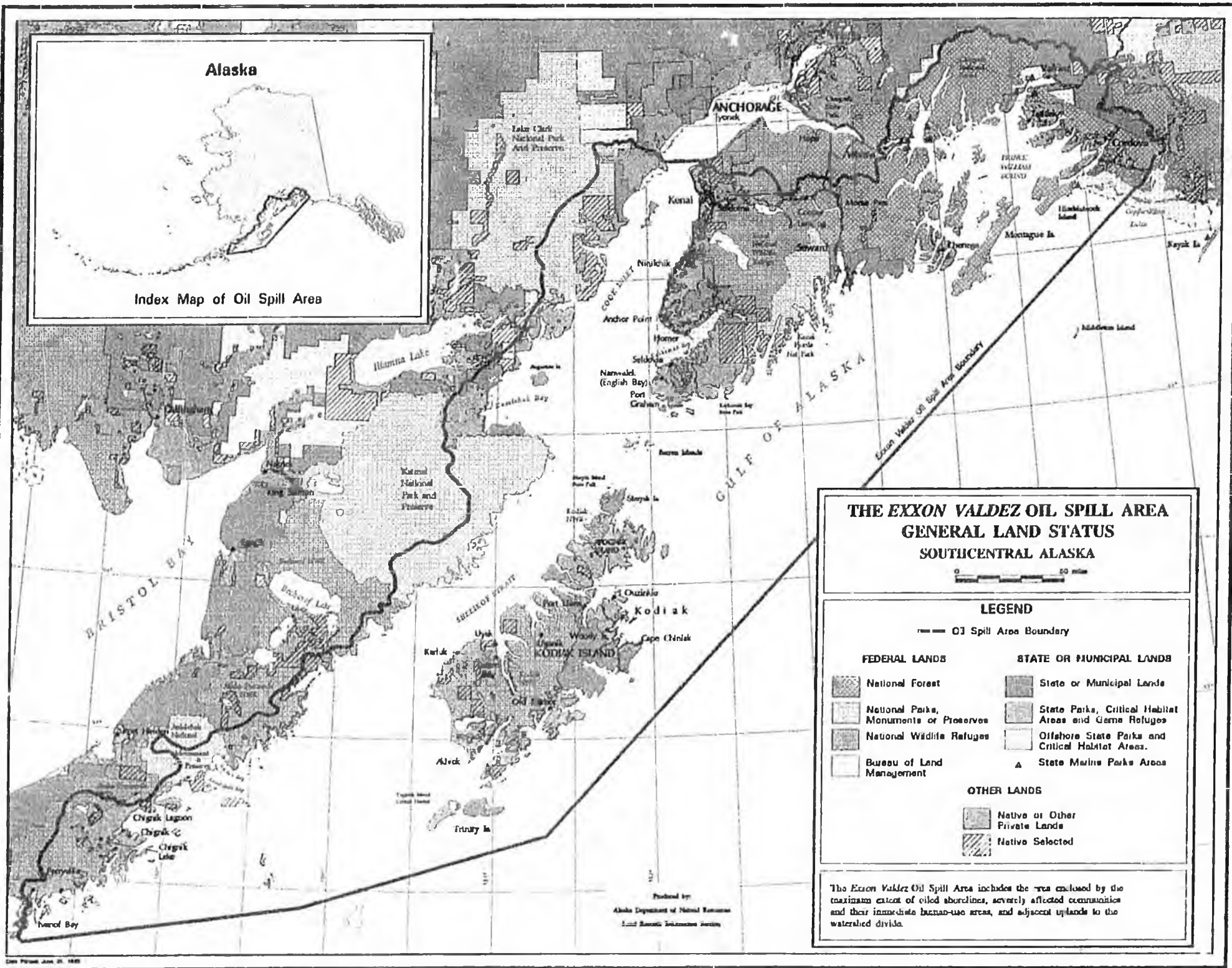
- State or Municipal Lands
- State Parks, Critical Habitat Areas and Game Refuges
- Offshore State Parks and Critical Habitat Areas.
- State Marine Parks Areas

**OTHER LANDS**

- Native or Other Private Lands
- Native Selected

The Exxon Valdez Oil Spill Area includes the area enclosed by the maximum extent of oiled shorelines, severely affected communities and their immediate human-use areas, and adjacent uplands to the watershed divide.

Produced by  
Alaska Department of Natural Resources  
Land Resource Information Service



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House Resources Committee  
February 12, 1998

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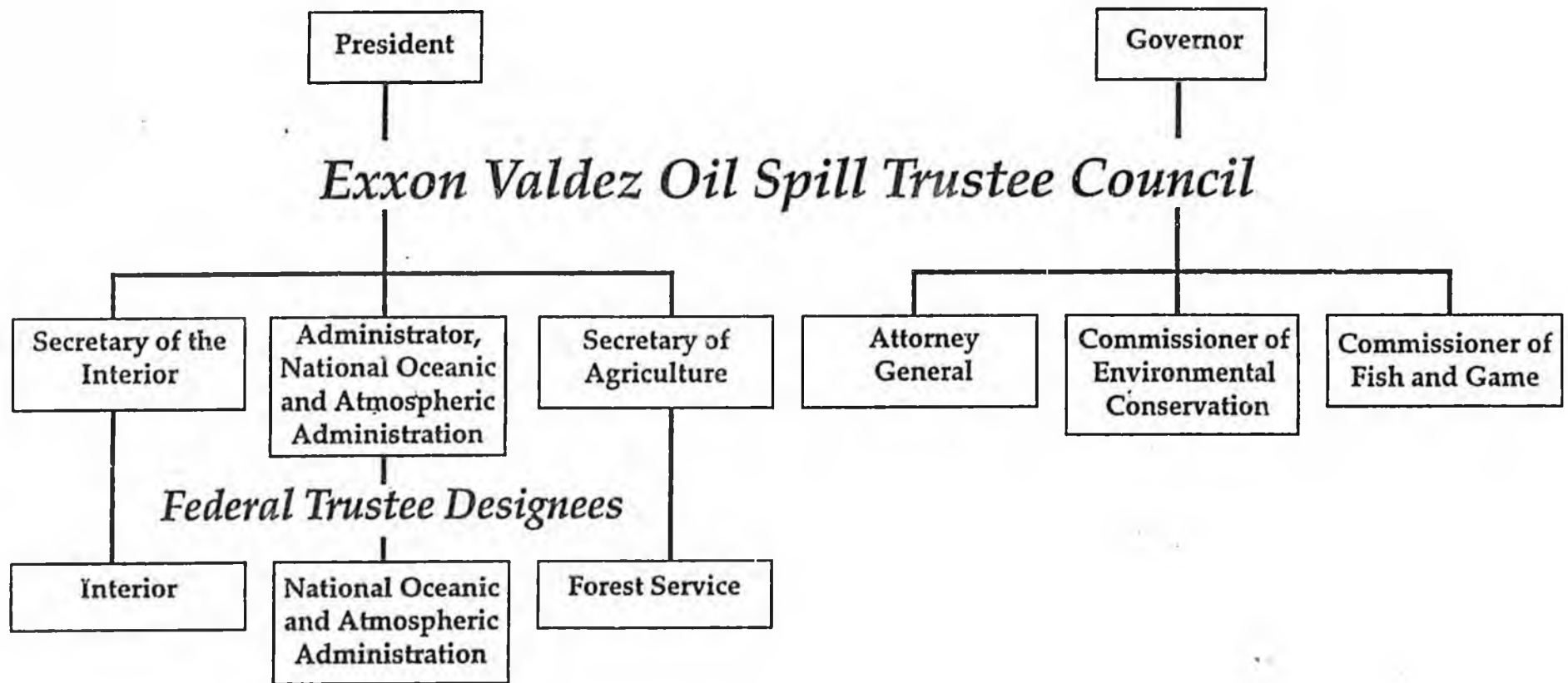
*Exxon Valdez Oil Spill Trustee Council*

645 G Street #401, Anchorage, Alaska 99501-3451  
907/278-8012 fax: 907/276-7178

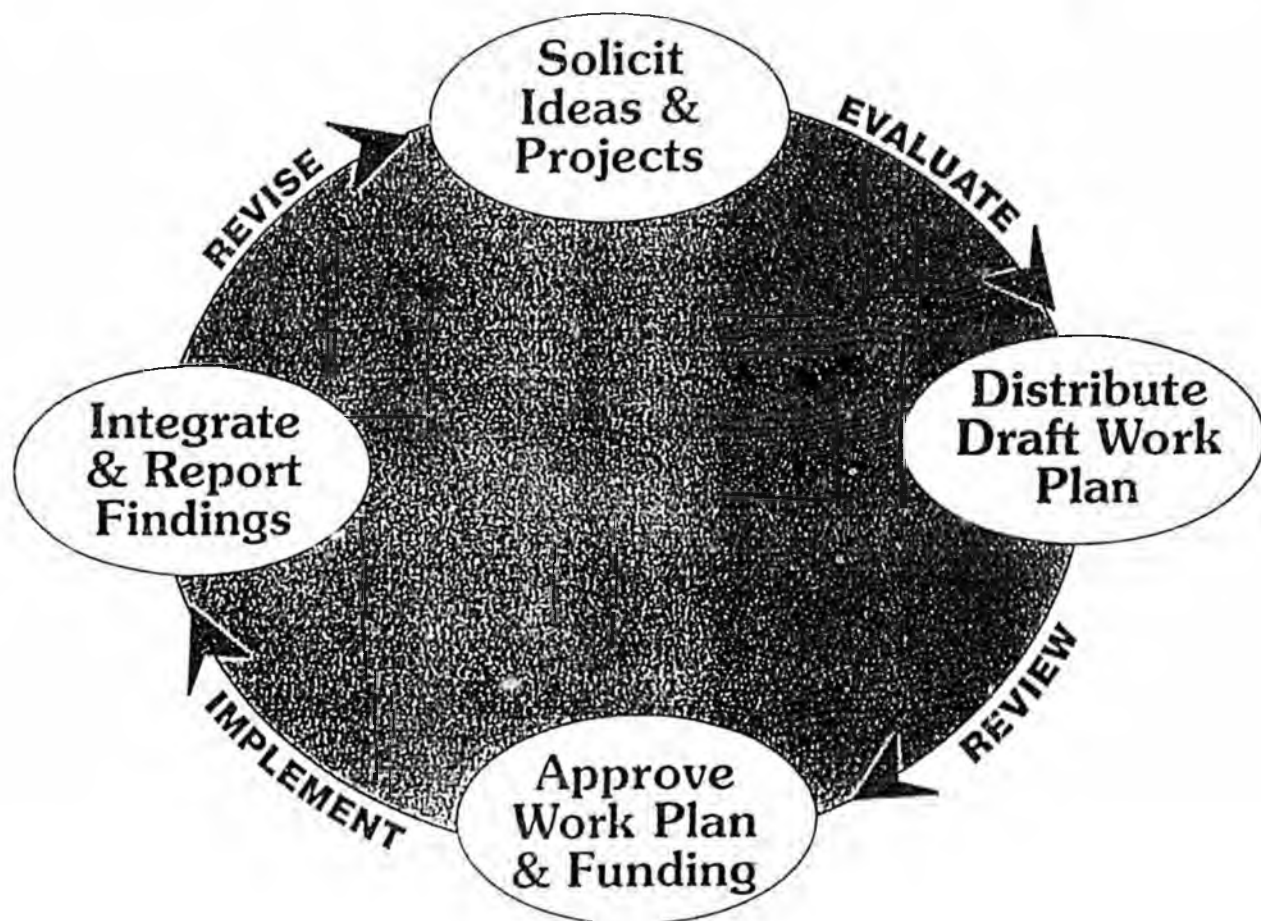


## Purpose and Uses of the *Exxon Valdez* Oil Spill Civil Settlement

- Restoration funds must be used "...for the purposes of restoring, replacing, enhancing, or acquiring the equivalent of *natural resources* injured as a result of the Oil Spill and the reduced or lost *services* provided by such resources...."
- Restoration funds must be spent on restoration of natural resources in Alaska unless the Trustees unanimously agree that spending funds outside of the state is necessary for effective restoration.
- All decisions made by the Trustees (such as spending restoration funds) must be made by unanimous consent.



*Exxon Valdez Oil Spill Trustee Council*  
**Adaptive Management Cycle**



[Note: This table is modified from p. 32 of the Restoration Plan.]

Table 2. Resources and Services Injured by the Spill

INJURED RESOURCES				LOST or REDUCED SERVICES
Recovered Bald eagle	Recovering Archaeological resources* Common murre Intertidal communities** Mussels Pink salmon Sediments Sockeye salmon Subtidal communities	Not Recovered Cormorants (3 species) Harbor seal Harlequin duck Killer whale (AB pod) Marbled murrelet Pacific herring Pigeon guillemot Sea otter (in oiled west. PWS)	Recovery Unknown Black oystercatcher Clams Common loon Cutthroat trout Designated Wilderness areas Dolly Varden Kittlitz's murrelet River otter Rockfish	Commercial fishing Passive uses Recreation and Tourism including sport fishing, sport hunting, and other recreation uses Subsistence
	<p>-----</p> <p>*Archaeological resources are not renewable in the same way that biological resources are, but there has been significant progress toward the recovery objective.</p> <p>**Status of intertidal communities based largely on monitoring in sheltered rocky habitats in Prince William Sound; status of other intertidal habitats is less certain or unknown, though some recovery can be anticipated.</p>			

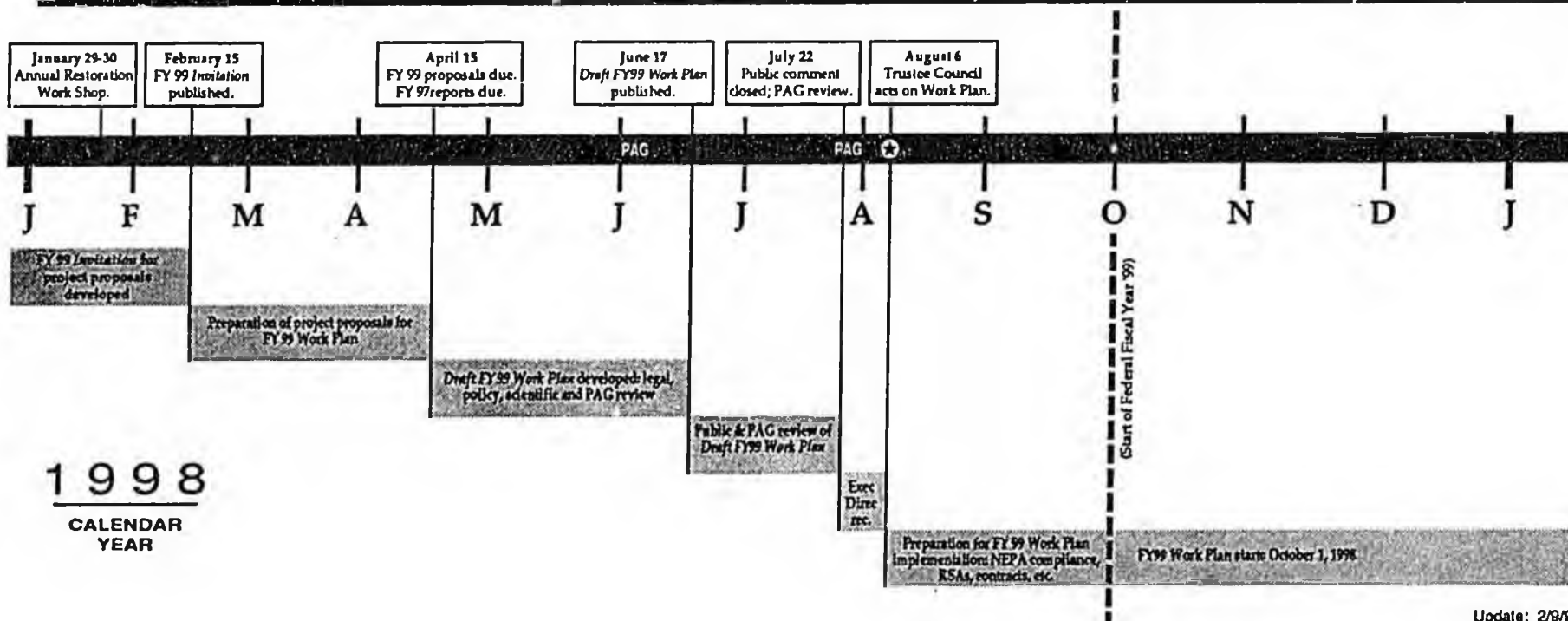
Amending the List of Injured Resources and Services. The list of injured resources and services will be reviewed as new information is obtained through research, monitoring, and other studies sponsored by the Trustee Council. In addition, information may be submitted to add to or otherwise change this list. This information can include research results, assessment of population trends, ethnographic and historical data, and supportive rationale. Information that has been through an appropriate scientific review process is preferable. If data have not been peer reviewed, they should be presented in a format that permits and facilitates peer review. Information to change the list will be reviewed through the Trustee Council's scientific review process.

# Fiscal Year 1999 Annual Work Plan



- January 29-30 Annual Restoration Workshop.
- February 15 FY 99 Invitation published.
- April 15 FY 99 project proposals due; FY 97 reports due.
- May 28\* Executive Director, RWF, and 2 PAG representatives meet to develop *Draft FY 99 Work Plan*.
- June 2\* PAG meeting to advise on priorities for *Draft FY 99 Work Plan*. **PAG**
- June 17\* *Draft FY 99 Work Plan* published.
- July 21\* Public hearing. End of formal public comment period on *Draft FY 99 Work Plan*.
- July 22\* PAG meeting to advise on *Draft FY 99 Work Plan* recommendation. **PAG**
- July 23\* RWF meets to finalize recommendations on *Draft FY 99 Work Plan*.
- August 6\* Trustee Council meeting to take action on *FY 99 Work Plan*. **OC**

\* Tentative date



Update: 2/9/98 DRAFT

**Scientific Review  
of the  
Exxon Valdez Oil Spill Restoration Program**  
[February 1998]

The grounding of the T/V *Exxon Valdez* in Prince William Sound, Alaska presented an enormous technical challenge to natural resource managers in Alaska. Documenting injury to natural resources and fostering their restoration across hundreds of miles of poorly studied coastline in a scientifically defensible manner are extremely difficult tasks, never before been undertaken on this scale. The *Exxon Valdez* Oil Spill Trustee Council has therefore sought the assistance of experts in an effort to generate sound scientific information to support their decisions regarding restoration of injuries caused by the oil spill. One of the guiding principles in the *Restoration Plan* is that: "Restoration projects will be subject to open, independent scientific review before Trustee Council approval." The goals of the review process are to ensure that studies sponsored by the Trustee Council (1) adhere to a high standard of scientific excellence, (2) have scientific objectives that are designed to provide information valuable for management decisions and restoration actions, and (3) use valid methods that will allow them to achieve these objectives.

The Trustee Council's Restoration Plan (November 1994) establishes that restoration of injuries following the *Exxon Valdez* oil spill will take an ecosystem approach to understanding the factors that control injured populations. It is the responsibility of the scientific review team to ensure that the individual projects in the annual work plan are well integrated and, as a whole, address key processes, resources and services in the northern Gulf of Alaska ecosystem.

The review process is conducted under the direction of the Chief Scientist, who calls upon a set of "core reviewers" and other special reviewers as needed to achieve these objectives. An Assistant Chief Scientist works with the Chief Scientist on a part-time basis, and a Science Coordinator on the Trustee Council staff serves as an in-house science advisor, and as a liaison among the Council, the Chief Scientist, and the investigators conducting scientific studies sponsored by the Council. The core reviewers, who are identified below, assist the Chief Scientist in providing overall scientific and technical direction to the research, monitoring, and restoration activities sponsored by the Trustee Council. They also review the results of restoration projects, provide recommendations to the Chief Scientist and Executive Director regarding research and monitoring needs, review proposals submitted to the Trustee Council, and assess progress of ongoing projects. Several of the core reviewers have been advising government representatives since the oil spill in 1989, and the continuity of their experience, in combination with the breadth of their knowledge, makes their scientific advice particularly valuable.

In addition, many special experts provide scientific reviews as needed to complement the expertise of the core reviewers and the Chief Scientist. There are more than 60 individuals from throughout North America who have been special reviewers, with expertise ranging from

microbiology to computer science. These individuals examine proposals, reports, or participate in special workshops as needed to maintain the scientific quality of research, monitoring, and restoration projects sponsored by the Trustee Council.

The peer review process is administered through a contract with Applied Marine Sciences, Inc. Most reviewers are paid for their services. Experience indicates that this is a fair practice that enhances the quality and timeliness of the scientific reviews. All reviewers are required to verify that they are free of potential conflicts of interest, because avoiding even the appearance of a conflict of interest is essential for providing unbiased and objective scientific support. Reviewers who accept compensation are required to maintain a valid business license from the State of Alaska.

Scientific review is carried out within the adaptive management process which guides the entire *Exxon Valdez* restoration program. Research and monitoring projects are reviewed and modified annually, taking into account each year's results and field experience. This is accomplished primarily through an annual cycle of reviewing proposals and reports. However, special workshops are convened as needed to focus extra attention on particular resources or groups of related projects. In addition, the scientific staff, core reviewers, and all principal investigators sponsored by the Trustee Council are required to participate in an annual restoration workshop, held in January, to review prior year results and to discuss program priorities and coordination for the future.

#### **Core Reviewers: Biological Sciences**

**HANEY, CHRISTOPHER J.** B.S, Southern College (1981); Ph.D, University of Georgia (1986). Employer - The Wilderness Society, Washington, D.C.; North Carolina State Museum of Natural Science, Raleigh. Specialities - pelagic ecology of seabirds, seabird ecology in the Bering Sea, biometrics. Special Honors - research fellow, guest investigator, Woods Hole Oceanographic Institution; visiting scientist, Russian Academy of Sciences. research biologist, Skidaway Institute of Oceanography, (1984-85); Wildlife Biologist, Alaska Fish & Wildlife Research Center (1986-87), research ecologist, LGL Alaska Research Associates, Inc. (1987-89); faculty member, School of Forest Resources at the Pennsylvania State University (1992-95).

**MUNDY, PHILLIP R.** B.S., University of Maryland (1970); M.S., Biology, University of Alabama at Tuscaloosa (1970); Ph.D., Fisheries, University of Washington (1979). Employer - self. Specialities - Salmon population biology, fisheries management. Marine ecosystem expertise - secondary and tertiary consumers. Special Honors - Active member of graduate faculties of University of Washington, Oregon State University & Montana State University; Member of the American Institute of Fisheries Research Biologists.

