

MEMORANDUM OF UNDERSTANDING
AMONG THE STATE AND FEDERAL
NATURAL RESOURCE TRUSTEES FOR THE
EXXON VALDEZ OIL SPILL

I. INTRODUCTION

This Memorandum of Understanding ("MOU") among the State and Federal natural resource trustees for the Exxon Valdez Oil Spill ("Oil Spill") is entered into to ensure the coordination and cooperation among the Trustees in the restoration of the natural resources injured, lost or destroyed as a result of the Oil Spill.

II. PARTIES

The following officials ("Trustees") are parties to this MOU and act on behalf of the public as trustees for the natural resources injured, lost or destroyed as a result of the Oil Spill:

- Attorney General of the State of Alaska;
- Commissioner, Alaska Department of Environmental Conservation;
- Commissioner, Alaska Department of Fish and Game;
- Secretary of Agriculture;
- Secretary of the Interior; and
- Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

III. PURPOSE

The purpose of this MOU is to confirm the establishment by the Trustees of, and the authorities granted to, the Exxon Valdez Oil Spill Trustee Council ("Trustee Council" or "Council") located in Alaska.

IV. AUTHORITIES

The Trustees enter into this MOU in accordance with the authorities provided to each Trustee by Section 311(f) of the Federal Water Pollution Control Act, 33 U.S.C. 1321(f); the Memorandum of Agreement and Consent Decree ("MOA") approved and entered on August 28, 1991, in United States v. State of Alaska, No. A91-081 CV, and the Agreement and Consent Decree ("Consent Decree") approved and entered on October 8, 1991, in United States v. Exxon Corporation, et al., No. A91-082 CV and State of Alaska v. Exxon Corporation, et al., No. A91-083 CV; and Section 207 of the Dire Emergency Supplemental Appropriations Act and Transfer for Relief from the Effect of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of

1992, P.L. 102-229 (12/12/91).

V. TRUSTEE COUNCIL

The Trustees hereby confirm in writing the establishment by the Trustees of the Trustee Council located in Alaska, whose membership is comprised of either a designee of each Trustee or the Trustee himself. The Trustee Council may take any action, consistent with applicable law, the MOA, the Consent Decree and this MOU, necessary to restore the natural resources injured, lost, or destroyed as a result of the Oil Spill. To carry out its responsibilities, the Council shall establish appropriate policies and procedures, including standards and procedures (a) governing the joint use and expenditure of moneys from the Joint Trust Fund in the Registry of the District Court, as it determines are necessary; and (b) for meaningful public participation, including the receipt of advice by the Council of advice from the public advisory group on behalf of the Trustees.

Upon completion of public review and comment on the proposed annual work plan, the Federal members of the Trustee Council shall submit to their Departments, through normal channels, the Federal portion of the budget then agreed upon by the Trustee Council for appropriate review and approval. It is expected that such review, including that of the Office of Management and Budget, will be completed within 30 days of receipt in Washington. Similarly, with respect to the State portion of the budget, State members of the Trustee Council will take appropriate action to comply with State requirements. Upon notification of Federal Executive Branch approval of the Federal portion of the budget and similar notification from the State Executive Branch, the Trustee Council will request the State of Alaska Department of Law and the U.S. Department of Justice to petition the Court for release of settlement funds and the transfer of these funds, respectively, to the U.S. Department of the Interior Natural Resource Damage Assessment and Restoration (NRDA&R) Fund and to an account designated by the State of Alaska.

If the review process of either government results, in the opinion of one government, in an undue delay in filing a petition with the Court which would adversely impact it, the Trustee Council will, upon written request of the concerned government, provide appropriate consent for a joint petition to the Court for funds to be used for the activities identified in the budget approved by the Trustee Council for that concerned government.

VI. MISCELLANEOUS

This MOU supersedes and replaces all previous interagency agreements regarding the organization and coordination of Oil Spill activities of the Federal Trustees, including the Memorandum of Agreement dated April 28, 1989.

Nothing herein is intended to void any actions taken by the Trustee Council prior to the execution of this MOU, and such actions are hereby ratified to the extent they are consistent with this MOU, the MOA and the Consent Decree.

Nothing in this MOU shall be construed as obligating the United States or the State of Alaska to expend any funds in excess of appropriations authorized by law.

The designation of a substitute or successor Trustee by either Government shall not affect the rights and responsibilities under this MOU.

The rights and responsibilities contained in this MOU shall not be the basis of any third party challenges or appeals.

VII. AMENDMENTS AND TERMINATION

Amendments, modifications or termination of the MOU may be proposed by any Trustee and shall become effective upon unanimous written approval of the Trustees. This MOU shall otherwise terminate upon the earlier of the completion of the restoration program resulting from the Oil Spill, or the expenditure of all Joint Trust Fund monies.

VIII. EXECUTION

This MOU may be executed in counterparts. A copy with all original executed signature pages affixed shall constitute the original MOU. The date of execution shall be the date of the final Trustee's signature.

Edward Madigan
Secretary of Agriculture

Date: September 21 1992

Manuel Lujan Jr.
Secretary of the Interior

Date: SEP 10 1992

John A. Krause
Administrator, National Oceanic
Atmospheric Administration,
Department of Commerce

Date: SEP 25 1992

William C. Uhl
Attorney General of Alaska

Date: 10.1.92

John A. Taylor
Commissioner, Alaska
Department of Conservation

Date: 10/1/92

John A. Taylor
Commissioner, Alaska
Department of Fish and
Game

Date: 10/1/92