**ROSE, GEORGE A.** B.Sc. (Agr.), University of Guelph (1970); M.S., Laurentian University (1981); Ph.D., McGill University (1988). Employer - Senior Chair for Fisheries Conservation, Fisheries and Marine Institute, Memorial University of Newfoundland, St. John's. Specialties - Fisheries oceanography, acoustics, and ecosystem ecology and conservation of coastal ecosystems and fisheries. Special Honors - First recipient of Wilfred Templeman Memorial Award for outstanding contribution to Fisheries Science through publication in the Newfoundland Region (1992) and Scientific Program Leader of former OPEN and IFRP coastal ecosystem research programs.

**PETERSON, CHARLES H.** B.A., Princeton University (1968); Ph.D., University of California, Santa Barbara (1972). Employer - University of North Carolina at Chapel Hill. Specialties - marine ecology, community ecology, environmental problem solving, fisheries ecology, and biological oceanography. Marine Ecosystem Expertise - 3 years Chair of the Scientific Committee of GLOBEC (the US-initiated, international global change program designed to assess the impacts of changing global climate on marine ecosystems dynamics with special reference to fisheries dynamics); present service on the National Academy of Sciences NRC Panel on the Bering Sea Ecosystem; membership on the present Ecological Society *ad hoc* Committee on Ecosystem Management; membership on the Scientific Advisory Committee for OPEN (the Canadian fisheries oceanography program evaluating fisheries production in the Maritimes). Special Honors - award of NSF, Woodrow Wilson Society, Ford Foundation, Australian, and Japanese fellowships; appointment as Editor-in-Chief of *Oecologia* (1989-); senior editorial advisor of Marine Ecology Progress Series (1985-present); appointment to the North Carolina Marine Fisheries Commission (1985-87); appointment to and Vice Chair of the North Carolina Environmental Management Commission (1989-1995); and receipt of 23 years of continuous research support from NSF and NOAA.

#### **Core Reviewers: Archaeology, Anthropology, and Subsistence**

**DUMOND, DON.** B.A., University of New Mexico (1949); M.A., Mexico City College (1957); Ph.D., University of Oregon (1962); Employer - University of Oregon Museum of Natural History, Eugene; Specialties - Anthropology. Special Honors - elected full member, Society of Sigma Xi (1962); elected fellow, Arctic Institute of North America (1973); elected member, Electorate Nominating Committee, Section H, American Association for the Advancement of Science (1975-77); appointed member, Committee on Population and Health, World Nutrition Study, National Academy of Sciences and National Research Council (1976); elected Member at Large of the Section Committee Section H, American Association for the Advancement of Science (1979-83), elected member and (1982-83) chair. Nominations Committee American Anthropological Association (1981-83), appointed U.S. Delegate to the Permanent Council of the International Union of Anthropological and Ethnological Sciences (1981-90), appointed member, Ad Hoc Committee on the Status of Archaeologists within the American Anthropologist Association (1983-84), elected fellow, American Association for the Advancement of Science (1986).

**WHEELER, POLLY C.** B.A., Union College (1983); M.A., University of Alaska-Fairbanks (1986); Ph.D., University of Alberta (1997). Employer - Wheeler and Ganley & Assoc. Specialities - subsistence, resource, and land policy in Canada and Alaska. Executive Director, Alaska Sea Otter Commission (1993-96); senior researcher, Tanana Chiefs Conference, Inc. (1991-93); research analyst, Fairbanks North Star Borough (1990-91); instructor, Dept. of Rural Development, Anthropology Northern Studies, University of Alaska Fairbanks (1989-1995). Special Honors - fellowships from Province of Alberta, Boreal Institute for Northern Studies, Alaska Anthropological Association, University of Alaska, and Union College.

#### **Scientific Staff**

**SPIES, ROBERT B., CHIEF SCIENTIST.** B.S., St Mary's College (1965); M.S., University of the Pacific (1969); Ph.D., University of Southern California (1971). Employer - Applied Marine Sciences, Inc. Specialties - marine pollution, effects of petroleum on marine organisms, benthic ecology. Special Honors - participant, National Research Council Workshop on Coastal Science and Policy Interactions in the U.S.; past editor, *Marine Environmental Research*; member, scientific review boards, U.S. EPA Environmental Monitoring and Assessment Program, NOAA National Status and Trends Program, Minerals Management Service Gulf of Mexico Research Program, Southern California Coastal Water Research Project; member, Board of Directors, Alaska SeaLife Center, Seward; member, Board of Directors, Romberg Tiburon Centers, San Francisco State University.

**GUNTHER, ANDREW J., ASSISTANT CHIEF SCIENTIST (part-time).** B.A., Amherst College (1978), M.S. (1982) and Ph.D. (1987), Energy and Resources, University of California, Berkeley. Employer - Applied Marine Sciences, Inc. Specialities - estuarine and marine pollution, environmental chemistry, application of scientific information to environmental management. Staff member, California Assembly Committee on Natural Resources (1979-80); Research Director, Citizens for a Better Environment (1982-83); environmental scientist, Aquatic Habitat Institute (1987-91); manager, Regional Monitoring Program for Toxic Substances in the San Francisco Estuary (1993-present).

**SENNER, STANLEY E., SCIENCE COORDINATOR.** B.A., Bethel College, Kansas (1973); M.S., University of Alaska Fairbanks (1977). Employer - Exxon Valdez Oil Spill Trustee Council. Specialties - ornithology, particularly migration ecology and food habits; conservation and natural resources policies. Research assoc., UAF Inst. Arctic Biology (1977); prof. staff member, U.S. House of Rep. Committee on Merchant Marine and Fisheries (1979-82); executive director, Hawk Mountain Sanctuary Association (1982-90); affil. research assoc., Acad. of Natural Sciences of Philadelphia (1984-90); co-chair, Exxon Valdez Restoration Planning Work Group (1990-92); director, Migratory Bird Conservation Program, Natl. Audubon Society (1992-94). Special Honors - Chair (1986-92), U.S. Sec., Internatl. Council for Bird Preservation; elective member, American Ornithologist' Union (1990); first recipient of the M.E. "Pete" Isleib Award for Bird Conservation in Alaska (1994); and service on many boards and committees.

Large Parcel Program  
 Status as of February 5, 1998

## Status of Large Parcel Acquisitions (February 5, 1998)

Parcel Description	Acreage	Coastal Miles <sup>3</sup>	Salmon Rivers <sup>4</sup>	Total Price	Trustee Council Contribution
<b>Acquisitions Complete</b>					
Kachemak Bay State Park inholdings	20,800	37	3	\$22,000,000	\$7,500,000
Seal Bay/Tonki Cape	41,549	112	5	\$39,549,333	\$39,549,333
Orca Narrows (timber rights)	2,052		2	\$3,650,000	\$3,650,000
Akhiok-Kaguyak	118,674	202	39	\$46,000,000	\$36,000,000
Old Harbor <sup>1</sup>	31,609	183	13	\$14,500,000	\$11,250,000
Koniag (fee title)	59,689	41	11	\$26,500,000	\$19,500,000
Koniag (limited easement)	57,082			\$2,000,000	\$2,000,000
Shuyak Island	26,665	31	8	\$42,000,000	\$42,000,000
Chenega	59,520	190	45	\$34,000,000	\$24,000,000
English Bay <sup>5</sup>	32,537	123	31	\$15,371,420	\$14,128,074
<b>Subtotal:</b>	453,177	919	157	\$245,570,753	\$199,577,407
<b>Offers Pending</b>					
Tatitlek	69,814	212	50	\$34,550,000	\$24,550,000
Eyak	75,425	189	80	\$45,000,000	\$45,000,000
<b>TOTAL:</b>	598,416	1,320	287	\$325,120,753	\$269,127,407
<b>Negotiations Continuing</b>					
Afognak Joint Venture	46,300			\$70,000,000	\$70,000,000
Koniag (fee title) <sup>2</sup>					
<b>Total Acreage to be Protected:</b>	644,716				

1. As part of the protection package, the Old Harbor Native Corporation agreed to protect an additional 65,000 acres on Sitkalidak Island as a private refuge.
2. Negotiations with Koniag concern fee title to the 57,082 acres that are currently protected under a limited conservation easement.
3. Approximate miles of coastline.
4. Approximate number of anadromous rivers, streams and spawning areas.
5. A small fraction of the total acquisition (2,901 acres) is still pending a second closing.

Small Parcel Status Report  
February 5, 1998

Status of Small Parcel Acquisitions and Offers (February 5, 1998)

Parcel ID	Description	Acres	Value	Status
<b>Acquisitions Completed</b>		<b>3,560.2</b>	<b>\$12,877,700</b>	
PWS 11	Horseshoe Bay	315.0	\$475,000	
PWS 17, 17A-D	Ellamar Subdivision	33.4	\$655,500	
PWS 52	Hayward Parcel	9.5	\$150,000	
KEN 10	Kobylarz Subdivision	20.0	\$320,000	
KEN 19	Coal Creek Moorage	53.0	\$260,000	
KEN 29	Tulin Parcel	220.0	\$1,200,000	
KEN 34	Cone Parcel	100.0	\$600,000	
KEN 54	Salamatof Parcel	1,377.0	\$2,540,000	
KEN 55	Overlook Park	97.0	\$279,000	
KEN 148	River Ranch	146.0	\$1,650,000	
KEN 1005	Ninilchik	16.0	\$50,000	
KEN 1006	Girves Parcel	110.0	\$1,835,000	
KEN 1014	Grouse Lake	64.0	\$211,000	
KEN 1015	Lowell Point	19.4	\$531,000	
KEN 1038	Roberts Parcel	3.3	\$698,000	
KEN 1049	Mansholt Parcel (Kenai River)	1.6	\$55,000	
KAP 91	Adonga Parcel (Sitkalidak Strait)	137.0	\$137,000	
KAP 98	Pestrikoff Parcel (Sitkalidak Strait)	80.0	\$128,000	
KAP 99	Shugak Parcel (Kiliuda Bay)	160.0	\$155,200	
KAP 101	Haakanson Parcel (Sitkalidak Strait)	80.0	\$52,000	
KAP 103	Kahutak Parcel (Sitkalidak Strait)	40.0	\$66,000	
KAP 105/142	Three Saints Bay	88.0	\$168,000	
KAP 114	Johnson Parcel (Uyak Bay)	55.0	\$154,000	
KAP 115	Johnson Parcel (Uyak Bay)	65.0	\$110,500	
KAP 131	Matfay Parcel (Kiliuda Bay)	40.0	\$68,000	
KAP 132	Peterson Parcel (Sitkalidak Strait)	160.0	\$256,000	
KAP 135	Capjohn Parcel (Kiliuda Bay)	70.0	\$73,500	
<b>Purchase Agreements Signed</b>		<b>3,435.1</b>	<b>\$4,464,300</b>	
<i>Kenai Natives Assc. Package (Stephanka/Moose R.)</i>		3,254.0	\$4,000,000	Add'l \$430,000 from fed. restitution fund; on hold(shareholder lawsuit).
KEN 1051/52	Salamatof Native Assn.(Kenai NWR)	21.1	\$183,000	
KAP 1055	Abston Parcel (Uyak Bay)	160.0	\$281,300	
<b>Offers Under Review</b>		<b>324.7</b>	<b>\$3,239,100</b>	
KEN 12	Baycrest	90.0	\$500,000	
KEN 1009	Cooper Parcel	30.0	\$48,000	
KEN 1034	Patson Parcel	76.3	\$375,000	Discussions continue.
KEN 1060A-D	Mud Bay (Homer Spit)	68.7	\$422,100	
KEN 1061	Beluga Slough (Homer Spit)	38.0	\$574,000	City of Homer to add \$41,000.
KAP 220	Mouth of Ayakulik River	5.4	\$80,000	
KAP 226	Karluk River Lagoon	16.3	\$240,000	
<i>Kodiak Island Borough Tax Parcels</i>			\$1,000,000	Appraisals being reviewed.
<b>TOTAL:</b>		<b>7,320.0</b>	<b>\$20,581,100</b>	

**Habitat Protection and Recreation Projects, continued**

- 27** **Grouse Lake** **\$211,000**  
64 acre recreational site along western shore of Grouse Lake. Acquisition complete.
- 28** **Lowell Point** **\$531,000**  
19.4 acres includes 700 feet of shoreline popular for hiking, kayaking, beachcombing and fishing. Offer under review.
- 29** **Alaska SeaLife Center** **\$24,900,00**  
Partial funding of this \$50.5 million center in Seward, due to open in 1998. Also \$12.5 million from state criminal funds.
- 30** **Halibut Campground** **\$300,000**  
New 20-unit campground in the Anchor River area. (ADNR)
- 31** **Beluga Slough Trail** **\$300,000**  
Trail construction for wildlife viewing, interpretation, benches in Homer slough. (ADNR)
- 32** **Mud Bay Boardwalk** **\$150,600**  
Construct boardwalk and viewing decks on Mud Bay at base of Homer Spit. (ADNR)
- 33** **Kachemak Bay State Park Improvements (ADNR)**  
**Campsites** **\$60,000**  
21 new campsites throughout the park with tent platforms, food caches, fire rings and toilets.  
**Public Use Cabins** **\$200,000**  
5 new public use cabins for Halibut Cove, Leisure Lake, Moose Valley, Sadie Cove.  
**Trail System** **\$310,000**  
Construct hiking trails in Kachemak Bay State Park.  
**Mooring Buoys** **\$20,000**  
New buoys in Tutka, China Pool, Mallard Bays and Halibut Cove areas.  
**Grewingk Creek Bridge** **\$100,000**  
Suspension bridge to link popular areas of the park and the trail system.  
**Cabin Acquisitions** **\$350,000**  
Acquire 5 private cabins suitable for public use.
- 34** **Halibut Cove Lagoon Dock** **\$190,000**  
Construct public dock in Halibut Cove for access to Kachemak Bay State Park. (ADNR)
- 35** **Port Graham Coho Project** **\$438,800**  
Restore the natural run of coho in Port Graham area stream to improve subsistence harvest. (DCRA)
- 36** **Nanwalek Sockeye Project** **\$424,000**  
Sockeye salmon project on English Bay River provides a subsistence resource and restores a natural run. (DCRA)
- 37** **Resurrection Bay Cabins** **\$159,000**  
Construct cabins, buoys, trails and latrines in Thumb Cove. (ADNR)
- 38** **Caines Head Alpine Trail** **\$50,000**  
Construct hiking trail from North Beach to alpine area. (ADNR)
- 39** **Resurrection Bay Trail** **\$200,000**  
Develop day use parking, beach trailhead and interpretive exhibits. Requires acquisition of 20 acres and is subject to negotiation with landowners. (ADNR)
- 40** **Interpretive Displays** **\$40,000**  
Construct interpretive exhibits at Kenai Fjords Visitor Center and at SeaLife Center. (ADNR)
- 41** **Darling Parcel** **\$35,000**  
99 acre parcel along the Snow River in the Chugach National Forest. Acquisition complete. (USFS)

**Science, Subsistence and Archaeology**

The following symbols represent science, subsistence and archaeology projects funded by the Trustee Council from Exxon civil funds. The numbers are the actual file numbers for each of the projects.

- 007** **Archaeological Site Monitoring**  
Monitoring of archaeological sites on public land injured by vandalism and oiling.
- 052** **Community Involvement/Traditional Ecological Knowledge**  
Community facilitators in Port Graham, Nanwalek, Seldovia, Seward and six other communities in spill region serve as liaisons between the Trustee Council, researchers, and communities.
- 131** **Clam Restoration**  
Pilot project to establish subsistence clam populations near Native villages in the oil spill region. The Cutekca hatchery in Seward is rearing littleneck clams to be seeded near Nanwalek and Port Graham. Success could lead to similar clam seeding near other communities.
- 139** **Port Dick Creek Restoration**  
Port Dick Creek restoration will increase spawning habitat to strengthen native salmon stocks.
- 144** **Common Murre Population Monitoring**  
This project provides information about common murre recovery by counting murre at Barren Islands.
- 149** **Archaeological Site Stewardship**  
Provides training and coordination for volunteers in Port Graham and Nanwalek to monitor vandalized sites in the oil spill area. Vandalism was a serious problem after the spill. Long term protection and restoration will be most successful if undertaken by local people.
- 163** **APEX - Alaska Predator Ecosystem Experiment**  
This project compares reproductive abilities and diets of seabirds in Prince William Sound with similar data from Cook Inlet, considered a more suitable food environment.
- 180** **Kenai Habitat Restoration/ Recreation Enhancement**  
Approximately 19 miles of the Kenai River's 166 miles of shoreline have serious habitat loss. Public lands have 5.4 miles of degraded shoreline. This 3-year project restores and protect salmon habitat on public lands.
- 210** **Youth Area Watch**  
Involves local youth with ongoing restoration projects, giving them the skill and knowledge to participate in restoration activities now and in the future.
- 225** **Port Graham Pink Salmon Subsistence Project**  
Enhances the Port Graham hatchery's ability to produce pink salmon for subsistence purposes. Because local runs of coho and sockeye salmon are at low levels, subsistence users are relying more on pink salmon.
- 244** **Community Based Harbor Seal Management**  
Biological sampling of harbor seals is being done in Prince William Sound and Lower Cook Inlet. Village technicians in Port Graham, Seldovia, Nanwalek and six other communities are trained by the Harbor Seal Commission to collect samples for analysis.
- 255** **Kenai River Sockeye Genetics**  
Five-year project identified genetic differences in Cook Inlet sockeye salmon. Information provided by this project is being used by fisheries managers to modify fishing areas and openings in order to improve management of Kenai River and other Upper Cook Inlet sockeye salmon stocks.
- 258** **Sockeye Overescapement**  
Four-year project has produced scientific evidence to help evaluate the effects of overescapement.
- 263** **Assessment, Protection, Enhancement of Salmon Streams**  
Provides inventory and assessment of four major salmon streams in Lower Cook Inlet with intent to improve habitat for better spawning success.



Construction of the Alaska SeaLife Center in Seward got underway this summer with opening scheduled for May 1998.



Trampling of the river banks due to fishing pressure results in erosion and loss of habitat.

# KENAI PENINSULA



*Exxon Valdez settlement funds benefit peninsula residents and visitors*

*Habitat protection*

*Research/Restoration*

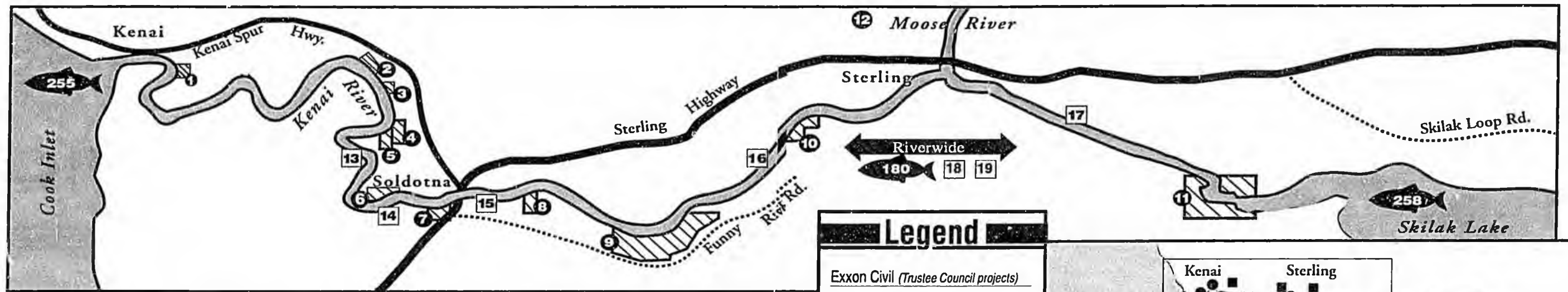
*Subsistence*

*Commercial fishing*

*Archaeology*

*Recreation*

9/15/96



## Habitat protection, recreation and scientific research

Exxon civil, criminal penalties to provide long-term benefits for Kenai Peninsula

Alaskans who take part in outdoor activities on the Kenai Peninsula are starting to see the benefits from dozens of projects funded by the Exxon Valdez criminal and civil settlements. If you enjoy a wilderness retreat in Kachemak Bay State Park, take part in the bounty of the Kenai River, tour the Alaska Sea Life Center in Seward, or set up camp along the Anchor River, you will find better facilities, better fishing success and more educational opportunities due to the many programs made possible by these funds. The following projects are in various stages of completion. Many acquisition projects depend on successful negotiations with the private land owners. Trustee Council projects (civil settlement) are in black. Projects using state or federal criminal settlement funds are shaded in gray.

### Civil Settlement

The Exxon Valdez Oil Spill Trustee Council, funded by the \$900 million civil settlement with Exxon, was created to help restore natural resources injured by the spill through habitat protection and scientific studies. This fund is limited to restoration activities in the oil spill region.

### Criminal Settlement

The State of Alaska received half of the \$100 million criminal restitution resulting from the spill. This money has been designated for many uses in the spill region, including recreational facilities, interpretive programs and habitat improvements on the Kenai River. Federal agencies are also using some of their \$50 million criminal fund on Kenai Peninsula projects.

- 1 Cone Parcel** \$600,000  
100 acres near the mouth of the river along the Kenai River flats. Acquisition complete.
- 2 Oberts Parcel (The Pillars)**  
30-35 acres with 1400 feet of undisturbed shoreline in vital habitat area. Appraisal under review.
- 3 Oberts Parcel (Honeymoon Cove)**  
4.22 acres of undisturbed shoreline in high-impact recreational area. Appraisal under review.
- 4 Oberts Parcel (Big Eddy)**  
31.7 acres with about 1,200 feet of riverbank adjacent to the Kobylarz Parcel. Appraisal under review.
- 5 Kobylarz Parcel** \$320,000  
20 acres with 1100 feet of riverbank frontage located on the Kenai River at Big Eddy. Offer accepted.
- 6 Girves Parcel** \$1,835,000  
110 acres in a high use area of Soldotna. Acquisition complete.
- 7 Schilling Parcel**  
5.9 acres at confluence of the Kenai River and the Sterling Highway. Offer from landowner under consideration.
- 8 Patson Parcel** \$375,000  
76 acres on the Kenai River by the Soldotna Airport with 1/4-mile of river frontage. Offer under consideration.

- 9 Salamatof Parcel** \$2,540,000  
1,377 acres on the Kenai River with approximately 2 miles of riverbank frontage. Offer accepted.
- 10 River Ranch Parcel** \$1,650,000  
146 acres with more than one mile of Kenai River frontage. Offer under consideration.
- 11 Stephanka Parcel**  
803 acres with 2-3 miles of Kenai River frontage. Part of the KNA package below.
- 12 Kenai Natives Association** \$4,000,000  
Acquiring 3,4254 acres in the Kenai River/Moose River drainage area north of the Sterling Highway. Package received Congressional approval.
- 13 Slikok Creek Access** \$265,000  
Ladders and boardwalks to and along river for fishing access, interpretive displays. (ADNR)
- 14 Habitat Restoration** \$50,000  
Contribution toward project to restore and protect severely damaged riparian habitat at Riverbend Campground. (ADF&G)
- 15 Soldotna Creek Park** \$300,000  
Restoration of heavily damaged park at Soldotna Creek. Includes elevated grate walk, vegetated biogrid, rootwad installation, bank revegetation. (ADF&G)
- 16 Morgan's Landing Access** \$50,000  
Ladders and boardwalks to and along river for fishing access, interpretive displays. (ADNR)
- 17 Bing's Landing Access** \$200,000  
Ladders and boardwalks to and along river for fishing access, interpretive displays. (ADNR)
- 18 Private Waterfront Projects** \$60,000  
Small-scale demonstration projects, restoration and protection of riparian habitat on Kenai River frontage parcels using elevated walks, bio-engineering, revegetation, with monitoring. (ADF&G)
- 19 Public Lands Protection** \$250,000  
Restoration of public riverbank damaged by use: Endicott sonar site, Kenai Keys site, Slikok Park, Centennial Park, the Sportsman's Lodge site, Crechanski, and various campsites. (ADF&G)

### Legend

**Exxon Civil (Trustee Council projects)**

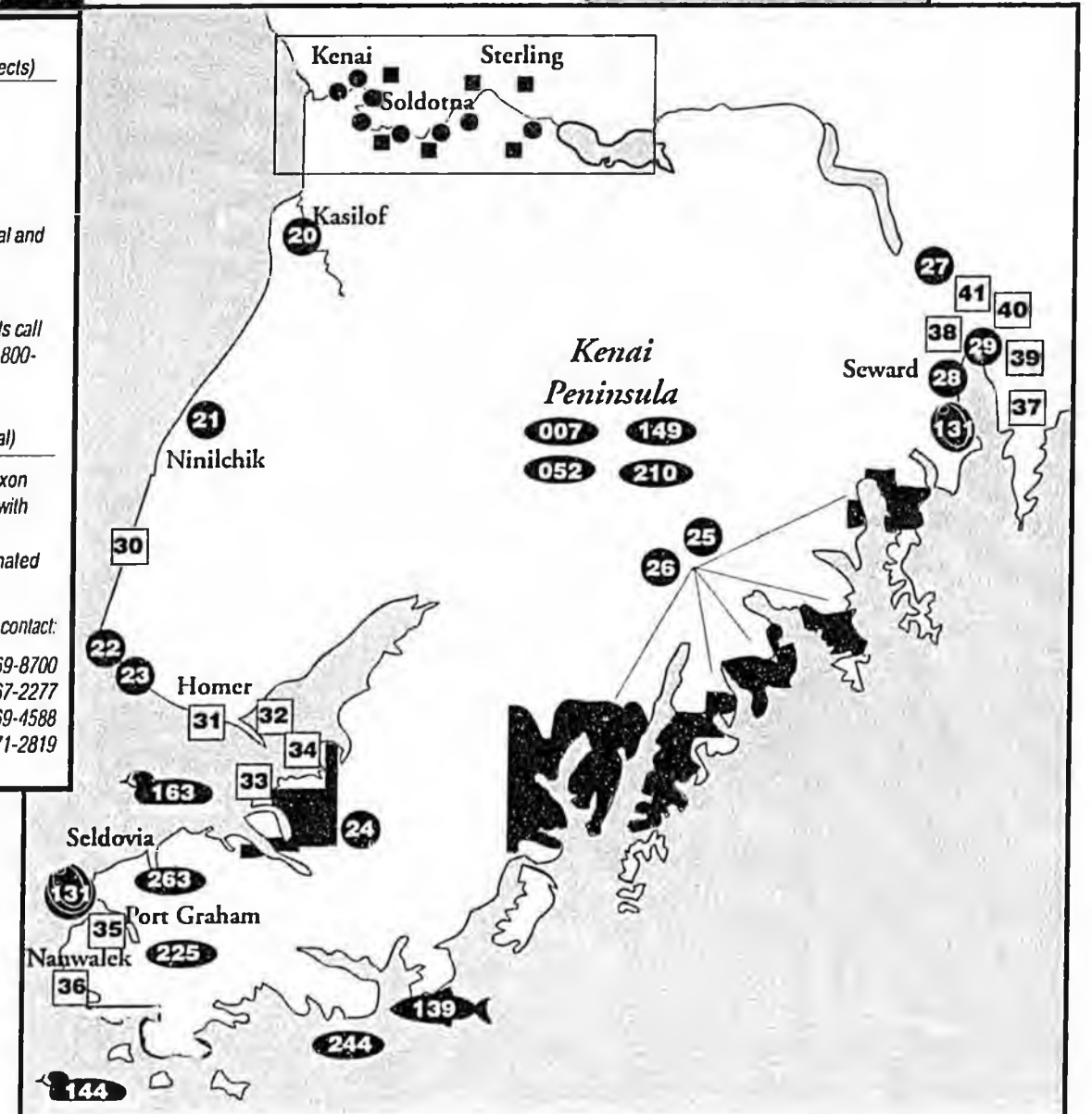
- 28** habitat protection
- 149** community/subsistence
- Salmon, seabird, harbor seal and clam research projects
- For more information on these projects call the Restoration Office at 278-8012 or 800-478-7745.

**Exxon Criminal (State and Federal)**

**36** Each project funded by the Exxon criminal settlement is marked with gray shaded squares. The agency responsible for each project is designated at the end of the project description.

For more information on these projects contact:

ADNR (Division of Parks)	269-8700
ADF&G (Habitat Division)	267-2277
DCRA	269-4588
USFS	271-2819



- 20 Coal Creek** \$260,000  
53 acres located at the confluence of Coal Creek and Kasilof River. Offer accepted.
- 21 Cooper Parcel** \$48,000  
The Ninilchik River flows through this 20 acre parcel two miles upstream from mouth. Offer under consideration.
- 22 Tulin Parcel** \$1,200,000  
220 acres with 3/4 mile of shoreline and 1/4 mile along Diamond Creek. Acquisition complete.
- 23 Overlook Park** \$244,000  
97 acres just below scenic overlook, with 3/4 mile of shoreline near tidal pools. Offer under consideration.
- 24 Kachemak Bay State Park** \$7,500,000  
Provided partial funding of \$22 million package to acquire 23,800 acres of park inholdings. Acquisition complete. Criminal fund provided another \$7 million and state's settlement with Alyeska provided \$7.5 million.

- 25 English Bay**  
Possible purchase of 33,000 acres along the south shore of the Kenai Peninsula. Discussions ongoing.
- 26 Port Graham**  
Possible conservation easements and purchase of 46,170 acres along the south shore of the Kenai Peninsula. Discussions ongoing.

Continued on Page 6

January-February  
1998

# RESTORATION

Volume 5  
Number 1

U P D A T E

## Trustees approve archaeology plan

Proposals to be solicited for Chugach Region repository and display facilities

The Trustee Council agreed recently to seek proposals for development of a regional archaeological repository and several local community-based display facilities in the Chugach region. The move comes after more than a year of working with communities to develop an archaeological plan for Prince William Sound and some lower Kenai Peninsula communities.

The Trustee Council allocated \$2.8 million to create archaeological facilities to serve eight communities in the Chugach region: Valdez, Cordova/Eyak, Chenega Bay, Tatitlek, Seward, Seldovia, Port Graham and Nanwalek. The plan calls for each community to have display facilities for locally-significant artifacts, which would be served by a single repository in the region.

The repository would be located in one of the eight com-



Photo by Roy Corral

AG member Brenda Schwantes and Community Facilitator Margaret Roberts, both of Kodiak, check out the exhibits at the Alutiiq Museum.

munities with funding up to \$1 million. The remaining seven communities would share \$1.6 million to establish museum-quality exhibits. Up to \$200,000 would be provided to create a traveling display.

The idea for such facilities has been discussed for the

See Archaeology Plan, Page 2

## ARLIS opens, expands research horizons



Photo by Joe Hunt

Ribbon cutters to inaugurate the new ARLIS are from left to right, Mayor Rick Mystrom, Trustee Deborah Williams, Sen. Ted Stevens, Lt. Gov. Fran Ulmer, U.S. Fish and Wildlife Service Regional Director Dave Allen, and University of Alaska Anchorage Chancellor Lee Gorsuch.

Alaska's natural resources libraries contain a wealth of knowledge just waiting to be tapped, according to Sen. Ted Stevens and others who spoke at the ribbon cutting ceremonies for a new consortium of libraries in Anchorage.

Eight libraries focusing on the natural resources of Alaska have joined to become one, creating a one-stop research facility for fish, wildlife, and land-use issues in Alaska. The Alaska Resources Library and Information Services (ARLIS) brings together libraries of state and federal agencies as well as the University of Alaska Anchorage to create one integrated system dedicated to natural resource information.

The new consortium is just the beginning, Sen. Stevens told a large crowd gathered for the grand opening ceremonies. ARLIS is a prototype for the nation as libraries enter a

See ARLIS, Page 3

## Archaeology Plan

Continued from Page 1

Photo by Roy Corral

An archaeological dig in the Kodiak region, sponsored in part by the Alutiiq Museum. Exhibits and a repository for the lower Kenai Peninsula and Prince William Sound regions could lead to similar archaeological activities for those areas.



last three years. It's hoped that good archaeological facilities could do for the Chugach and lower Cook Inlet regions what the Alutiiq Museum has done for the Kodiak Island communities. The Alutiiq Museum, funded with

\$1.5 million provided by the Trustee Council, is part of a revival in cultural awareness in the Kodiak region. Professional repository facilities allow proper care and preservation of cultural artifacts while the attached museum teaches visitors about the indigenous people of the region.

In years to come, it's hoped that visitors to Prince William Sound and the lower Kenai Peninsula will find similar facilities, teaching valuable lessons on how the earliest residents of the Chugach and lower Cook Inlet regions once lived. Ancient artifacts would be on display in each community and the climate-controlled repository, operated by trained curators, would help coordinate archaeological activities in the region.

The Restoration Office will soon begin seeking proposals for the regional repository and display facilities. A repository and the satellite display facilities must be sustainable once it's established, said Craig Tillery, trustee designate from the Department of Law. Any proposal must show that the facility can generate the funds for long-term maintenance and operation, he said.

Trustee Deborah Williams thanked the many people who have been working on this effort. "I know this has been a hard process," Williams said. "We look forward to some good proposals and we look forward to doing this."

## Habitat, recreation winners in small parcel acquisitions

The Trustee Council's decision to acquire two Kodiak Island parcels has made it possible for a non-profit group to conclude acquisition of 32 additional parcels on western and southern parts of the island.

The Council agreed December 18 to acquire 5.4 acres at the mouth of the Ayakulik River and 16.34 acres on the Karluk River lagoon for the appraised amounts of \$80,000 and \$240,000 respectively. This was the last step necessary to allow The Conservation Fund to finalize a package totaling 34 properties and 430 acres, all within the Kodiak National Wildlife Refuge.

Funding for the properties was provided by a diverse group of partners, including Anheuser-Busch, Camp Fire Conservation Fund, the Kodiak Brown Bear Trust, the National Rifle Association, Safari Club International, the Orvis Company, the Land and Water Conservation Fund and several others.

The coastal properties to be acquired are valued as habitat for brown bear, salmon, bald eagles, and waterfowl. They are popular areas for hunting and fishing, said Brad Meikeljohn,

Alaska representative for The Conservation Fund. "We wanted to protect the habitat values for which Kodiak is famous and ensure that people could reach these areas without trespassing," Meikeljohn said.

The Trustee Council also approved acquisition of 21 acres along the north bank of the Kenai River for the appraised value of \$183,000. The property, offered by the Salamatof Native Association, is located at River Mile 26, across the river from the 1,377-acre parcel Salamatof sold last year.

The Kenai National Wildlife Refuge plans to develop the properties as public fishing sites while protecting riverbank habitat. The plan calls for installation of light-penetrating metal gatewalks for fishing access, along with public parking and sanitation facilities.

The Trustee Council also made an offer of \$500,000 for a 90-acre parcel on the bluff overlooking Homer and the Homer Spit. The Baycrest property is adjacent to the Overlook Park property recently acquired with Trustee Council funds. Both properties would be managed by the state for habitat protection and public recreation.

new age of information services, he said. Stevens predicted that in the near future, vital information that will lead to discoveries of oil and mineral deposits will be available in every home with a computer.

"There's not another state in the union that has this concept," he said. "I hope you all see the big picture. This is not just bringing together a bunch of libraries and saving some money. This is the start of bringing together resources and the information age to change the way we do research and the way we make decisions."

Ken Thompson, president of Arco Alaska, put the exclamation point behind Sen. Steven's prediction. It was the information gathered at these resource libraries that helped uncover the Alpine oil field, he said, which was the largest land-based oil deposit discovered in the United States this decade.

Researchers found decades-old field notes, maps, aerial photos, satellite images, habitat information, critical wildlife records, and hydrological data, all used in the development of Alpine, he said. "This kind of information, literally, is invaluable, especially the way you now have it housed here," Thompson said.

ARLIS not only saves money, but opens some agency libraries to the public for the first time.

"This is a common sense move for Alaska," said Deborah Williams, special assistant to the Secretary of Interior for Alaska, who chaired the two-year planning effort. "It's what re-inventing government is all about."

Vice President Al Gore's

Hammer Award for innovation in re-inventing government was presented just prior to the grand opening ceremonies. The award recognizes new standards of excellence achieved by teams helping to re-invent government. The \$6 framed hammer symbolizes the Vice President's answer to the \$600 hammer of yesteryear's government.

"Sure it saves money, but what is really important is that it makes government work better," said Jody Kusek, Department of the Interior's representative to the government re-invention process.

Faced with tightening budgets that resulted in loss of staff and possible closure, the librarians crossed agency lines and came up with the idea of joining and consolidating in order to economize on staff and operations. The librarians organized under the motto: "Adapt, migrate or die."

"They were a group of folks with no money, no authority, no directive, and they just didn't let anything stop

them," said Barbara Sokolov, director of the UAA library.

The libraries of the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the National Park Service, the Minerals Management Service, the Bureau of Land

## ARLIS

Continued from Page 1

”

THEY WERE A GROUP OF FOLKS WITH NO MONEY, NO AUTHORITY, NO DIRECTIVE, AND THEY JUST DIDN'T LET ANYTHING STOP THEM.

BARBARA SOKOLOV  
DIRECTOR, UAA LIBRARY

”

Management, the Alaska Dept. of Fish and Game, UAA's Arctic Environmental Information and Data Center, and the Oil Spill Public Information Center are now housed under ARLIS's one roof. In addition, 10 agencies that depend on the natural resources collection at the library each contributed funds.

ARLIS is located at 3150 C Street, Suite 100, in Anchorage, adjacent to Magnum Electronics.

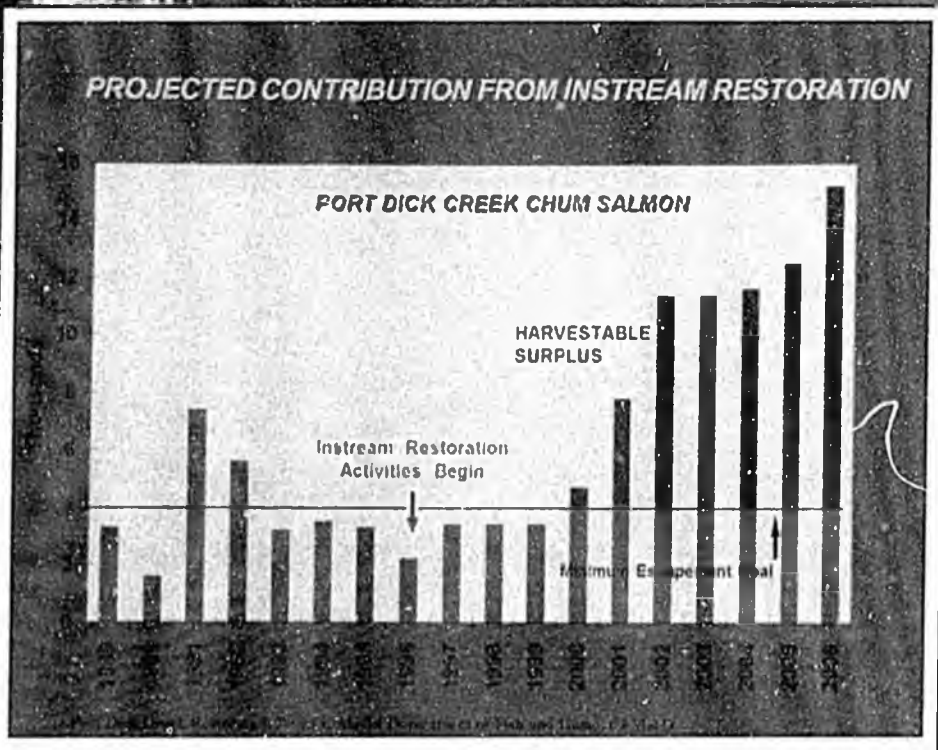


Sen. Ted Stevens played a key role in creating ARLIS and offered the keynote address during grand opening ceremonies. Seated from left to right are Errol Locker, Bureau of Land Management librarian, John Schoen, Alaska Director of the National Audubon Society, and UAA Chancellor Lee Gorsuch. Below, library patrons conduct research on Alaska's natural resources.





# The revival of Port Dick Creek



Photos courtesy of the Alaska Dept. of Fish and Game

Above, chum salmon fill a newly excavated tributary of Port Dick Creek within weeks after the job was finished. The figure at left shows how the added spawning habitat is expected to provide an increase in harvestable surplus of chum salmon by the year 2000. On the following page, before and after photos illustrate how a dry bed is transformed into usable habitat for chum and pink salmon.



## “Build it and they will come”

By Jody Seitz  
Alaska Coastal Currents

More than 30 years after the 1964 earthquake destroyed some prime salmon spawning habitat, chums have returned to newly opened tributaries of Port Dick Creek.

Port Dick, on the outer coast of the Kenai Peninsula, got hit hard by the *Exxon Valdez* oil spill and commercial fishing was closed for the summer. To help restore the area, biologist Nick Dudiak, who recently retired from the Department of Fish and Game in Homer, promoted an idea he had been talking about for years — the revival of Port Dick Creek.

The creek has two tributaries which were part of a system that contributed heavily to salmon runs in the '50s and '60s. Then the earthquake hit, raising the elevation of the stream, piling up rock, mud and woody debris, and wiping out the salmon spawning habitat.

Dudiak and biologist Mark Dickson felt that the two tributaries could again be good producers of pink and chum salmon, if the stream could be restored to its original state. “Build it and they will come” was Nick’s motto.

They were a little concerned, however, that if they went to all the trouble and expense of scooping out the streams, Mother Nature might step in again with another earthquake or perhaps another huge flood.

Sure enough, a 1995 storm resulted in a 100-year flood on some parts of the Kenai Peninsula. While the flood took a heavy toll in some areas, Port Dick Creek remained unscathed, much to Dickson’s relief. “There was no additional deposition,” he said. “It gave us more confidence that the direction we were headed was the right direction.”

The excavation took place in 1996. Engi-



Alaska  
Coastal  
Currents

Restoration and recovery following the *Exxon Valdez* oil spill

neers studied the grade and curves of the stream carefully, attempting to exactly reproduce the earlier path. Technicians laid down rocks, trees, stumps, and other natural features in places determined to match the stream’s flow. Everything came from the creek itself, with the help of some heavy equipment.

The idea was to create spawning habitat and they must have done it pretty well. Even though more than 20 years had passed, the next summer 450 pink salmon and 300 chums charged up both tributaries, as if they’d actually emerged from their egg sacs there.

The following spring there were many more fry than either of the biologists ever expected. A preliminary count showed more than 290,000 pink and chum fry in the tributaries - almost a 40 percent survival rate.

Now ADF&G is predicting a harvestable surplus of chums by the year 2000. They’ll continue to monitor the stream for any changes.

*Jody Seitz lives in Cordova and produces the Alaska Coastal Currents radio program and newspaper column. The series is distributed throughout the spill region to provide information about restoration activities sponsored by the Trustee Council.*

## Call for papers issued for 10th anniversary



A scientific symposium to be held on the 10th anniversary of the Exxon Valdez oil spill will highlight research related to the spill, its impacts, and the status of recovery in the spill area. Legacy of an Oil Spill: 10 Years After Exxon Valdez will be held March 23-27, 1999, in Anchorage.

Symposium sponsors are soliciting abstracts for oral and poster presentations, including such topics as:

- Injury and recovery, emphasizing multi-year studies

with biological, ecological or socio-economic data sets;

- Ecological and other factors that limit or influence recovery, productivity and long-term population trends;

- Management applications and restoration benefits of studies and projects;

- Syntheses and models that integrate data on Prince William Sound and Gulf of Alaska ecosystems; and

- Prevention and response (including cleanup) techniques.

The symposium is sponsored by the Exxon Valdez Oil Spill Trustee Council and its six trustee agencies, the University of Alaska Sea Grant College Program, and the Prince William Sound Regional Citizens Advisory Council.

For further information, contact Brenda Baxter, coordinator, Alaska Sea Grant College Program, University of Alaska Fairbanks, P.O. Box 755040, Fairbanks, AK 99775 or via e-mail at FNBRB@uaf.edu.

## 1998 Work Plan set at \$14 million

The 1998 Work Plan was finalized December 18 when the Trustee Council added five research and restoration projects and provided supplemental funds for five others, totalling more than \$1 million. Altogether, the Trustee Council funded 66 projects for this fiscal year, with a \$14.1 million budget.

Research projects added to the Work Plan include the monitoring of harbor seal pups, additional work on herring disease, and studies on black oystercatchers, common murres, and black-legged kittiwakes.

An experimental project to seed tiny littleneck clams on specific beaches for subsistence purposes received \$200,000. The project is in its fourth year. The Qutekcaq Native Tribe is in the process of taking over operation of the state shellfish hatchery in Seward, which will provide vastly improved facilities for this project.

An Elders/Youth Conference on subsistence resources, to be held in Cordova this May, received \$90,000. This conference is designed to encourage the exchange of information between Natives who have

traditional knowledge of the region and scientific researchers. It will include members from each community as well as marine biologists and other researchers.

The Trustees also provided \$139,000 to create a model of human use in Prince William Sound and how increased human use might impact injured resources.

The FY98 Work Plan is the document that sets the Trustee Council budget and identifies restoration projects, scientific studies and administrative duties for the fiscal year beginning October 1, 1997.

## Restoration Workshop to be held Jan. 29-30

The 1998 Restoration Workshop will be held at the Hotel Captain Cook in Anchorage from January 29-30.

The Restoration Workshop is the annual seminar in which scientists present and review 1997 restoration work and help shape future restoration projects. It's free and open to the public.

The workshop will be preceded by three day-long reviews of each of the large ecosystem-based projects. Reviews of the Sound Ecosystem Assessment (SEA) project, the Nearshore Vertebrate Predator

(NVP) project, and the Alaska Predator Ecosystem Experiment (APEX) project will be held January 26-28, also at the Captain Cook.

The keynote speaker for this year's event will be Donald Boesch, of the University of Maryland Center for Environmental and Estuarine Studies. Boesch will discuss the benefits of large, integrated environmental monitoring programs.

Special rates are available through the Hotel Captain Cook (800-843-1950). To pre-register, call the Restoration Office at 278-8012 before January 20.

Executive Director • Molly McCammon  
Director of Operations • Eric Myers  
Editor • Joe Hunt



Restoration Update is published six times each year by the Exxon Valdez Oil Spill Trustee Council.

Restoration Office  
645 G Street, Anchorage, AK 99501  
907/278-8012 FAX: 907/276-7178  
Toll free: 800/478-7745 in Alaska, 800/  
283-7745 outside Alaska.  
e-mail: JeffL@oilspill.state.ak.us  
<http://www.oilspill.state.ak>

By Hugh Short

Community Involvement Coordinator

The group slowly came together on a brisk October morning. Virginia Aleck, from Chignik Lake, flew in to represent the Alaska Peninsula. Bob Henrichs, who probably travels almost as much as the Eskimo on the tail of the Alaska Airlines planes, arrives late but enthusiastic from Cordova. Charles Hughey, of Valdez and the newest member of the group, is curious and reserved, but very interested after looking at the day's agenda.

No, this is not the annual meeting of the Royal Order of Moose, but the fall meeting of the community facilitators at the Anchorage Restoration Office.

The Community Involvement Project brings together ten residents from the communities of Valdez, Cordova, Tatitlek, Chenega Bay, Seward, Port Graham, Nanwalek, Seldovia, Kodiak, and Chignik Lake. These communities are spread out along 450 miles of ocean, demonstrating the vast reach of the Exxon Valdez oil spill. Each community brings its own resources to assist in the monumental process of restoring the environment.

Residents of the region de-

pend on the land and water for their sustenance and livelihood. After the spill, many realized that the marine ecosystem would never be the same and this gave rise to the Community Involvement Project in 1994.

In 1995, three community facilitators were hired. By the second year of the project nine community facilitators were on board and the project was turned over to the regional organization, Chugach Regional Resources Commission. The objectives set forth for the project from the beginning have been threefold: to increase local involvement in the restoration efforts, including the development of more community-based projects; to improve the communication of findings and results of ongoing research; and to facilitate the communication of traditional ecological knowledge (TEK) from local residents to scientists, which can significantly enhance the value of Trustee Council restoration efforts.

Now in its fourth year, the Community Involvement Project has been successful in many areas. The number of community-based projects has increased, including the Clam Restoration Project, the biological sampling program

through the Alaska Native Harbor Seal Commission, several salmon enhancement projects, spill area wide conferences on subsistence restoration, the Youth Area Watch, and myriad others.

Projects that are in the works include a comprehensive archaeological plan, which includes a regional repository and seven display facilities throughout Prince William Sound and lower Cook Inlet, a Youth and Elder Conference on Subsistence, and continuation of several vital restoration projects that are helping understand the complex ecosystem.

If you have any questions regarding the Community Involvement Project, please contact me at the Anchorage Restoration office or through e-mail at [HughS@oilspill.state.ak.us](mailto:HughS@oilspill.state.ak.us)

## Community Involvement makes a difference

*Local residents take part in an experiment to seed Port Graham beaches with tiny clams. The project is designed to bring subsistence clamming back to some beaches which lost traditional clamming activities after the 1964 earthquake.*



Alaska Regional Forester Phil Janik, who has served as a Trustee for the last four years, will be moving to Washington, D.C. to take a promotion as deputy chief of the forest service.

Janik and his staff have been instrumental in negotiations with Eyak, Tatitlek, and Chenega Native Corporations to acquire habitat within Prince William Sound. Most of the acquisitions are to be man-

aged as part of the Chugach National Forest. In announcing the promotion, Forest Chief Mike Dombeck noted Janik's skills in building partnerships and integrating science with management.

The Alaska region is one of nine regions nationwide and includes the Tongass and Chugach National Forests. As Forester, Janik was responsible for managing 22 million acres and more than 1,000 employees.



Phil Janik

Dave Gibbons, the first administrator for the Trustee Council, also received a promotion. Gibbons was

named Acting Forest Supervisor for the Chugach National Forest. He managed the Trustee Council from its inception in 1991 until Jim Ayers was named the first executive director in 1994.

Trustee Janik to take new position in D.C.

## Notebook series tells story of recovery one species at a time

Did you know that the marbled murrelet darts through thick forest at speeds of 100 miles per hour? Or that sea otters have rebounded from near extinction in the early 1990s? Or that killer whales are spending less time in Prince William Sound and more time in the Kenai Fjords? Or that harbor seals live up to 30 years?

The Restoration Notebook series tells the natural history of each of these species, as well as the story of injury and recovery from the spill. This series is written by the biologists who work in the field with these animals. It's produced by the Trustee Council and is the ideal tool for the high school or college student reporting on Alaska's natural resources.



The first four species in this series will soon be available to the public. The series is expected to expand to include more than a dozen species on the injured resources list, as well as some human services.

To receive a free copy, contact the Restoration Office at 907-278-8012; or 1-800-478-7745 (inside Alaska); or 1-800-283-7745 (outside Alaska); or via e-mail at [kerih@oilspill.state.ak.us](mailto:kerih@oilspill.state.ak.us).

### Exxon Valdez Oil Spill Trustee Council



**Bruce Botelho**  
Attorney General  
State of Alaska

**Michele Brown**  
Commissioner  
Alaska Dept. of  
Environmental Conservation

**Deborah L. Williams**  
Special Assistant to the Secretary  
US Dept. of the Interior

**Phil Janik**  
Regional Forester  
Alaska Region  
US Dept. of Agriculture

**Steve Pennoyer**  
Director, Alaska Region  
National Marine  
Fisheries Service

**Frank Rue**  
Commissioner  
Alaska Dept. of Fish & Game



A standing-room-only crowd attended the December 18 Trustee Council meeting. Lora Johnson, director of Tribal Development and Operations at Chugachmiut, and several others testified about plans to create archaeological exhibits and a repository (see Page 1) for the Chugach region. Others testified on habitat protection proposals (see Page 2) and the deferred projects from the FY 1998 Annual Work Plan (see Page 6).

**Restoration Office**  
645 G Street, Ste. 401  
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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## MISSION STATEMENT

of the *Exxon Valdez* Oil Spill Trustee Council

The mission of the Trustee Council and all participants in Council efforts is to efficiently restore the environment injured by the *Exxon Valdez* oil spill to a healthy, productive, world renowned ecosystem, while taking into account the importance of quality of life and the need for viable opportunities to establish and sustain a reasonable standard of living.

The restoration will be accomplished through the development and implementation of a comprehensive interdisciplinary recovery and rehabilitation program that includes:

- Natural Recovery
- Monitoring and Research
- Resource and Service Restoration
- Habitat Acquisition and Protection
- Resource and Service Enhancement
- Replacement
- Meaningful Public Participation
- Project Evaluation
- Fiscal Accountability
- Efficient Administration

*Adopted by the Trustee Council, November 30, 1993.*





MOLLY McCAMMON  
Executive Director,  
Exxon Valdez Oil Spill Trustee Council



## DIRECTOR'S

## MESSAGE

**T**he *Exxon Valdez* oil spill restoration program has now passed the midway point in the 10-year payment period from Exxon. The program has a plan that is working and well on its way to completion:

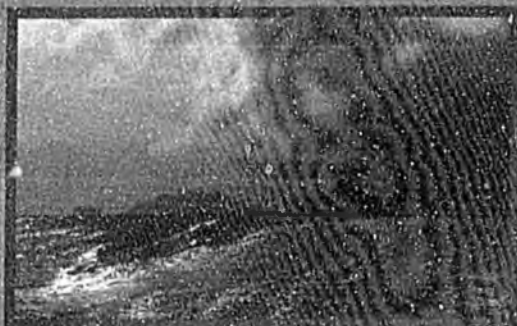
-  The program has been audited and financial and operating procedures have been revised.
-  Much of the habitat protection program is either completed or close to it.
-  The research and monitoring efforts are increasingly ecological in scope with one injured species fully recovered from the effects of the spill and others well on their way toward recovery.
-  The public, and especially Alaska Native communities, have increased opportunities for involvement.

Mission accomplished, right? Well, maybe not quite. Whenever I think that the restoration program is on a path of routine implementation, I'm reminded once again that restoration is not a project report or a completed purchase agreement for a piece of land. It is something dynamic and evolving.

The reminder this time came from Williams College professor Dr. Kai Lee, keynote speaker at our annual restoration workshop and a veteran of the salmon/hydropower struggles of the Pacific Northwest. Dr. Lee told his audience that the debate should be less about restoration and more about "stewardship." The oil spill and recovery must be viewed in human terms, he argued, "framed by and rooted in human communities that will go on beyond the restoration period."

Although the major priorities are in place, the restoration program continues to evolve. The major decision remaining concerns future use of the funds now set aside in the Restoration Reserve. I hope the spill area communities and the public will take a strong role in helping shape the legacy of the *Exxon Valdez* oil spill.

*Molly McCammon*



## Civil and Criminal Settlements

**O**n October 9, 1991, the U.S. District Court approved a plea agreement that resolved various criminal charges against Exxon as well as a civil settlement for recovery of natural resource damages resulting from the oil spill.

**The Criminal Plea Agreement.** Exxon received a fine of \$150 million — the largest fine ever imposed for an environmental crime. The courts remitted \$125 million in recognition of Exxon's cooperation in cleaning up the spill and paying private claims. Of the remaining \$25 million, \$12 million went to the North American Wetlands Conservation Fund and \$13 million went to the Victims of Crime Fund. In addition, Exxon agreed to pay restitution of \$50 million to the United States and \$50 million to the State of Alaska.

**Civil Settlement and Restoration Fund.** Exxon agreed to pay \$900 million with annual payments stretched over a 10-year period. The agreement requires that the funds be used first to reimburse the federal and state governments for the costs of cleanup, damage assessment and litigation. The remaining funds are to be used for restoration. The settlement also has a provision allowing the governments to claim up to an additional \$100 million to restore resources that suffered a substantial loss, the scope of which could not have been anticipated from data available at the time of the settlement.

The Exxon Valdez Oil Spill Trustee Council was formed under the civil settlement to oversee restoration and consists of three state and three federal trustees (or their designees).



1997 STATUS REPORT

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AUDIT

For additional copies of this document or more information about activities of the Exxon Valdez Oil Spill Trustee Council, contact:

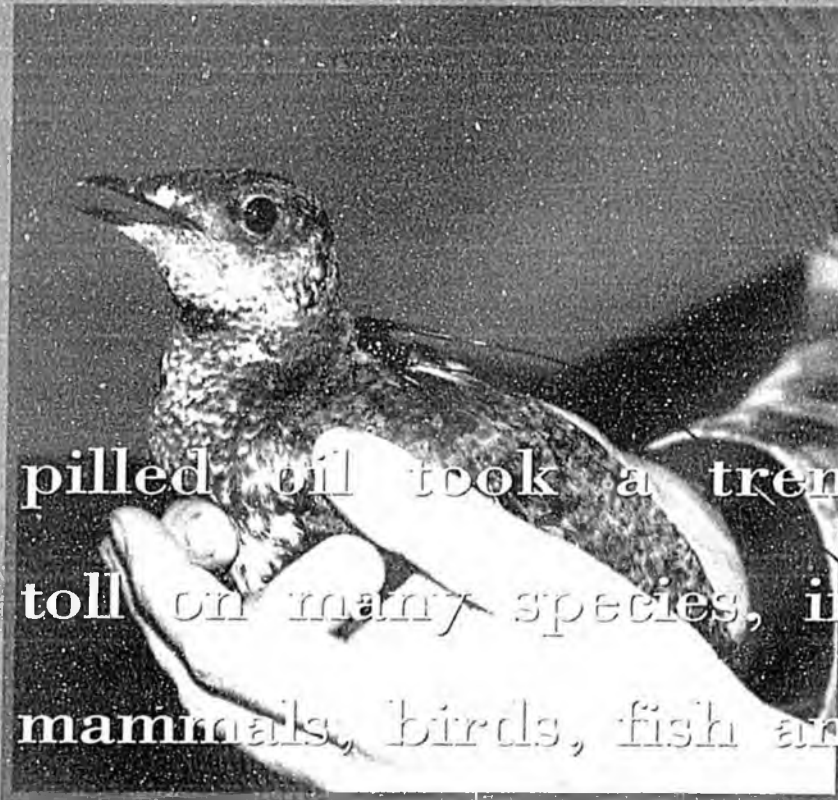
The Oil Spill Public Information Center  
1615 G Street, Suite 100  
Anchorage, AK 99501-3151  
907/273-2002  
Toll free within Alaska 800-473-7713  
Toll free outside Alaska 800-293-7713  
<http://www.alaska.net/ospi>  
OSPI@alaska.net

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# R E C O V E R Y S T A T U S



photo by Kirby Miller



Marbled murrelets are commonly seen feeding in the marine waters but their nests in the canopy of old growth forests are very difficult to locate. To find nests, a tiny transmitter is attached to the backs of the birds.

**S**pilled oil took a tremendous toll on many species, including mammals, birds, fish and inter-tidal plants and animals such as mussels,

chitons, and *Fucus*. No one knows exact numbers, but The Proceedings of the Exxon Valdez Oil Spill Symposium, published in 1996 by the American Fisheries Society, spelled out the enormity of the loss using carefully reviewed scientific estimates, among them: 300 harbor seals, 2,800 sea otters, 250,000 birds, and possibly 13 killer whales.

The Trustee Council established its list of injured resources to highlight some of those species with population level or chronic injuries. The common loon and three species of cormorants — pelagic, red-faced and double-crested — were added to the list during 1996 after a new analysis of population data, bringing the total number of species and resources listed to 28. Only one, the bald eagle, has been officially declared as "recovered" by the Trustee Council, although a number of others appear to be on their way to recovery.



**DÁVID A. BOTELHO**  
Attorney General,  
State of Alaska



**MICHELE BROWN**  
Chief Scientist, Alaska Dept.  
of Environmental Conservation



**PHIL JANIK**  
Assistant Regional Forester, Forest  
Services, Alaska Dept. of Agriculture

# THE EXXON VALDEZ

## EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL PUBLIC ADVISORY GROUP 1997 — 1999

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Chris Beck	Public at Large
Pamela Brodie	Environmental
Sheri Buretta	Public at Large
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# OIL SPILL TRUSTEE COUNCIL



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**DEBORAH L. WILLIAMS**  
Assistant to the Secretary for Alaska,  
U.S. Dept. of the Interior



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The Nearshore Vertebrate Predator project is focusing on river otters as one of two key fish eaters in the nearshore ecosystem. Researcher Gail Blundell holds a sedated river otter after taking measurements and blood samples.

## RIVER OTTERS

River otters have a low population density and an unknown population size in Prince William Sound. Twelve river otter carcasses were recovered following the oil spill, but actual mortality is not known. Post-spill studies found notable differences between river otters from oiled and unoiled areas, including exposure to hydrocarbons or other sources of stress, reduced diversity in prey species, reduced body size and increased territory size. It is not clear if all of these differences are the result of the spill.

The Nearshore Vertebrate Predator project will shed new light on the status of the river otter. The Alaska Board of Game has restricted trapping in western Prince William Sound to ensure that results of this study are not influenced by removal of animals from study areas around Jackpot and Knight islands.

## BALD EAGLE

The population of bald eagles along the coastline of Prince William Sound has returned to pre-spill levels, leading the Trustee Council to list the national symbol as the first injured species to fully recover from the effects of the oil spill. Aerial surveys conducted in 1995 verified the resurgence of the bald eagle in the spill region.

It's estimated that 5 000 bald eagles currently reside within Prince William Sound, either year-round or seasonally. Approximately 250 of the birds died in the sound during the spill, mostly from scavenging the oiled carcasses of other victims.

## HARLEQUIN DUCKS

The summer population of harlequin ducks in the spill region numbers only a few thousand birds, yet more than 200 carcasses were found and it's likely many more were never recovered. It's not clear whether the birds that died in the oil were from this small breeding population or the larger wintering population, but the impact on this species could go far beyond the spill area.

There continues to be concern about poor winter survival of adult females in western versus eastern parts of the Sound. Several research projects are underway to determine the factors that may limit recovery of this species. Harvest of harlequin ducks has been restricted due to population concerns.

## MARBLED MURRELETS

The marbled murrelet is listed as threatened in the Pacific Northwest, but is still abundant in Alaska waters. However, the marbled murrelet population was already in decline in Prince William



©1995 Gail Blundell

A rare photo of a marbled murrelet in its nest. The seabird nests high in the canopy of old growth forests where they are difficult to find.

# NATURAL RESOURCES

## SEA OTTERS

Sea otters, which became the symbol of oil's destruction during the early days of the spill, are doing well although their numbers in the hard-hit portions of western Prince William Sound remain low. For this reason, the sea otter continues to be listed as not recovering.

A group of young males observed off Knight Island may be a good indicator of recovery, showing expansion into territory that can perhaps now support more sea otters.

## HARBOR SEALS

The oil spill hit harbor seals hard at a time when they were already in serious decline. The population of harbor seals in northern gulf waters dropped from an estimated 125,000 in 1973 to 21,000 in 1994, a decline of 80 percent over 20 years. At the time of the spill, it's estimated that 2,200 harbor seals inhabited Prince William Sound and about 13 percent of them perished. The decline has continued at a rate of 6 percent per year since the oil spill, and rates of decline are higher in oiled areas than in unoiled areas.

The Trustee Council is funding a five-year project to determine factors influencing harbor seal survival rates. Biologists are looking at a change in the quality and quantity of food as a primary factor in the decline. They are now able to learn something about the diet of a harbor seal by analyzing the fatty acids in the blubber.

Harbor seals have long been an important subsistence resource for Native communities in the spill region. The lack of opportunities to hunt seals has changed the diets of subsistence users. The Alaska Native Harbor Seal Commission, using Council funding, is training Native hunters to collect samples from seals harvested during subsistence hunts. These samples will be turned over to biologists to aid in harbor seal research.

## KILLER WHALES

The well-known and intensively studied AB pod of killer whales — a group of 36 animals inhabiting Prince William Sound and the Gulf of Alaska — apparently lost 13 of its members and produced no young in the two years following the spill. Since then, the pod has continued to suffer more losses than births and its complex social structure appears to be deteriorating.

The link between these losses and the spill is only circumstantial. However, the losses far exceed normal rates documented over 20 years of study for this and other killer whale groups in the north Pacific.

More than 80 killer whales in six "resident" pods regularly use Prince William Sound. Other whales in "transient" groups pass through the sound less frequently. Transients prey on marine mammals, whereas resident pods feed on fish. Researchers are examining whether predation by transient killer whales is contributing to the decline in harbor seals.



photo by Lloyd Lewis

Harbor seals continue to decline, dropping more than 80 percent over the last 20 years. To help isolate the cause of the decline, Alaska Department of Fish and Game biologist Kally Frost places a transmitter on the back of a harbor seal after taking measurements and blood samples.

## PACIFIC HERRING

Pacific herring returned to lay their eggs in the intertidal and subtidal areas of Prince William Sound within weeks after the oil spill. The year class of Pacific herring remained strong through 1992, but crashed severely in 1993, resulting in cancellation of the commercial fishery for four successive years.

A viral disease and a fungus were identified as probable reasons for the crash. Evidence shows that stress on the population can be a major factor in spreading the disease and laboratory studies continue to explore the connection between the epidemic and the oil spill. Preliminary results also indicate that walleye pollock can be significant competitors with and predators on herring.

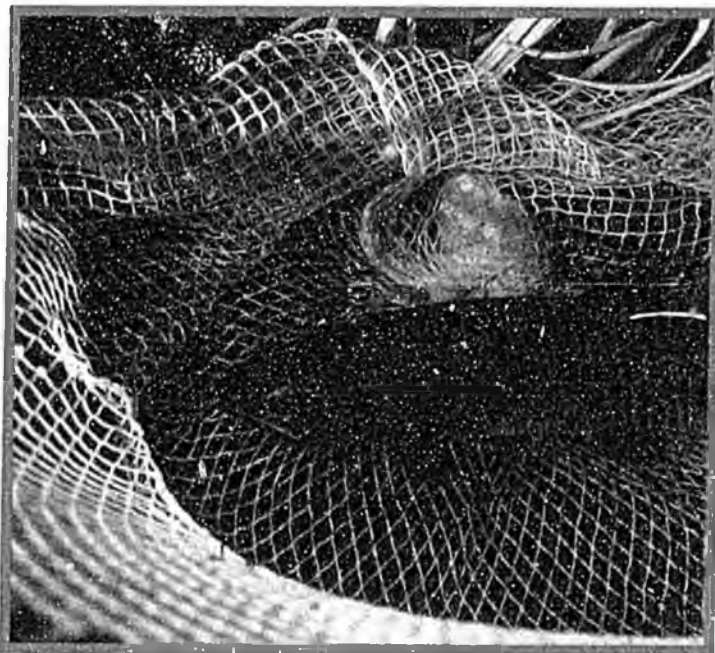
Commercial fishing for hait herring resumed in the fall of 1996 and the lucrative roe fishery is expected to be open in the spring of 1997.

*Little is known about cutthroat trout in Prince William Sound, which are at the northwest limit of their range. In 1996 a new project was initiated to determine the relationships between resident and anadromous forms of this species. This information is crucial for development of a long-term restoration and management strategy.*

## CUTTHROAT TROUT

Prince William Sound is at the northwestern limit of the range of the cutthroat trout, a prized sport fish. There are few local stocks and numbers are small. Following the oil spill, cutthroat trout grew more slowly in oiled than in unoiled streams, possibly as a result of reduced food supplies or exposure to oil.

The Trustee Council is supporting a project to monitor whether habitat improvements inadvertently increase numbers of their competitor, the coho salmon. Little is known about the cutthroat trout in Prince William Sound. Another project has collected trout from 11 sites to help develop a long term, comprehensive and ecologically sound restoration strategy for these fish.



*Photo by Ken H. H. H.*



*Pacific octopus has long been a favorite for subsistence users, but little is known about their habits in Prince William Sound. Researchers worked with subsistence users to locate octopus for study.*

*Photo by Ken H. H. H.*

## INTERTIDAL, SUBTIDAL & SEDIMENTS

Detailed coastline surveys found varying degrees of oiling on 1,500 miles of coastline. Impacts to intertidal and subtidal flora and fauna occurred at all tidal levels and to depths up to 20 meters. Many species of algae and invertebrates were less abundant at oiled than at unoiled sites. In some cases, oil-tolerant species increased greatly, changing the composition of the biological communities. Intertidal and subtidal communities are recovering from the spill and the cleanup activities that followed, but some effects linger.

Sound before the spill, which killed an estimated 7 percent of the population in the spill area. Marbled murrelets are highly reclusive and nesting sites in the old-growth forest are difficult to find. Researchers have developed new ways to monitor productivity based on the number of juveniles which make it to the water.

### PIGEON GUILLEMOTS

It's estimated that the oil spill claimed 10-15 percent of the pigeon guillemots in the region. There is no evidence of a post-spill recovery and, as is the case for harbor seals and several other fish-eating species, natural changes in food supplies may play a role. Pigeon guillemots nesting on Prince William Sound's Naked Island have declined by 40 percent since 1981.

Pigeon guillemots are a major focus of two large-scale research projects. The APEX project is investigating the possible link between population loss and the availability of forage fish, such as Pacific herring, sand lance and capelin. The NVP project addresses the possibility that exposure to oil continues to limit the guillemot's recovery.



### PINK SALMON

Many commercial fisheries were closed in 1989 due to concern about oil contaminating fish bound for human consumption. By 1990, most of those fisheries had reopened, but oil's impact on the fish themselves lingered.

Mortality of pink salmon eggs has evened between oiled and unoled streams. Chris Mahlich, a biologist with the Dept. of Fish and Game, holds a male pink salmon collected for research.

Both wild and hatchery-reared pink salmon swam through oiled waters in 1989 as they foraged in Prince William Sound and migrated to the sea. The results were reduced growth rates in young salmon and increased egg mortality in oiled streams. Differences in

egg mortality between oiled and unoled streams disappeared in 1994 and this lack of difference has been sustained through 1996. Wide swings in returns of pink salmon may largely be a function of natural conditions in the sound and in the Gulf of Alaska. The SEA ecosystem project is working to understand the natural fluctuations of these commercially important species.

### SOCKEYE SALMON

The oil spill caused a different problem for sockeye salmon. Because commercial fisheries were closed, more sockeye reached the Kenai River (and other river-lake systems) to spawn. As a result, a super abundance of juveniles "overgrazed" their food supply. The effect of a large overescapement can ripple through a system for years. Although the return per spawning adult continues to be lower than normal, productivity is now acceptable.

The Trustee Council supports several projects to enhance sockeye and pink salmon runs by restoring streambeds, creating fish ladders and fertilizing lakes.

## SUBSISTENCE

Subsistence harvests in most of the spill-area villages declined substantially following the spill. The harvest, as measured in pounds per person, appears to have returned to pre-spill levels in some communities, but some resources remain scarce.

To assist scientists in their efforts to learn why the harbor seal is continuing its decline, the Alaska Native Harbor Seal Commission is training subsistence hunters in the proper procedures for taking and storing tissue samples. This provides a wealth of information about harbor seal locations, diet, and overall health.

Native Alaskans are also sharing information learned from thousands of years of subsistence gathering. Local subsistence users, for example, were able to provide a boost to new research on the Pacific octopus by showing researchers that this elusive mollusk can easily be found among *Fucus*.

Other projects provide direct relief to communities that are short of subsistence resources. Hatchery-produced king salmon are starting to return to Chenega Bay; coho are being released into Boulder Bay near Tatitlek; the Kanetook River near Perryville will be enhanced to restore natural coho runs; sockeye will be stocked in Solf Lake in Prince William Sound; pink salmon are being given a boost to restore subsistence fisheries near Port Graham; and littleneck clams the size of a fingernail are being planted as seedlings in an experiment to revitalize clamming as a subsistence activity in Tatitlek, Nanwalek and Port Graham.

INJURED RESOURCES		Resources and Services Injured by the Spill
<p><b>RECOVERED</b></p> <ul style="list-style-type: none"> <li>Bald eagles</li> </ul>	<p><b>NOT RECOVERING</b></p> <ul style="list-style-type: none"> <li>Cormorants (<i>3 species</i>)</li> <li>Harbor seals</li> <li>Harlequin ducks</li> <li>Killer whales (<i>AB pod</i>)</li> <li>Marbled murrelets</li> <li>Pacific herring</li> <li>Pigeon guillemots</li> <li>Sea otters (<i>western PWS</i>)</li> </ul>	
<p><b>RECOVERING</b></p> <ul style="list-style-type: none"> <li>Archaeological resources</li> <li>Common murre</li> <li>Intertidal communities*</li> <li>Mussels</li> <li>Pink salmon</li> <li>Sediments</li> <li>Sockeye salmon</li> <li>Subtidal communities</li> </ul> <p><small>*Status of intertidal communities based largely on monitoring in sheltered rocky habitats in Prince William Sound; status of other intertidal habitats is less certain or unknown, though some recovery can be anticipated.</small></p>	<p><b>RECOVERY UNKNOWN</b></p> <ul style="list-style-type: none"> <li>Black oystercatchers</li> <li>Clams</li> <li>Common loons</li> <li>Cutthroat trout</li> <li>Designated wilderness areas</li> <li>Dolly Varden</li> <li>Kittlitz's murrelets</li> <li>River otters</li> <li>Rockfish</li> </ul>	
		<p><b>LOST OR REDUCED SERVICES</b></p> <ul style="list-style-type: none"> <li>Commercial fishing</li> <li>Passive uses</li> <li>Recreation &amp; Tourism (including sportfishing, sport hunting, and other recreation uses)</li> <li>Subsistence</li> </ul>

*Exxon Valdez* oil penetrated deeply into cobble and boulder beaches and the underlying sediments that are common on shorelines throughout the spill area. Some of that oil remains, especially in sheltered habitats and underneath rocks. The oil that remains is relatively stable. In 1995, a shoreline survey team visited previously oiled sites in the Kodiak Archipelago and found no oil or only trace amounts.

The Trustees approved a \$1.9 million cleanup plan in the Chenega area of western Prince William Sound in an effort to boost local confidence in subsistence and recreational use of the tidelands. The cleanup of residual oil was requested by local residents even though technical experts do not consider the residual oil to be an ecological risk.

A 1993 shoreline survey of Prince William Sound identified 225 locations with residual surface oiling, asphalt or mousse. The Chenega-area cleanup, scheduled to take place in the summer of 1997, will target surface oil found at eight key sites on Latouche, Evans and Elrington islands. These sites are on beaches where residents gather food from the rich tidelands.

## HUMAN RESOURCES AND SERVICES

Injuries caused by the oil spill go well beyond the birds, fish, mammals and pristine shoreline coated with North Slope crude. The human impact is also recognized by the Trustee Council. Archaeological sites were looted, subsistence severely curtailed, commercial fishing shut down for a season followed by years of disruption, recreational use limited and, for many, the mystique of unspoiled water and lands forever tainted.

### ARCHAEOLOGY

It's estimated that there are more than 3,000 significant archaeological sites in the oil spill region. During the early days of the cleanup, with thousands of people working at remote beaches, many archaeological sites were discovered and 24 sites on public land were looted or vandalized. Artifacts were stolen, burial sites violated and valuable historical evidence of North America's earliest human inhabitants destroyed.

The destruction of archaeological sites is a loss of history that cannot be restored or renewed. The Trustee Council funded in 1996 a project to organize local residents to monitor nearby archaeological sites and therefore avoid further loss. Vandalism persists but no new sites were seriously vandalized in 1996.

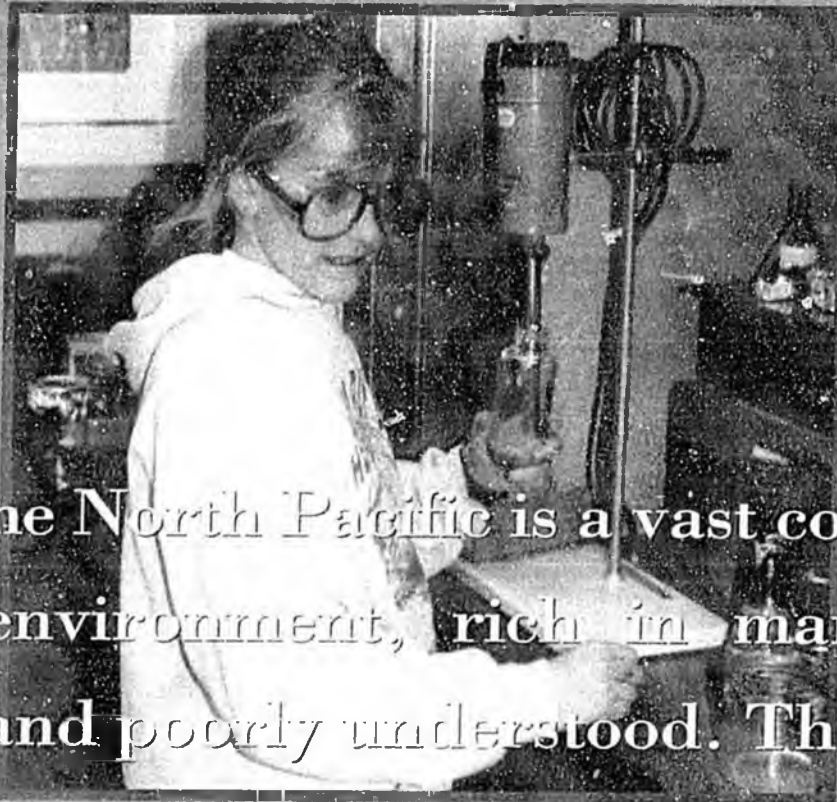
In addition, a project is underway to explore options with communities in Prince William Sound and lower Cook Inlet which have expressed an interest in developing facilities for storage and display of artifacts. This project would also help communities develop educational programs with the goal of long-term protection of the resources.

The Alutiiq Archaeological Repository in Kodiak, constructed in part with Trustee Council funds, currently serves these purposes for the Kodiak Island communities.

Local residents have been organized to monitor archaeological sites, such as this excavated site in the Kodiak region. Though vandalism continues to be a concern, no sites have been vandalized since 1991.



# RESEARCH • MONITORING RESTORATION



The Youth Area Watch puts students in the field and in the laboratory to take part in restoration projects in their own back yard. Stacy Evanoft, a student from Caecena Bay, helps determine pristane content from blue mussels collected in Prince William Sound.

**T**he North Pacific is a vast cold-water environment, rich in marine life and poorly understood. The lack of good scientific data turned out to be a severe handicap in understanding the full impact of the *Exxon Valdez* oil spill.

However, with funding from the Trustee Council, scientists are taking a giant leap forward in their understanding of the intricate North Pacific ecosystem.

The Trustee Council has funded hundreds of scientific projects throughout the spill region to help protect our marine life, provide better fisheries management and allow for sustained use of our resources for generations to come.

*Exxon Valdez* oil spill research and monitoring has opened a world of scientific knowledge once thought unachievable due to funding cutbacks and constraints. Fisheries managers have commented that our knowledge of local fisheries has advanced 25 years during the last five years of intensive research.

## RECREATION

Recreational users are benefiting from restoration projects in several ways. Habitat protection opens up land previously off limits to campers, hunters, sport fishers, and wildlife viewers while at the same time protecting the health of fish, bird and marine mammal populations. For example, purchase was completed in 1996 of a prime 220-acre Cook Inlet bluff parcel just north of Homer, which is expected to be developed into a much needed state-run campground and recreational site. Likewise, a newly acquired 64-acre site on Grouse Lake north of Seward is expected to be developed into a U.S. Forest Service campground.

In addition, funds from Exxon's criminal settlement with the state are being used to build campgrounds, cabins, trails, bridges, buoys, food caches, toilets, fire rings, docks and interpretive signs.

## COMMERCIAL FISHING

Many research and monitoring projects are geared toward improving the health of commercial fish species and providing the tools for better fisheries management. State fisheries biologists are using genetic coding to determine exactly to which systems sockeye salmon are returning, allowing better in-season decisions concerning fisheries management.


Also during 1996, salmon streams were enhanced, sockeye salmon lakes fertilized, fish ladders built, rivers cleaned of debris and deepened, overescapement analyzed, hatchery salmon tagged through otolith mass marking, and the health of Prince William Sound herring studied by several means. Research on disease affecting herring has led to new management techniques affecting the herring pound fishery. In addition, hundreds of miles of salmon spawning and rearing habitat have been protected through the Council's habitat protection program 



photo by Rob Schenk

Commercially important fish species, such as herring, sockeye and pink salmon, are the focal point of several projects funded by the Trustee Council. Stronger runs and better fisheries management are the goals.

salmon and herring populations, including the availability of food for juveniles resulting from physical factors such as tidal currents, salinity and water temperature, and the predation on juveniles by other species.

Studies have helped create a better picture of fish movements within Prince William Sound. For example, researchers discovered for the first time the locations where juvenile herring overwinter, allowing a close look at winter survival. Computer modeling has helped scientists understand how ocean currents affect the availability of plankton for pink salmon and herring fry.

## APEX

The Alaska Predator Ecosystem Experiment, a six-year project that began in 1995, concentrates on the productivity of seabirds based on the availability of forage fish as a food source. Several bird species, including pigeon guillemots, common murre and black-legged kittiwakes, are being studied as key indicators of ecosystem health.

This project is designed to identify changes that are occurring in the Gulf of Alaska and explain how those changes are affecting seabirds. Field work with seabirds suggests that reproductive success and population trends are more favorable with a high-fat diet of species such as capelin, sand lance and herring, than with recent diets of low-fat walleye pollock. The population of black-legged kittiwakes in an area of stable high-fat prey did not decline, in contrast to other populations that had less fat in their diets. Captive rearing experiments involving nestling black-legged kittiwakes and tufted puffins confirmed a slower rate of growth for birds fed pollock compared to those fed sand lance and capelin.

As part of the Alaska Predator Ecosystem Experiment (APEX), sonar is used to determine locations of schools of fish during different times of the year. Ken Coyle, a researcher with the Institute of Marine Science at the University of Alaska-Fairbanks, readies the sonar for deployment.



photo by William Gibbard

The APEX project concentrates on the recovery of seabirds and the availability of small fish for their food. Teresa Sauer, a U.S. Fish and Wildlife Service biological technician, climbs the cliffs of a black-legged kittiwake colony to capture nestlings.



photo by Ken Coyle

Analysis of historical data shows an abrupt change in relative abundance of forage fish in the late 1970s and early 1980s, with pollock and bottom fish replacing the more nutritious capelin, shrimp and sand lance. Together, these findings support the theory that a reduction in fat-rich forage fish species may have contributed to pre-spill declines and lack of recovery of seabirds, including pigeon guillemots and marbled murrelets. Continuing field work suggests that the abundance of several forage fish species may be recovering.

Through genetic mapping, scientists have learned to accurately identify to which rivers wild salmon are returning so that commercial fisheries can be better regulated to protect injured wild stocks. With restoration funding, managers have developed a way to mark hatchery salmon *en masse*, doing away with the painstaking process of marking tiny salmon fry one by one. Through intensive research, scientists have identified the virus suspected of causing the herring crash in Prince William Sound during recent years and they are continuing to study factors which might have helped spread the disease.

## RESEARCH & MONITORING

The challenge to scientists is to look at the spill region as a single ecosystem, taking into account the complex interrelationships among species as well as oceanic and other physical factors. To accomplish this, the Trustee Council is providing long-term funding for three major projects that explore the natural dynamics of the North Pacific. They are known by their acronyms: NVP, SEA and APEX.

### NVP

The Nearshore Vertebrate Predator project began in 1995, using four indicator species to study recovery factors on land and in shallow waters along the shore. The project focuses on two fish eaters — river otters and pigeon guillemots — and two species which feed on shellfish — harlequin ducks and sea otters.

Nearshore areas were the hardest hit by *Exxon Valdez* oil, which clung to the beaches and polluted the waters on each succeeding high tide. Not surprisingly, species commonly found in nearshore waters suffered severe losses during the spill. Pigeon guillemots, harlequin ducks and sea otters continue to be listed as not having recovered from the effects of the spill. Though the population of river otters is thought to be low, not enough is known about them to determine their recovery status.

Researchers are looking at nutrition, health indicators and population factors which affect these predators and their prey. Studies of such invertebrates as sea urchins, mussels and clams, and such nearshore fish as sand lance, help determine how the health and abundance of prey affects the recovery of their predators.

### SEA

The Sound Ecosystem Assessment project was initiated in 1994 to understand the dynamics influencing pink salmon and Pacific herring productivity in Prince William Sound. Local populations of both species are highly variable. The herring population crashed in 1993, leading to immediate cancellation of the commercial roe fishery until its reinstatement scheduled for spring 1997.

Scientists believe a complicated web of factors could be involved in the productivity of pink salmon and herring. They designed SEA to consider oceanic conditions, availability of food, and predation. Scientists are seeking an ecosystem-level understanding of the factors controlling pink

George Esslinger and Dana Bruden take measurements and blood samples from a sea otter as part of the Nearshore Vertebrate Predator study. The sea otter is tested for hydrocarbon exposure, tagged and released.



## RESTORATION WORKSHOP

The Annual Restoration Workshop, held January 23-25, 1997, brought together principal investigators on Trustee Council projects, associated scientists, resource managers, peer reviewers, community involvement facilitators, staff and other interested parties for three days to share data gathered and analyses done during the last year.

Dr. Kai N. Lee, author of Compass and Gyroscope: Integrating Science and Politics for the Environment, was keynote speaker, emphasizing the ecosystem approach to research and resource management and urging the Trustee Council to consider the human element as an integral part of the ecosystem. Lee is director of the Center for Environmental Studies at Williams College in Massachusetts.

## SCIENCE HIGHLIGHTS

### HERRING POUND

Samples from Puget Sound, Washington, and Craig, Alaska, have shown that a significant number of Pacific herring held in pens begin showing signs of the same virus (VHSV) associated with the 1993 collapse of the herring fishery in Prince William Sound. The study simulated the spawn-on-kelp pound fishery in which tons of herring are trapped in pens to spawn on a limited supply of kelp.

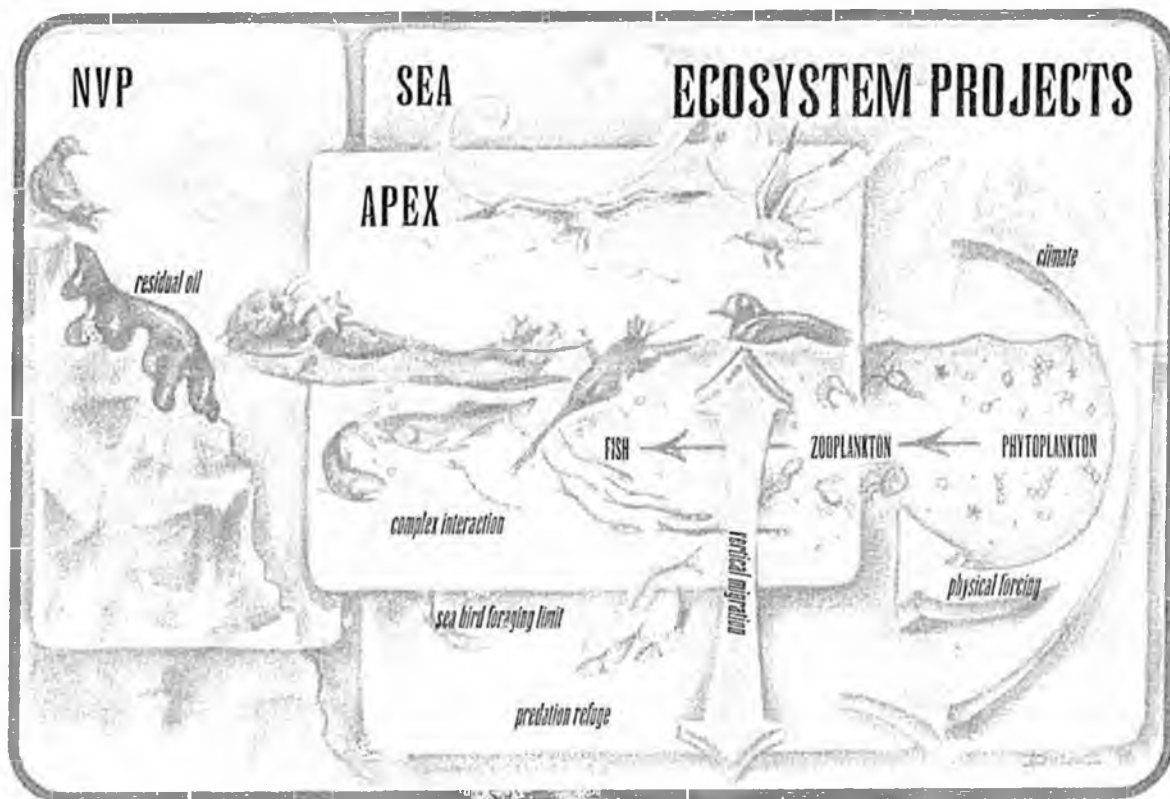
Stress is considered one possible factor in the emergence of the virus. One Council-funded study showed that within 48 hours of capture 15-20 percent of the herring were shedding significant amounts of virus into the water. Researchers believe that such a high prevalence of VHSV in herring could be a serious threat to the fishery.

As a result, fishery managers in Prince William Sound are encouraging herring pounders to switch to open ponding, which allows the herring to swim in and out of the pound at will. Pounders choosing this option will be permitted to use about one-third more kelp than those using closed pounds. In addition, researchers are planning to study the herring from closed pounds for signs of stress.

### FORAGE FISH

Black-legged kittiwakes and tufted puffins raised in captivity show how diets of high-quality forage fish offer seabirds better growth rates when compared to diets of low-quality fish such as walleye pollock. This research supports the theory that a reduction in fat-rich capelin, sand lance, and herring may have contributed to pre-spill declines and the lack of recovery of some seabirds, including pigeon guillemots and marbled murrelets. Capelin and sand lance are considered rich in fats and therefore highly nutritious, while juvenile pollock represent the forage fish equivalent of junk food.

Tests showed that the fat content of sand lance and capelin is 2-3 times higher than that of pollock. The nestling seabirds had to be fed much more pollock to equal the same caloric intake as a diet of capelin. Differences in body mass gain suggest that nestlings raised on pollock may go to sea with inadequate energy reserves and that adults must expend more energy and catch more prey to meet the energy requirements of their offspring.



Each of the Trustee Council's major ecosystem projects—Nearshore Vertebrate Predator, APEX, and Sound Ecosystem Assessment—complements the others and provides unique information about recovery of the marine ecosystems in the spill area.

## FORAGE FISH SYMPOSIUM

The Trustee Council was a co-sponsor of the International Forage Fish Symposium in November 1996. This symposium brought scientists from around the world to Anchorage to share new information about forage fish, their predators and their food sources.

Since forage fish are the food staple for most of the fish, seabirds and marine mammals injured in the oil spill, the symposium provided Alaska scientists with the opportunity to highlight their research and get a broad picture of other marine ecosystems from other top scientists in their field.

## PROCEEDINGS OF THE EXXON VALDEZ OIL SPILL SYMPOSIUM

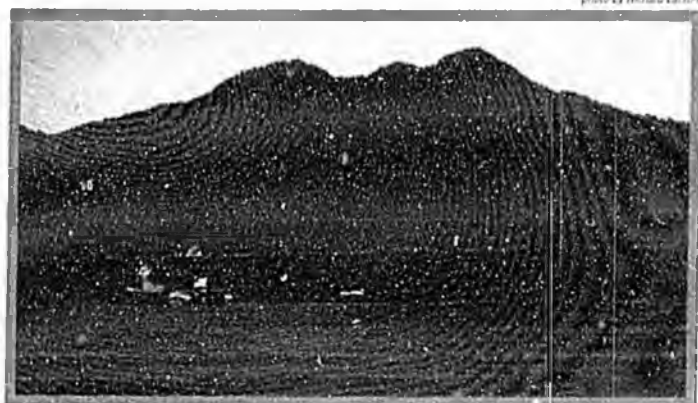
A new book describing the injuries caused by the *Exxon Valdez* oil spill was released in October 1996 providing the most comprehensive collection of Trustee-funded scientific papers published to date.

The Proceedings of the Exxon Valdez Oil Spill Symposium contains 61 scientific papers originally presented at a 1993 symposium organized by the Trustee Council. The volume contains 996 pages and was edited by Stanley (Jeep) Rice, program manager for Habitat Division, Auke Bay Fisheries Laboratory; Robert Spies, chief scientist for the Trustee Council; Bruce Wright, program manager for the Office of Oil Spill Damage Assessment and Restoration at Auke Bay; and D.A. Wolfe, NOAA Office of Ocean Resources Conservation and Assessment.

More than 150 investigators contributed to the book and another 100 peer reviewers evaluated the papers, making it a significant record of scientific effort to determine the extent of the injuries caused by the spill.

The book can be purchased by contacting the American Fisheries Society, Publication Fulfillment, P.O. Box 1020, Sewickley, PA 15143, phone: (412) 741-5700, fax: (412) 741-0609. The cost is \$35 for the book plus \$4 for shipping inside the U.S. or \$6 for shipping outside of the U.S.

Researchers get close to photograph killer whales near Knight Island. Individual whales are identified by unique characteristics on their dorsal fins.



Gulf of Alaska. Transients travel in and out of the sound and are known to prey on marine mammals, while residents usually prey on fish. The contaminant levels could represent a classic case of bio-magnification. In other words, calves had especially high levels of contaminants, indicating that contaminants

are being passed from mother to offspring. Concentrations of chlorobiphenyls and chlorinated pesticides varied depending on age, sex and reproductive status.

In addition, researchers were able to show during 1996 that transient whales and resident whales are genetically different.

### HARLEQUIN DUCKS

After placing transmitters on nearly 200 harlequin ducks, researchers were able to determine that winter survival for adult females differed significantly when comparing oiled to unoiled areas. Research during the winter of '95-'96 showed that 94 percent of the females survived in unoiled areas compared to 77 percent survival in oiled areas of Prince William Sound. Over time, in the absence of immigration, this could result in significant reduction of harlequin ducks in western Prince William Sound.

Blood chemistry and other indicators of health were similar at oiled and unoiled sites and oil exposure does not appear to be occurring during the molt. Researchers are also studying the effects of habitat, food abundance, and oiling history on harlequin duck distribution and density during winter.

### SOLF LAKE

Researchers determined in 1996 that Solf Lake in Herring Bay on Knight Island has the zooplankton biomass to support a population of sockeye salmon. Stocking of this lake, which currently is used only by resident Dolly Varden, is scheduled to begin in 1998. This project is designed to benefit subsistence users, particularly the residents of Chenega Bay. Habitat improvements to the lake's outlet were made nearly 20 years ago to provide access for anadromous fish, but the lake itself was not stocked. Based on available spawning area, it's estimated the lake can sustain a run of approximately 10,000 sockeye. About 4,500 sockeye would be required to fully seed the system each year, leaving a harvest of 5,500 for local subsistence users.

### FISH ENERGETICS

Starvation may be a key factor for young herring trying to survive their first winter. Researchers have determined that juvenile herring fast through the winter, requiring large energy reserves going into the winter months. The availability in late summer and fall of food to prepare for the fast could limit survival of new herring. Researchers are raising herring in captivity to better quantify the energy needed to survive the winter fast. This is being compared to periodic sampling to determine the nutritional status of fish in nature.

## PINK SALMON OIL INJURIES

Elevated embryo mortalities were observed for pink salmon embryos originating from oil-contaminated streams during the first five years following the oil spill. No statistical differences



Pink Salmon in Prince William Sound appear to be recovering from the effects of the spill. Mortalities in pink salmon embryos have returned to normal for three successive years, following five years of elevated mortalities.

have been observed since 1994. Data suggest that the elevated mortalities observed in 1989 and 1990 were due to direct exposure of oil while those observed in 1991-1993 may have been caused by a combination of continued oil exposure and genetic or physiological effects from the parents. Lack of a significant difference in 1994, 1995, and 1996 between oil contaminated and non-oiled streams demonstrates recovery is underway in wild pink salmon populations.

## PRISTANE

A naturally-occurring hydrocarbon may one day help fisheries managers predict the health of the annual pink salmon return to Prince William Sound. The hydrocarbon, known as pristane, is produced by *Neocalanus* copepods, a favorite food of emerging salmon fry. The pristane passes through the salmon and settles as fecal material on mussel beds. By testing the level of pristane in mussels, researchers believe they can determine whether the pink salmon fry had enough food to improve their chances of survival. This theory will be tested when pinks return to spawn in 1997. The "pristane production index" for 1996 was down by one-third from 1995, suggesting a lower return of pink salmon in 1997. Chugach School District students participating in the Council-funded Youth Area Watch got hands-on experience collecting and analyzing samples for this project.

## PORT DICK CREEK RESTORATION

Port Dick Creek, located on the southern shore of the Kenai Peninsula approximately 25 miles from Homer, historically was a strong producer of pink and chum salmon. Uplift from the 1964 earthquake reduced the depth of the water and limited the amount of spawning habitat. After four years of studying water levels, the stream was excavated in 1996 using heavy equipment barged to the site. More than 3,000 cubic yards of material were removed to establish a stable water source and create additional spawning habitat. During its first year 572 pinks and 300 chum salmon entered the newly opened tributaries and spawned, generating a projected contribution of more than 11,600 adults beginning in 1998. Dolly Varden and juvenile coho also have been observed using the new habitat. Port Dick was exposed to moderate to heavy oiling during the *Exxon Valdez* spill.

## KILLER WHALES

Analysis of blubber taken from killer whales has shown that transient whales have contaminant levels more than 10 times higher than resident killer whales of Prince William Sound and the

# H A B I T A T P R O T E C T I O N



Photo by Richard Carlson



Lagoons such as this one in Eshamy Bay are used by river otters, pink salmon, sea otters and a variety of seabirds injured by the spill.

**H**abitat protection is one of the principal tools of restoration and an essential means of ensuring continued recovery in the

spill area. It is strongly supported by residents of the spill area as well as other individuals throughout Alaska and the nation.

The Trustee Council has underway two habitat protection programs, one to purchase and protect large parcels of land in excess of 1,000 acres and another to acquire smaller parcels, strategically chosen for their restoration value. These programs not only protect habitat for salmon, birds and marine mammals, they also protect subsistence and commercial fishing uses while making land available for recreational use by the public.

## OTHER PROGRAM HIGHLIGHTS

### YOUTH AREA WATCH

Youth Area Watch is an innovative teaching program which takes students from several spill area communities and gets them working side-by-side with research scientists in the field. Biology, oceanography and restoration are no longer abstract classroom concepts when students become involved in hands-on science in their own backyards. Students learn techniques through field observations, gathering data and participation in laboratory analysis. The Chugach School District project, funded by the Trustee Council, is in its second year.



photo by M.J. Hwang

Students from Chugach School District learn in the laboratory and in the field. As part of the Youth Area Watch, Michael Paulsen and Stacy Evanoft of Cheney Bay, and Even Evanson, of Ninchenbruk Island, analyze the pristine content of blue mussels.

### ALASKA SEALIFE CENTER




Construction is continuing on the Alaska Sealife Center in Seward, which will provide much needed marine research facilities to support restoration work in the spill region. The Trustee Council contributed \$25 million toward construction of the facility, scheduled to open in spring of 1998. The Council also dedicated funds during 1996 for construction of a fish pass designed to enhance fisheries research by allowing fish to swim directly into the facility.

The Sealife Center will include public education components, marine life interpretive programs and full research laboratories. The center will provide technologically advanced facilities not previously available in Alaska for research on marine mammals, fish and seabirds. John Hendricks, former director of the Texas State Aquarium, was named as the center's first executive director.

### MARINE POLLUTION

Marine pollution can add to the stress factors affecting the recovery of injured species. In an effort to reduce pollutants entering Prince William Sound and the Gulf of Alaska, the Trustees are funding two programs to stop marine pollution at its source.

The Sound Waste Management Program and its sibling, the Kodiak Waste Management Program, are designed to reduce chronic sources of marine pollution by providing facilities and services to properly dispose of used oil, household hazardous waste and recyclables. These continuous waste streams are affecting fish, wildlife and human services injured by the spill.

The programs are using a regional approach, coordinating efforts among communities for temporary storage and then transfer of waste for proper disposal. The Prince William Sound program will receive \$1.2 million during FY97 to implement its plan. Another \$267,000 will go toward creating a similar waste management plan for Kodiak communities 

## LARGE PARCEL PROGRAM



Protecting marine forests maintains habitat for marbled murrelets, harlequin ducks and river otters.

During 1996, agreements were successfully negotiated with two major landowners in Prince William Sound to protect nearly 130,000 acres in the heart of the spill area. Both agreements illustrate the Council's creative approach to protecting habitat while also ensuring that the long-term needs of area residents are addressed.

The Chenega Corporation sold interests in 59,520 acres in western Prince William Sound for a total of \$34 million (including \$10 million from federal criminal settlement funds). Included in this purchase are Jackpot Bay and Eshamy Bay, two parcels with exceptional restoration values that are among the highest-ranked parcels in the entire spill area. These bays have important value for sockeye salmon production, harbor seals, harlequin ducks, marbled murrelets, pigeon guillemots and sea otters as well as being especially significant for subsistence, recreation, and commercial fishing. In the agreement, the corporation retains the land surrounding the existing community of Chenega Bay, the old village site of Chenega (destroyed during the 1964 earthquake) and a number of smaller development sites. The Chenega Corporation shareholders approved the agreement in December 1996 with 81 percent of the shareholders endorsing the purchase.

In northeastern Prince William Sound, the Tatitlek Corporation has offered to sell interests in approximately 68,900 acres of land at a total cost of approximately \$35 million (\$10 million would come from federal criminal settlement funds). The Tatitlek habitat protection proposal includes a conservation easement covering Bligh Island, the closest point of land to the reef where the *Exxon Valdez* ran aground. Bligh Island is considered valuable for subsistence use and for the long-term recovery of Pacific herring, black oystercatchers, harlequin ducks, pigeon guillemots, river otters, and intertidal resources. The protection package must be approved by two-thirds of Tatitlek Corporation shareholders.

The public can now hunt, fish, hike and camp on lands purchased as part of the Trustee Council's habitat protection programs.



Photo by Richard Larson

Secretary of Agriculture Dan Glickman signs documents for the transfer of Chenega Corporation lands to the U.S. Forest Service and the State of Alaska while Governor Tony Knowles, left, and Chenega Corporation President Chuck Totemoff look on.



photo courtesy U.S. Dept. of Agriculture

On the southern Kenai Peninsula, an agreement was reached with English Bay Corporation to protect 32,470 acres inside the boundaries of the Kenai Fjords National Park for a purchase price of \$14.1 million. The English Bay property is scattered throughout several of the deep water fjords of the park. The marine waters are home to harbor seals, sea otters and killer whales and the upland habitat supports harlequin ducks, Kittlitz's and marbled murrelets, pigeon guillemots and black oystercatchers. Pink salmon spawn in area streams and herring spawn along the coastline.

With the purchase of the Chenega lands in Prince William Sound, more than 420,000 acres have been protected under the large parcel program. Much of this land is in the Kodiak region with a number of agreements completed within the Kodiak National Wildlife Refuge. In addition to safeguarding the biological resources and human uses on these lands, Kodiak Island Borough residents received an added benefit this year in the form of a payment from the Department of the Interior in lieu of taxes on the 109,000 acres that have been added to the Kodiak National Wildlife Refuge. Federal law requires payments when the federal government acquires land from private sources. Annual federal payments will be made in the future, providing economic assistance to borough residents in addition to the benefit of having important habitat protected for public use.

Other large parcel protection efforts are still in progress. Discussions continue with several major landowners including Port Graham Corporation regarding 46,170 acres located within the Kenai Fjords National Park; Afognak Joint Venture concerning 112,827 acres on Afognak Island; Eyak Corporation for 72,000 acres in eastern Prince William Sound; and Koniag Corporation concerning fee title purchase of 57,082 acres of land on Kodiak Island that is currently protected under a limited term conservation easement.

Kenai Fjords National Park is expected to increase by about 30,000 acres with the agreement to acquire private inholdings. The park is popular with kayakers and boaters of all types.

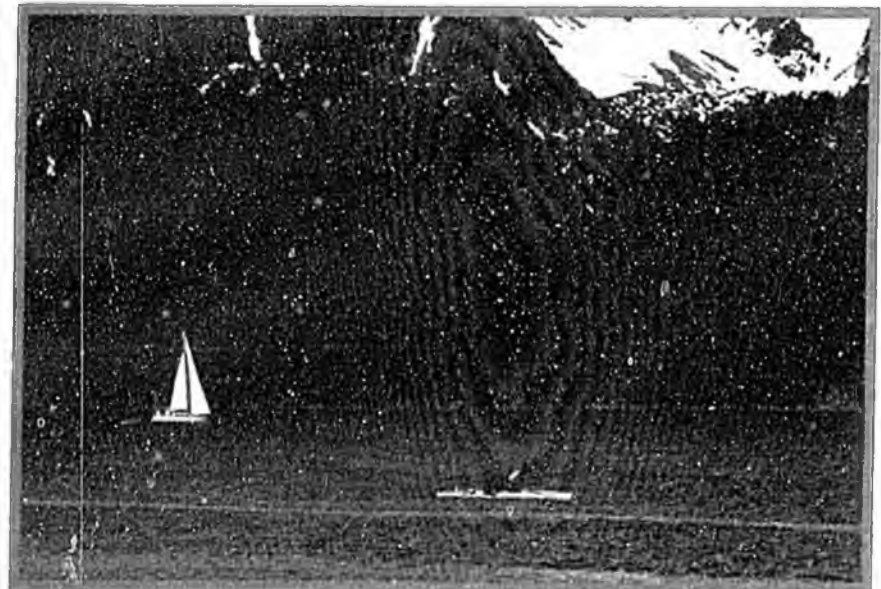


photo by Rick Ort 1/87/90

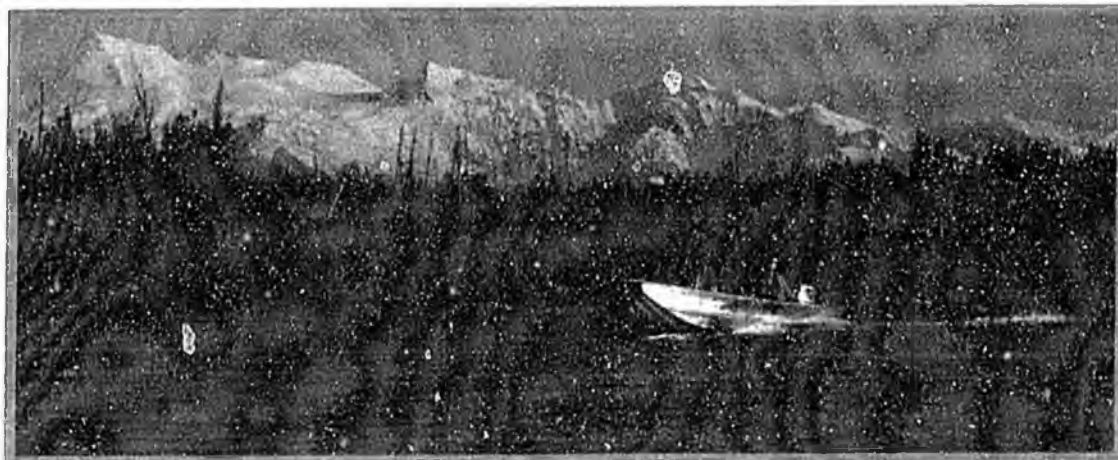


photo by Al Grillo


Habitat along the Kenai River banks, vital for rearing sock-eye and chinook salmon, is being protected through the Small Parcel Program. Several of the 18 small parcels acquired during 1996 were on the Kenai river.

## SMALL PARCEL PROGRAM

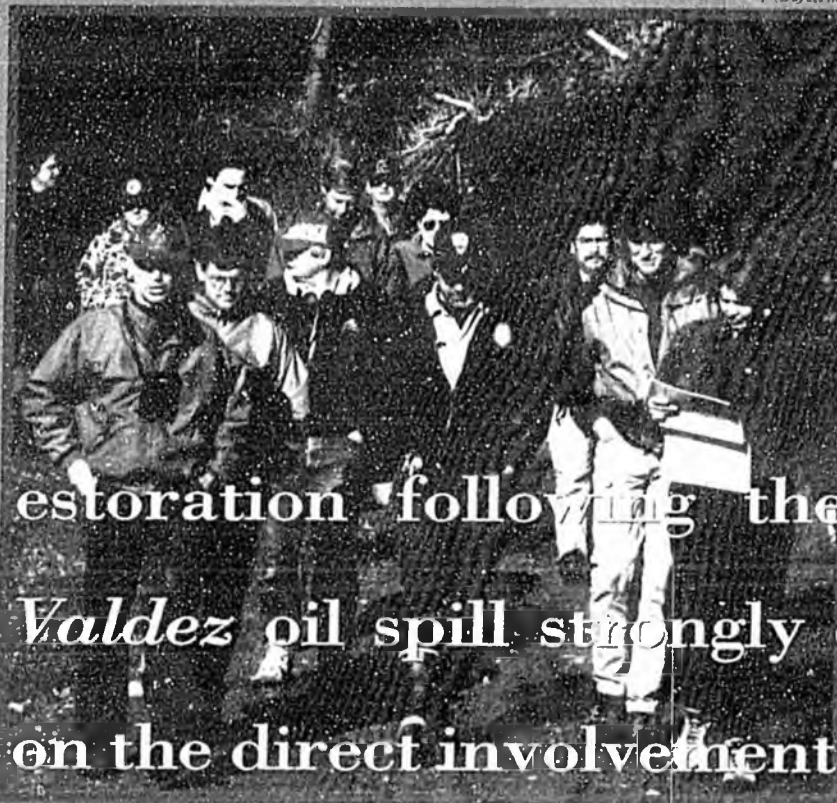
The small parcel program recognizes the unique habitat qualities and strategic restoration value that small tracts of land can provide. Since its inception in 1994, the public has nominated more than three hundred small parcels for consideration by the Trustee Council. Each parcel is evaluated in terms of the restoration benefits that would be provided by purchase of the parcel. This includes consideration of habitat values as well as the importance of public uses such as recreation and subsistence activities.

During 1996, the Trustee Council completed acquisition of 18 small parcels totaling 2,357 acres. Offers have been made and accepted on 12 other parcels totaling 996 acres, and another seven small parcel offers are under review.

Much of the focus of the small parcel program has been on the Kenai River, where the state, federal and local governments are working together with private landowners, commercial fishing groups and sport fishing interests to protect this heavily used river from being "loved to death." These acquisitions include lands that will become part of the Kenai National Wildlife Refuge or else managed by the state for habitat and recreation.

In addition to the Kenai lands, several private inholdings within the Kodiak National Wildlife Refuge have been protected through the small parcel program. These lands provide key public access to popular hunting and fishing areas in the refuge. Near Seward, the Trustee Council has funded the purchase (by the Chugach National Forest) of 61 acres of road-accessible lakefront property for use as a public campground and recreation site. In addition, another 19-acre parcel of land near Seward has been purchased by the Alaska Department of Natural Resources to provide public access for beach combing and boat launching at Lowell Point and to secure permanent access to a hiking trail along the coast to Gaines Head State Park 

P U B L I C  
P A R T I C I P A T I O N



Members of the Public Advisory Group tour a small parcel with rare beach access located on the bluffs north of Homer. The PAG toured the parcel as part of meetings held in Homer, Seldovia and Port Graham.

**R**estoration following the *Exxon Valdez* oil spill strongly depends on the direct involvement of those people with the closest ties to Prince William Sound, the Gulf of Alaska and lower Cook Inlet.

The *Exxon Valdez* Oil Spill Trustee Council recognized early on that successful restoration requires the balanced views of Alaska Natives, commercial fishing families, recreational users, private landowners, business owners and many others. These include the forest products industry, local government, state legislators, environmentalists, land managers and scientists. In fact, the court settlement with Exxon specifically requires "meaningful public participation in the restoration process."

The Trustee Council seeks information and advice from a variety of groups, each with its special expertise about the spill area and its inhabitants. The 17-member Public Advisory Group, the village-based Community Involvement Project and a host of other public outreach and education efforts are key elements in the process of restoring the resources and services.

These groups provide advice to the Restoration Office staff and to the Trustees. They also return to their communities and constituencies with up-to-date information about the restoration process, priorities and accomplishments.

## PUBLIC ADVISORY GROUP

The Public Advisory Group, commonly known as the PAG, brings together 17 Alaskans who represent the users of the spill area and others interested in the restoration process. The PAG includes five public-at-large members and one member each representing the following interests:

- |                         |                      |
|-------------------------|----------------------|
| • Aquaculture           | • Commercial fishing |
| • Conservation          | • Environment        |
| • Forest products       | • Local government   |
| • Native landowners     | • Recreation users   |
| • Sport hunting/fishing | • Subsistence        |
| • Science/academia      | • Tourism            |

In addition, two ex-officio members are appointed to represent the Alaska House and Senate.

The PAG provides advice on key decisions relating to planning, funding and carrying out restoration projects. Its members review specific issues as well as make recommendations concerning the overall direction of the restoration effort. The PAG process provides a direct link between the Council and user groups throughout the spill area.

## COMMUNITY INVOLVEMENT

Fifteen predominantly Native villages in the spill area rely heavily on subsistence resources such as fish, shellfish, seals and ducks, many of which were injured by the spill.

The Trustee Council is making a special effort to listen to the concerns of subsistence users and closely involve them in the restoration process. Through its Community Involvement Project, the Council funds a local facilitator in each of 10 spill-area communities to serve as a liaison between the community, the Trustee Council, the Restoration Office staff and the scientists conducting restoration projects. In addition, a community involvement coordinator works in the Restoration Office in Anchorage to facilitate two-way communication.

The project is administered through a contract with Chugach Regional Resources Commission and includes local facilitators for Chenega Bay, the Alaska Peninsula, Cordova, Kodiak Island, Nanwalek, Port Graham, Seldovia, Seward, Tatitlek and Valdez.

In addition to all the other research involving subsistence resources such as herring, salmon and harbor seals, the Trustee Council funded 15 subsistence projects in FY '97. These projects are specifically designed to improve subsistence harvests for local residents, including enhancement of salmon streams near the villages; experimental "seeding" of clams on suitable beach sites; and cleaning residual oil from select subsistence harvest areas. In addition, another project seeks to integrate traditional knowledge about the coastal environment into the restoration effort.

Virginia Aleck of Chignik Lake and Walter Mejanack, Jr., of Port Graham listen to a report presented by Lora Johnson of Chugachmint during a meeting of Community Involvement Facilitators. This program helps keep spill area communities informed and involved in Trustee Council activities.



Photo by Joe Hart

## GENERAL PUBLIC

Direct public input remains a key part of the Trustee Council process. Every meeting of the Trustee Council or the Public Advisory Group includes an open forum for any citizen to address Council activities. Residents of far-flung spill communities are encouraged to participate via teleconference. The Trustee Council, members of the PAG and Restoration Office staff held meetings in a number of communities during 1996, including Kodiak, all the Kodiak Island villages, Homer, Seldovia and Port Graham.

The annual Work Plan, which establishes the projects to be funded each year, is made available to the public in draft form to allow written comments or testimony before the PAG and the Trustee Council. In addition, all annual and final reports on Council-funded projects are available through the Oil Spill Public Information Center.

### PUBLIC OUTREACH

The Trustee Council has undertaken a number of new projects in 1996 in an effort to get better information to the public. The radio series "Alaska Coastal Currents," designed to explain Council-funded science and other projects to the public, was introduced in March 1996. Produced by Alaska Public Radio Network and reported by Jody Seitz, the series has proven itself to be an insightful way to spread the difficult-to-explain news of Alaska marine science. Its success has led to many spin-offs to increase exposure for the series. During 1997 it also will be produced as a weekly newspaper column and created as a self-standing kiosk-style computer display. It may also be added to the web site to provide world-wide access and produced on CD-ROM for use by schools.

The Trustee Council's homepage on the World Wide Web continues to expand in size and usage. The homepage is maintained by the Oil Spill Public Information Center (OSPIC) at <http://www.alaska.net/~ospic>. In it can be found the status of injury and recovery, restoration activities, background information on the spill, and a variety of other information, including the text to this annual report.

A comprehensive look at results from scientific studies is being prepared in a volume of semi-technical papers written by scientists, and edited, designed and printed by the Restoration Office. Known as the Restoration Notebook series, these papers will be a valuable resource for students and others who want to learn about the species injured by the oil spill. Harbor seals, for instance, have a 20-year history of declining populations. The Restoration Notebook documents the research being done to explain the decline, including several innovative research techniques helping to answer questions about harbor seal diet, reproduction and movements.

### RESTORATION RESERVE

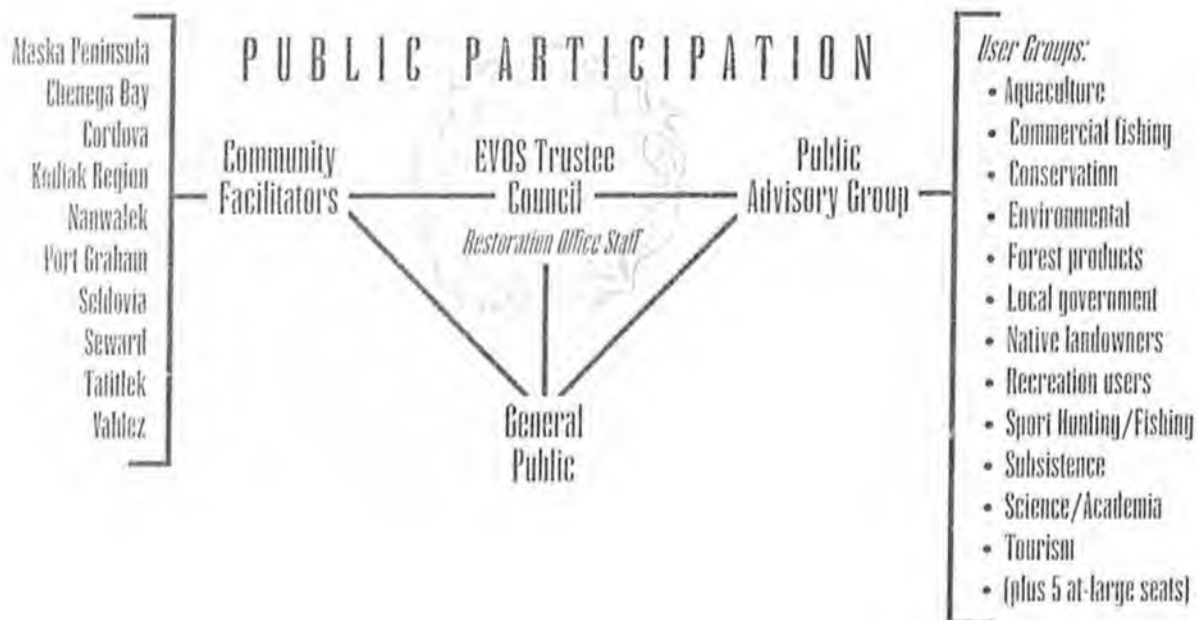
Since 1994, the Trustee Council has been setting aside \$12 million a year to establish a reserve account for future restoration activities. The Council anticipates placing a total of \$108 million into the account by the time Exxon makes its final payment in September 2001, plus accumulated interest.

The Trustee Council has made no decision about the long-term management or use of the Restoration Reserve. Meetings are being scheduled during 1997 and 1998 with interested groups to generate ideas on how to best use the fund. The Council expects to make a decision before the end of 1998.



photo by Jim Hight

Both Carlson, of Eagle River, testifies in support of inholdings in Kenai Fjords National Park acquisition while Trustees Deborah Williams, Special Assistant to the Secretary, Department of the Interior, and Assistant Attorney General Craig Tillery listen.



# PAST AND ESTIMATED FUTURE USES OF CIVIL SETTLEMENT

(in millions of dollars)

<b>REIMBURSEMENTS FOR DAMAGE AND RESPONSE</b>	<b>213.1</b>
Governments (includes litigation and cleanup)	173.2 (a)
Exxon (for cleanup after 1/1/92)	39.9
<b>RESEARCH, MONITORING AND GENERAL RESTORATION</b>	<b>180.0</b>
Actual expenditures:	
• FY 1992 Work Plan	12.1
• FY 1993 Work Plan	7.4 (b)
• FY 1994 Work Plan	14.6
• FY 1995 Work Plan	17.2
• FY 1996 Work Plan	17.7
• FY 1997 Work Plan (authorized)	16.2
FY 1998 - FY 2002 Work Plans (estimate)	64.5
Alutiq Museum	1.5
Alaska SeaLife Center	25.5
Reduction of Marine Pollution	3.0
<b>HABITAT PROTECTION</b>	<b>336.3</b>
Large Parcel and Small Parcel habitat protection programs (past expenditures, outstanding offers, estimated future commitments and parcel evaluation costs)	
<b>RESTORATION RESERVE</b>	<b>103.0</b>
• FY 1991 — FY 1997	43.0
• FY 1998 — FY 2002 (anticipated)	60.0
<b>PUBLIC INFORMATION, SCIENCE MANAGEMENT &amp; ADMINISTRATION</b>	<b>30.9</b>
Actual expenditures:	
• FY 1992 Work Plan	4.3
• FY 1993 Work Plan	2.7 (b)
• FY 1994 Work Plan	4.1
• FY 1995 Work Plan	3.2
• FY 1996 Work Plan	3.0
• FY 1997 Work Plan (authorized)	3.0
FY 1998 - FY 2002 Work Plans (estimate)	10.6
<b>TOTAL</b>	<b>913.3</b>
Exxon Payments	900.0
Interest on Court Registry Investment System (minus fees)	11.5
Interest on federal and state accounts	3.3

(a) Reimbursement to governments reduced by \$2.7 million included in the FY 1992 Work Plan.

(b) 1993 Work Plan was funded for only 7 months during transition to the federal fiscal year (October 1 - September 30).

# INDEPENDENT AUDITORS' REPORT

## ELGEE, REHFELD & FUNK Certified Public Accountants

9309 Glacier Highway, Suite B-200 · Juneau, Alaska 99801  
Phone: 907-789-3178 · FAX: 907-789-7128

Members, *Exxon Valdez* Oil Spill Trustee Council,  
Anchorage, Alaska:

We have audited the financial statements of the *Exxon Valdez* Oil Spill Trustee Council, Trust Funds as of and for the year ended September 30, 1996, as listed in the accompanying table of contents. These financial statements are the responsibility of the *Exxon Valdez* Oil Spill Trustee Council's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 2, the financial presentation for the Court Registry Investment System (CRIS), *Exxon Valdez* Oil Spill Settlement Account (Joint Trust Account) is of this account only and is not intended to present the financial position of CRIS or the United States District Court for the Southern District of Texas and the results of their operations, in conformity with generally accepted accounting principles.

As discussed in Note 2, the financial presentation for the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund (NRDA&R) is of the amounts related to the *Exxon Valdez* Oil Spill Trustee Council only and is not intended to present the financial position of NRDA&R or the U.S. Department of Interior Fish and Wildlife Service and the results of their operations, in conformity with generally accepted accounting principles.

As discussed in Note 2, the financial presentation for the State of Alaska, *Exxon Valdez* Oil Spill Settlement Trust (Settlement Trust) is of the Settlement Trust only and is not intended to present the financial position of the State of Alaska or any of its component units and the results of their operations.

As discussed in Note 2, the financial statements for the Joint Trust Account and NRDA&R are prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the cash balances of the Joint Trust Account and NRDA&R and the financial position of the Settlement Trust as of and for the year ended September 30, 1996, and the results of their operations for the year then ended on the basis of accounting described in Note 2 for the Joint Trust Account and NRDA&R, and in conformity with generally accepted accounting principles for the Settlement Trust.

In accordance with *Government Auditing Standards*, we have also issued reports dated January 23, 1997 on our consideration of the *Exxon Valdez* Oil Spill Trustee Council, Trust Funds' internal control structure and a report dated January 23, 1997 on their compliance with laws and regulations, as listed in the table of contents.

*Elgee, Rehfeld & Funk*

January 23, 1997

*Exxon Valdez Oil Spill Trustee Council*  
**UNITED STATE DISTRICT COURT - FIFTH CIRCUIT**  
**COURT REGISTRY INVESTMENT SYSTEM**  
**EXXON VALDEZ OIL SPILL SETTLEMENT ACCOUNT**  
**STATEMENT OF ASSETS, LIABILITIES AND JOINT TRUST ACCOUNT**  
**BALANCE ARISING FROM CASH TRANSACTIONS**  
**September 30, 1996**

<b>ASSETS:</b>	
Cash and Investments	\$ 112,885,654
Total Assets	<u>\$ 112,885,654</u>
<b>LIABILITIES AND JOINT TRUST ACCOUNT BALANCE:</b>	
Liabilities	\$ -
Joint Trust Account Balance - Liquidity Account	76,889,483
Joint Trust Account Balance - Reserve Account	<u>35,996,171</u>
Total Liabilities and Joint Trust Account Balance	<u>\$ 112,885,654</u>

**STATEMENT OF RECEIPTS, DISBURSEMENTS AND**  
**CHANGES IN JOINT TRUST ACCOUNT BALANCE**  
**For the Fiscal Year Ended September 30, 1996**

<b>Receipts:</b>	
Receipts	\$ 66,708,554
Investment Income - Liquidity Account	3,887,123
Investment Income - Reserve Account	-
Total Receipts	<u>70,595,677</u>
<b>Disbursements:</b>	
State of Alaska, <i>Exxon Valdez</i> Settlement Trust:	
Fiscal 1996 Natural Resource Damage Assessment and Restoration Projects	(2,468,898)
Fiscal 1997 Natural Resource Damage Assessment and Restoration Projects	(9,906,619)
Land Acquisition Disbursements	(18,509,433)
Research Infrastructure Improvement Disbursements	<u>(12,456,000)</u>
Total Disbursements to State of Alaska	<u>(43,340,950)</u>
U.S. Department of Interior, Natural Resources Damage Assessment and Restoration Fund:	
Fiscal 1996 Natural Resource Damage Assessment and Restoration Projects	(3,850,224)
Fiscal 1997 Natural Resource Damage Assessment and Restoration Projects	(6,663,400)
Land Acquisition Disbursements	<u>(20,534,200)</u>
Total Disbursements to United States	<u>(31,047,824)</u>
Court Registry Fees	<u>(388,772)</u>
Total Disbursements	<u>(74,777,546)</u>
Deficiency of Receipts Over Disbursements	(4,181,869)
Joint Trust Account Balance, Beginning of Year	<u>117,067,523</u>
Joint Trust Account Balance, End of Year	<u>\$ 112,885,654</u>

The accompanying notes to trust fund financial statements are an integral part of this statement.

*Exxon Valdez Oil Spill Trustee Council*  
**UNITED STATE DEPARTMENT OF THE INTERIOR,  
 FISH AND WILDLIFE SERVICE  
 NATURAL RESOURCES DAMAGE ASSESSMENT  
 AND RESTORATION FUND  
 STATEMENT OF ASSETS, LIABILITIES AND TRUST FUND  
 BALANCE ARISING FROM CASH TRANSACTIONS  
 September 30, 1996**

<b>ASSETS:</b>	
Cash and Investments	\$ 7,791,910
Total Assets	<u>\$ 7,791,910</u>
<b>LIABILITIES AND FUND BALANCE:</b>	
Liabilities	\$ -
Trust Fund Balance	7,791,910
Total Liabilities and Trust Fund Balance	<u>\$ 7,791,910</u>

**STATEMENT OF RECEIPTS, DISBURSEMENTS AND  
 CHANGES IN TRUST FUND BALANCE  
 For the Fiscal Year Ended September 30, 1996**

<b>Receipts:</b>	
Contributions - Court Registry Investment System, Joint Trust Account	\$ 31,047,824
Investment Income	206,258
Total Receipts	<u>31,254,082</u>
<b>Disbursements:</b>	
U.S. Department of Interior: Fish and Wildlife Service	(22,133,000)
National Biological Service	(1,418,700)
National Park Service	(81,700)
Office of the Secretary	(61,900)
U.S. Department of Agriculture, United States Forest Service	(3,067,000)
U.S. Department of Commerce, National Oceanic and Atmospheric Administration	<u>(3,931,300)</u>
Total Disbursements	<u>(30,693,600)</u>
Excess of Revenues Over Expenditures	560,482
Trust Fund Balance, Beginning of Year	7,231,428
Trust Fund Balance, End of Year	<u>\$ 7,791,910</u>

The accompanying notes to trust fund financial statements are an integral part of this statement.

*Exxon Valdez Oil Spill Trustee Council*  
**STATE OF ALASKA - EXXON VALDEZ OIL SPILL SETTLEMENT TRUST**  
**BALANCE SHEET**  
September 30, 1996

<b>ASSETS:</b>	
Cash and Investments	\$ 42,130,502
Total Assets	\$ 42,130,502
<b>LIABILITIES AND FUND BALANCES:</b>	
Liabilities:	
Accounts Payable	\$ 3,937,523
Deferred Revenues	10,196,019
Total Liabilities	14,133,542
Fund Balances:	
Reserved for Encumbrances	20,708,598
Unreserved	7,288,362
Total Fund Balances	27,996,960
Total Liabilities and Fund Balances	\$ 42,130,502

**STATEMENT OF REVENUES , EXPENDITURES AND  
CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended September 30, 1996

Revenues:	
Contributions - Court Registry Investment System, Joint Trust Account	\$ 55,508,647
Interest and Investment Income	1,673,683
Total Revenues	57,182,330
Expenditures:	
Current Operating:	
Natural Resources Damage Assessment and Restoration Projects	
Department of Fish and Game	(12,752,869)
Department of Environmental Conservation	(455,496)
Department of Natural Resources	(1,618,827)
Total Current Operating	(14,827,192)
Capital Outlay:	
Research Infrastructure Improvements - Alaska Department of Fish & Game	(5,711,366)
Land Acquisitions - Alaska Department of Natural Resources	(18,249,433)
Total Expenditures	(38,787,991)
Excess of Revenues Over Expenditures	18,394,339
Fund Balances, Beginning of Year	9,602,621
Fund Balances, End of Year	\$ 27,996,960

The accompanying notes to trust fund financial statements are an integral part of this statement.

*Exxon Valdez* Oil Spill Trustee Council  
NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
Fiscal Year Ended September 30, 1996

**1. EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**

Formation of the Exxon Valdez Oil Spill Trustee Council

The United States of America (United States) and the State of Alaska (State) entered into a Memorandum of Agreement and Consent Decree (MOA) on August 28, 1991. The MOA was made to maximize the funds available for restoration of natural resources and to resolve the governments' claims against one another relating to the T/V *Exxon Valdez* Oil Spill (Oil Spill), which occurred on the night of March 23-24, 1989 in Prince William Sound, Alaska. Upon entering into the MOA, the United States and the State believed that the terms of the MOA were in the public interest and would best enable them to fulfill their duties as trustees to assess injuries and to restore, replace, rehabilitate, enhance, or acquire the equivalent of the natural resources injured, lost, or destroyed as a result of the Oil Spill.

Pursuant to the MOA and federal laws, the United States and State act as co-trustees in the collection and joint use of all natural resource damage recoveries for the benefit of natural resources injured, lost or destroyed as a result of the Oil Spill. To manage the co-trustee relationship, the *Exxon Valdez* Oil Spill Trustee Council (Council) was formed.

Exxon Valdez Oil Spill Trustee Council Structure

The Council consists of six trustees, three trustees represent the United States and three trustees represent the State. The United States' trustees are the Secretaries of the United States Departments of Interior and Agriculture and the Administrator of the National Oceanic and Atmospheric Administration (a bureau of the United States Department of Commerce). The State's trustees consist of the Commissioners of the State Departments of Environmental Conservation and Fish and Game, and the Attorney General of the State of Alaska. The MOA allows the President of the United States or the Governor of the State of Alaska to transfer trustee status from one official to another official of their respective governments.

All decisions of the Council must be made by the unanimous agreement of the trustees. The decisions of the United States' trustees must be made in consultation with the United States Environmental Protection Agency. If the trustees cannot reach unanimous consent, either the United States or the State may resort to litigation in the United States District Court for the District of Alaska (Court).

Restoration Office

The Council has established a Restoration Office which is responsible for the coordination and supervision of the activities of the Council. The Restoration Office is managed by an Executive Director who reports directly to the Council. Since the Council exists through the MOA, it and the Restoration Office operate within the framework of the Trustee Agencies. During fiscal 1996, all activities of the Restoration Office were conducted through the Alaska State Departments of Fish and Game and Natural Resources. In addition, The National Oceanic and Atmospheric Administration administered certain parts of the Restoration Office's activities.

The Restoration Office develops an annual budget which, upon approval by the Council, sets forth the anticipated expenditures of the Restoration Office. The Council makes an annual contribution to the State agencies equal to the budget for the Restoration Office. The contributions are made using the disbursements procedures discussed in Note 6.

Termination of the Exxon Valdez Oil Spill Trustee Council

The MOA shall terminate when the United States and the State certify to the Court, or when the Court determines on application by either government, that all activities contemplated under the MOA have been completed.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Joint Trust Account - Court Registry Investment System

As further discussed in Note 5, amounts paid by Exxon Corporation are made directly to the United States and the State for reimbursement of certain costs incurred by them in connection with the Oil Spill. In accordance with the MOA and as ordered by the presiding Court, money that is not directly paid to the United States and the State is placed in an interest-bearing account in the Court Registry Investment System (CRIS) administered through the United States District Court for the Southern District of Texas. In addition, an account entitled "*Exxon Valdez* Oil Spill Settlement Account" (Joint Trust Account) was established in CRIS specifically for the Exxon settlement proceeds.

*Exxon Valdez Oil Spill Trustee Council*  
NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
Fiscal Year Ended September 30, 1996

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

CRIS is a cash management system developed by the United States District Court for the Southern District of Texas. All amounts placed with the CRIS liquidity account are maintained in United States government treasury securities with maturities of 100 days or less, and are held in the name of Clerk, U.S. District Court, Southern District of Texas at the Federal Reserve Bank. Amounts placed with the CRIS reserve fund are maintained in United States government treasury securities with maturity dates ranging from fiscal 1997 through fiscal 2002, and are held in the name of Clerk, U.S. District Court, Southern District of Texas at the Federal Reserve Bank. The financial presentation for the Joint Trust Account is of the Joint Trust Account only and is not intended to present the financial position of CRIS or the United States District Court for the Southern District of Texas and the results of their operations.

Upon unanimous approval of the Trustee Council, funds are disbursed to the United States and the State to be expended by the Trustee Agencies in accordance with the Council's wishes. The accompanying financial statements for the Joint Trust Account reflect the intent of the disbursements as to natural resource damage assessment and restoration, or the acquisition of land or research infrastructure improvements to further protect the natural resources. The financial statements also reflect the fiscal year which the disbursements are to be expended by the Trustee Agencies.

As allowed under 28 USC 1913, 1914 (b) and 1930(b), the Clerk of the Court for the United States Courts is allowed to charge a registry fee for administering investment holdings of funds held in their registry accounts. During the year ended December 31, 1996, the registry fee charged to the Joint Trust Account was 10 percent of investment income. In addition, CRIS has entered into a contract with a Houston, Texas based financial institution to provide investment advisory information, securities trading services, and accounting services at a fee of .025 percent added to the cost of securities purchased by CRIS. On October 8, 1996, the United States, on behalf of the natural resource trustees applied to the court for restoration of the court registry fees assessed against the Exxon Valdez Oil Spill Settlement Account and for an order waiving such fees in the future.

U.S. Department of the Interior, Natural Resources Damage Assessment and Restoration Fund

Disbursements which are made from the Joint Trust Account to the United States are deposited in the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund (NRDA&R). NRDA&R was established pursuant to Public Law 102-154, and is administered by the U.S. Department of Interior, Fish and Wildlife Service. It is a trust fund which was established to hold natural resources damage assessment and restoration settlement proceeds of the United States Government. Public Law 120-229 requires that federal proceeds from the Agreement and Consent Decree (see additional discussion in Note 4) be deposited in NRDA&R, and that all interest earned on these proceeds be available to the Federal Trustees for necessary expenses for assessment and restoration of areas affected by the Oil Spill. Public Law 120-229 also calls for amounts in NRDA&R to be invested by the U.S. Secretary of the Treasury in interest bearing obligations of the United States.

Disbursements from NRDA&R are made pursuant to the directions of the Council and as approved by the Court. At the beginning of each fiscal year, the Department of Interior, Fish and Wildlife Service communicates with each of the United States Trustee Agencies to determine the timing of disbursements from NRDA&R to each Federal Trustee Agency. Investments are purchased in order to earn interest on available balances within NRDA&R, and with scheduled maturity dates coincident with the scheduled date of disbursement.

The financial presentation for NRDA&R is of the amounts related to the Council only and is not intended to present the financial position of NRDA&R or the Department of Interior, Fish and Wildlife Service and the results of their operations.

State of Alaska, Exxon Valdez Oil Spill Settlement Trust

Disbursements which are made from the Joint Trust Account to the State are deposited in the State of Alaska, Exxon Valdez Oil Spill Settlement Trust (Settlement Trust). The Settlement Trust is established pursuant to AS 37.14.400. Pursuant to State law a state agency may not expend money from the Settlement Trust unless the expenditure is in accordance with an appropriation made by law. Expenditures of funds are made upon properly approved requests for payment. The total of expenditures and encumbrances (obligations) may not exceed the appropriations to which they pertain.

The Settlement Trust is an expendable trust fund of the State. Expendable trust funds account for assets held by the State in a trustee capacity where the principal and income may be expended in the course of the fund's designated operations.

*Exxon Valdez Oil Spill Trustee Council*  
NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
Fiscal Year Ended September 30, 1996

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Upon approval by the Council, the Court, and the State of Alaska, Trustee Agencies make expenditures directly against the Settlement Trust.

The financial presentation for the Settlement Trust is of the Settlement Trust only and is not intended to present the financial position of the State of Alaska or any of its component units and the results of their operations.

Basis of Accounting

Basis of accounting refers to when revenues, expenditures and the related assets and liabilities are recorded in the accounts and financial statements. Specifically, it relates to the timing of the financial measurements made, regardless of the measurement focus applied.

The basis of accounting used by the Joint Trust Account, NRDA&R and the Settlement Trust are as follows:

Joint Trust Account - The financial statements of the Joint Trust Account are prepared on a cash basis of accounting. As such, revenues are recognized when received, and disbursements are recognized when paid.

NRDA&R - The financial statements of NRDA&R are prepared on a cash basis of accounting. As such, revenues are recognized when received, and disbursements are recognized when paid.

Settlement Trust - The financial statements of the Settlement Fund are accounted for using a current financial resources measurement focus on the modified accrual basis. The Settlement Fund recognizes revenues when the source is measurable and available, and intended for the fiscal year. Available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Assets are recorded when measurable and due.

Expenditures are recorded when the related liability is incurred. Encumbrance accounting, under which purchase orders and contracts for the expenditure of moneys are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of the formal budgetary integration of the Settlement Trust. Encumbrances outstanding at year-end are reported as reservations of fund balance since they do not constitute expenditures or liabilities.

Interest and investment income is allocated to the Settlement Trust as agreed to under a Memorandum of Understanding (MOU) by and between the State Departments of Revenue and Administration effective July 1, 1993. Under the MOU, interest is credited daily to the Settlement Trust by determining the Settlement Trust's daily cash balance and applying the current weekly 180 day Treasury Bill Rates based on the Treasury Bill auctions.

Statement Presentation

Separate balance sheets and statements of receipts and disbursements or revenues and expenditures are presented for each of the Joint Trust Account, NRDA&R and the Settlement Trust. This is due to the fact that ownership of the Trust Funds rests separately with each of the U.S. District Court, U.S. Department of Interior, Fish and Wildlife Service and the State of Alaska, and the different bases of accounting used by the Trust Funds.

Accounts Payable and Deferred Revenue - Settlement Trust

Accounts payable in the Settlement Trust financial statements include disbursements made against the Settlement Trust subsequent to September 30, 1996, which relate to fiscal 1996 restoration activities.

Deferred Revenues in the Settlement Trust financial statements include amounts received or receivable at September 30, 1996, which are to be expended by the State in fiscal 1997.

*Exxon Valdez Oil Spill Trustee Council*  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
 Fiscal Year Ended September 30, 1996

**3. CASH AND INVESTMENTS**

Cash and investments for the Joint Trust Account, NRDA&R and the Settlement Trust are as follows:

Joint Trust Account - All deposits and investments of the Joint Trust Account are held in the name of Clerk, U.S. District Court, Southern District of Texas at the Federal Reserve Bank. At September 30, 1996, the balances held in the CRIS liquidity account are held in U.S. Treasury Bills with maturities less than 100 days, and the balances held in the CRIS reserve fund are held in U.S. Treasury Bills with maturity dates on November 15, in each year from 1997 through 2002. A nominal amount of cash is also included in the balance. There are no uninsured or unregistered deposits or investments. This places all of CRIS's investments and deposits in GASB credit risk category 1 \*.

NRDA&R - All cash and investments of NRDA&R are held in the name of the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund at the U.S. Department of the Treasury. At September 30, 1996, substantially all balances are held in U.S. Treasury Bills with maturities ranging from 30 to 300 days. A nominal amount of cash is also included in the balance. There are no uninsured or unregistered deposits or investments. This places all of NRDA&R's investments and deposits in GASB credit risk category 1 \*.

Settlement Trust - Cash and Investments of the Settlement Trust represent cash on deposit in banks, and cash invested in various investments as a part of the State's short-term cash management pools. By law, all deposits and investments relating to the Settlement Trust are under the control of the Commissioner of the State Department of Revenue. The State's cash is invested pursuant to State laws which mandate that investments shall be made with the judgment and care exercised by an institutional investor of ordinary professional prudence, discretion and intelligence. All deposits are insured or collateralized with securities held by the State or by its custodian in its name. All investments are insured or registered in the State's name and are held by the State or its custodian. This places all of the State's General Investment Funds deposits and investments, of which the Settlement Trust cash and investments are a part, in GASB credit risk category 1 \*.

- \* GASB Statement No. 3 requires deposits and investments to be categorized to indicate the level of risk assumed by an entity. For investments, category 1 consists of investments that are insured or registered for which the securities are held by the entity or its custodian in the entity's name, category 2 consists of uninsured and unregistered investments for which the securities are held by the broker's or dealer's trust department or agent in the entity's name, and category 3 includes uninsured and unregistered investments for which the securities are held by the broker's or dealer's trust department or agent not in the entity's name.

**4. CONTRIBUTIONS BY EXXON CORPORATION**

Agreement and Consent Decree

On October 8, 1991, the United States, the State, Exxon Corporation (Exxon) and Exxon Shipping Company, and Exxon Pipeline Company entered into an Agreement and Consent Decree (Agreement). The Agreement principally stipulates that Exxon make certain payments, and that all parties release and covenant not to sue or to file any administrative claim against the other parties or specifically identified third parties. Pursuant to the Agreement Exxon is to pay the United States and the State a total of \$900 million as follows:

<u>Date Payment Due</u>	<u>Amount</u>
Ten days after the Agreement became effective	\$ 90,000,000
December 1, 1992	150,000,000
September 1, 1993	100,000,000
September 1, 1994	70,000,000
September 1, 1995	70,000,000
September 1, 1996	70,000,000
September 1, 1997	70,000,000
September 1, 1998	70,000,000
September 1, 1999	70,000,000
September 1, 2000	70,000,000
September 1, 2001	70,000,000
	<u>\$ 900,000,000</u>

*Exxon Valdez Oil Spill Trustee Council*  
NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
Fiscal Year Ended September 30, 1996

**4. CONTRIBUTIONS BY EXXON CORPORATION (Continued)**

During fiscal 1996, Exxon Corporation made the contribution to the Joint Trust Account as required by the Agreement. As further discussed in Note 5, \$3,291,446 of the \$70,000,000 contribution was paid directly to the State of Alaska. The balance of \$66,708,554 was placed with the Joint Trust Account.

Reopener for Unknown Injury

In addition to the payment terms discussed above, the Agreement also has a reopener provision that allows the government to claim an additional \$100 million from Exxon between September 1, 2002, and September 1, 2006, as required for the performance of restoration projects in Prince William Sound and other areas affected by the Oil Spill to restore one or more populations, habitats, or species which, as a result of the Oil Spill, suffered substantial loss or substantial decline in the areas affected by the Oil Spill.

The cost of the restoration projects must not be grossly disproportionate to the magnitude of the benefits obtained, and the reopener is available only for any losses or declines that could not reasonably have been known or anticipated from information available at the time of the Agreement.

**5. REIMBURSEMENTS TO THE UNITED STATES AND THE STATE**

Under the terms of the Agreement, certain amounts paid by Exxon are to be made directly to the United States and the State. These payments are to be used solely to reimburse them for the following purposes:

1. Response and clean-up costs incurred by either of them on or before December 31, 1990 in connection with the Oil Spill;
2. Natural resource damages assessment costs incurred by either of them on or before March 12, 1991 in connection with the Oil Spill;
3. (State only) Attorneys fees, experts' fees, and other costs incurred by the State on or before March 12, 1991 in connection with litigation arising from the Oil Spill;
4. Response and clean-up costs incurred by either of them after December 31, 1990 in connection with the Oil Spill;
5. To assess injury resulting from the Oil Spill and to plan, implement, and monitor the restoration, rehabilitation, or replacement of natural resources, natural resource services, or archaeological sites and artifacts injured, lost or destroyed as a result of the Oil Spill, or the acquisition of equivalent resources or services after March 12, 1991; and
6. (State only) Reasonable litigation costs incurred by the State after March 12, 1991.

The agreement states that the amounts to be reimbursed to the United States for items one and two above are not to exceed \$67 million. The amounts to be reimbursed to the State for items one, two and three above are not to exceed \$75 million. The agreement does not place a cap on items four and five. The amounts paid to the State for item six above are not to exceed \$1 million per month.

During fiscal 1996, \$3,291,446 was paid to the State of Alaska as a reimbursement pursuant to the Agreement. There were no other reimbursements made to the United States or the State during fiscal 1996 under the Agreement.

**6. DISBURSEMENTS FROM JOINT TRUST ACCOUNT**

Approved Payment Uses

Under the terms of the MOA, amounts paid by Exxon, excluding the reimbursements discussed in the preceding Note, are deposited into the Joint Trust Account. These payments are to be used solely to assess injury resulting from the Oil Spill and to plan, implement, and monitor the restoration, rehabilitation, or replacement of natural resources, natural resource services, or archaeological sites and artifacts injured, lost or destroyed as a result of the Oil Spill, or the acquisition of equivalent resources or services.

Project Approval

The Council has developed a solicitation and review process for projects to address the purposes stated above. The outcome of the process is the development of a fiscal year Work Plan which approves the funding for all projects to be conducted during the fiscal year. For the fiscal year ending September 30, 1996, the following project solicitation and review process was used by the Council:

Exxon Valdez Oil Spill Trustee Council  
 NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
 Fiscal Year Ended September 30, 1996

**6. DISBURSEMENTS FROM JOINT TRUST ACCOUNT (Continued)**

1. In March 1995, the Council published an *Invitation to Submit Restoration Projects for Fiscal Year 1996*. As part of the Invitation requirements, proposers developed and submitted detailed project descriptions and project budgets for review. The Council's Chief Scientist coordinated a preliminary scientific and technical review of the projects. The projects were also reviewed by the Council's Executive Director, Federal and State agency staff, and representatives of the Public Advisory Group (the Public Advisory Group consists of members of the public and concerned groups and was appointed by the Council in accordance with the MOA to help provide meaningful public participation in the injury assessment and restoration process).
2. In late June, all proposals and the results of the reviews were published in the *Draft Fiscal Year 1996 Work Plan*. The public comment period on the draft closed August 4, 1995.
3. During the public review period, the Public Advisory Group reviewed the draft work plan at a meeting in late July. In addition to the public review many proposals underwent further technical, budget, policy, and legal review.
4. The majority of approved projects, received interim funding from the Council in August 1995. Additionally, projects that required further technical review received funding in August 1995.
5. In December 1995, the Council made final project approval. The approved projects were published in the *Fiscal Year 1996 Work Plan*.

In addition to the process outlined above, the Council has also identified and acquired several tracts of land as permitted by the MOA. The land acquisition support costs are funded through the Work Plan, and all land acquisitions are separately approved by the Council.

Interest Income Recovery - NRDA&R and the Settlement Trust

The governments are to report to the Council the amount of interest earned on net available balances in NRDA&R and the Settlement Trust. The Council then recovers the interest reported by reducing subsequent disbursements from the Joint Trust Fund for future projects. During fiscal 1996, disbursements to the United States and the State were reduced by \$222,042 and \$1,436,335 for such interest earnings, respectively.

Unobligated Balance Recovery - NRDA&R and the Settlement Trust

Actual project costs are frequently less than the original project budgets. When this occurs, the United States and the State retain the unspent or unobligated balances. The Council then recovers these balances by reducing subsequent disbursements for new projects. During fiscal 1996, the United States and the State reported total unobligated balances of \$3,665,782. Of this amount, the United States and the State reported \$1,165,334 and \$2,500,448 respectively. These unobligated funds were recovered through reduced project disbursements during the fiscal year ending September 30, 1996.

Disbursements from the Joint Trust Account

During fiscal 1996, the Council disbursed \$74,388,774 for restoration projects and land acquisition pursuant to the MOA as follows:

Restoration Projects Authorized By the Council

For 1996 and 1997:

To be conducted by the United States	\$ 11,901,000
To be conducted by the State	15,816,700
Total	27,717,700

Land Acquisitions and Research Infrastructure

Improvements Authorized By The Council

For 1996 and 1997:

To be acquired by the United States	20,534,200
To be acquired by the State	31,511,033
Total	52,045,233

Less:

Unobligated balances on prior years projects	(3,665,782)
Interest earnings on payments not yet disbursed by the United State and State	(1,708,377)
Disbursements from the Joint Trust Account	\$ 74,388,774

*Exxon Valdez Oil Spill Trustee Council*  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
 Fiscal Year Ended September 30, 1996

**7. DEFERRED REVENUE**

On September 10, 1996, the Court approved the initial funding for restoration projects to be conducted by the Trustee Agencies in fiscal 1997. The disbursement relating to this action was made from the Joint Trust Account on September 19, 1996, and the amount disbursed to the State Trustee Agencies' of \$9,906,619 has been recorded as deferred revenue.

Also during Fiscal 1996, the Department of Environmental Conservation received funding for a project that was originally anticipated to be conducted in Fiscal 1996. It was later determined that the project would be conducted in Fiscal 1997. Accordingly the amount received from the Trustee Council for this project of \$289,400 is included in deferred revenue for the Settlement Trust as of September 30, 1996.

NRDA&R received the United States' disbursement relating to the initial funding for restoration projects to be conducted by the Trustee Agencies in fiscal 1997 prior to September 30 1996. The amount received of \$6,663,400 has been recorded as Receipts - CRIS in the NRDA&R financial statements since NRDA&R is accounted for using the cash basis of accounting, and is part of the ending Trust Fund Balance. However, this money will be made available to the Federal Trustee Agencies in fiscal 1997.

**8. REAL PROPERTY ACQUISITIONS**

In order to protect the habitat of resources and services injured by the oil spill, the Council, directed its staff to establish a process for the evaluation and acquisition of real property that was imminently threatened by development, or had habitat value. This process was divided into two programs; large parcels, generally those over 1,000 acres, and small parcels, generally those smaller than 1,000 acres.

Large Parcel Acquisitions

The large parcel program of the land evaluation and acquisition process was initiated in 1992. This evaluation process led to the consideration of numerous parcels for acquisition by Trustee Agencies. As of September 30, 1996, the Council funded the acquisition, through either the purchase of the property, or interest in the property, or the acquisition of a limited term conservation easement, for 361,120 acres, with a total purchase cost, excluding interest, of \$195,350,000. Of the total purchase cost, \$160,600,000 is being provided from the Joint Trust Account, and \$34,750,000 from other sources.

During fiscal 1996, large parcel acquisitions were completed on 143,436 acres with a total purchase cost of \$70,500,000. Of the total purchase cost, \$63,500,000 is being provided from the Joint Trust Account, and \$7,000,000 from other sources.

Four of the acquisitions completed to date are to be paid on an installment basis through fiscal 2002. Only one of these acquisitions, with a final principal payment of \$2,917,000 due October 1997, bears interest. Interest accrues on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate, adjusted and compounded annually. The following is a summary of the remaining commitments (excluding interest) due from the Joint Trust Account as of September 30, 1996:

Fiscal Year Ending	
September 30:	
1997	\$ 18,916,667
1998	8,500,000
1999	4,000,000
2000	4,000,000
2001	4,000,000
Thereafter	11,805,734
	<u>\$ 51,222,401</u>

Pending Large Parcel Acquisitions

During fiscal 1996, the Council authorized two additional large parcel acquisitions totaling 127,440 acres with a total cost of \$69,010,800. Of the total purchase cost, \$49,010,800 is to be provided from the Joint Trust Account, and \$20,000,000 from other sources. These acquisitions are expected to be completed during fiscal 1997. In addition, negotiations continue on five other large parcel acquisitions. Currently, the area under negotiation includes approximately 320,000 acres.

*Exxon Valdez Oil Spill Trustee Council*  
NOTES TO TRUST FUNDS FINANCIAL STATEMENTS  
Fiscal Year Ended September 30, 1996

**8. REAL PROPERTY ACQUISITIONS (Continued)**

Small Parcel Acquisitions

The small parcel program of the land evaluation and acquisition process was initiated in 1994. In response to a public solicitation, 302 parcels have been nominated for acquisition by the Trustees. The nomination period is open ended, and the Council continues to receive and evaluate nominations. The Council's staff evaluate, score, and rank the parcels, taking into account the resource value of the parcel, adverse impacts from human activity, and potential benefits to management of public lands. To date the Council has expressed interest in acquiring approximately 50 of the nominated parcels.

During fiscal 1996, the Council completed the acquisition of the first 14 parcels containing 805 acres with a total cost of \$5,295,000. Subsequent to fiscal year-end, 7 additional parcels containing 1,847 acres with a total cost of \$3,184,000 were acquired. In addition, offers have been accepted by sellers on 9 parcels which are expected to close during fiscal 1997. These parcels contain 701 acres and have a total cost of \$3,334,000. All of the small parcels are purchased under fee simple title, and cash is paid on these parcels at closing. Most of these acquisitions are purchased through the Alaska Department of Natural Resources or the U.S. Department of the Interior, Fish and Wildlife Service, and all parcels acquired to date have been fully funded from the Joint Trust Account.

Alaska Sea Life Center

On November 2, 1994, the Council approved the disbursement of \$24,956,000 from the Joint Trust Account with CRIS to fund the construction of the research infrastructure improvements for the Alaska Sea Life Center in Seward, Alaska which is affiliated with the University of Alaska, School of Fisheries and Ocean Sciences, Institute of Marine Science. The first of two withdrawals to fund the project in the amount of \$12,500,000 was made in September, 1995. The second withdrawal of \$12,456,000 was made in September, 1996. The funds are being expended by the Alaska Department of Fish and Game under a cooperative agreement with the City of Seward, Alaska. As of September 30, 1996, \$5,711,000 had been expended under the contract, and \$19,245,000 remained encumbered.

**9. SUBSEQUENT EVENTS**

On October 11, 1996, the Council applied for a disbursement in the amount of \$2,613,500 for the purchase of two parcels under the small parcel acquisition program.

On November 8, 1996, the Council applied for a disbursement in the amount of \$3,252,125 for the purchase of two parcels under the small parcel acquisition program, and for the final payment due for the acquisition of a large parcel.

On December 6, 1996, the Council approved the second disbursement related to its fiscal 1997 *Work Plan* for Restoration Projects to be conducted by the Trustee Agencies. The total amount approved was \$621,300. The United States and the State reported \$29,041, and \$398,567, respectively, of interest earned on available balances in NRDA&R and the Settlement Trust since the previous disbursement. In addition, the Council approved \$1,035,000 for the acquisition of five parcels under the small parcel acquisition program. As a result, \$1,228,692 was withdrawn from the Joint Trust Account for disbursement to the United States and State.



*Trustee Council Executive Director*

MOLLY McCAMMON

*Project Coordination*

JOE HUNT

*Writing & Editing*

JOE HUNT

MOLLY McCAMMON

ERIC MYERS

STAN SENNER

*Design & Illustration*

DEBRA DUBAC

*Printing*

NORTHERN PRINTING

*Printed on recycled paper*





Although you  
work in the natural world,  
the scope, structure and  
resource base of your  
activities is touchingly  
human. What you do arises  
from grief and worry, from  
the pursuit of justice —  
from values that are  
incomprehensible without  
humans in the landscape.”

— Dr. Kai N. Lee

*Author, Director of the Center for  
Environmental Studies at Williams College  
(Mass.), during keynote speech at the  
1997 Restoration Workshop.*

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