



**Alaska SeaLife Center**  
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March 30, 2010

Exxon Valdez Oil Spill Trustee Council  
441 West 5<sup>th</sup> Avenue, Suite 500  
Anchorage, AK 99501

Dear Trust Council Members,

**Re: ASLC Submission in Response to Request for NEPA Comments (RIN 0648-XT64)**

We are writing in response to your request for comments subsequent to the notice of intent to prepare a supplemental environmental impact statement on the *Exxon Valdez* Oil Spill Trustee Council's Restoration Efforts.

By way of background, we would like to again thank the Council for your initial support for the Alaska SeaLife Center (ASLC) – we are perhaps the most obvious and successful legacy of the Council's restoration investments over the past 20 years. Your initial \$26m grant to build the Alaska SeaLife Center has enabled the following outcomes:

- Leveraged \$164m of additional capital investment and ongoing research and education funding from 1998-2010, with a further investment pipeline of \$7m already committed through 2012.
- Resulted in 209 peer reviewed publications and more than 600 other publications
- provided education about the marine ecosystem of Alaska to more than 1.75 million visitors and more than 180,000 school children
- Employed more than 720 people over the years (current staff of 70 FTE and some 30 seasonal staff), trained 300 interns, 36 postgraduate students (24 MSc/12 PhD) and over 1,000 volunteers;
- Generated an annual direct income to the Seward and Kenai Peninsula Borough economy of more than \$6m that has stimulated multiplier effects of an additional 30 jobs year as well as indirect, but significant, positive flow-on economic and social effects on local housing, schools, charities, etc.; and
- Established facilities that subsequently rehabilitated more than 100 marine mammals and 236 seabirds, many in the spill-affected area and which are maintained to this day as the only dedicated and 24/7 capable oil spill wildlife response facility in Alaska.

We commend the Council for your initiative to revisit the allocation of the final tranche of restoration funding, particularly your stated intent to *“seek a more discrete and efficient mechanism by which to*

*direct the remaining funding*". After more than twenty (20) years of restoration activities it is indeed timely to review the approach that has been taken with respect to these efforts.

Our comments address three inter-related aspects of the Council's proposal; (a) the mechanisms(s) for disbursement of funding, (b) the focus of that funding and (c) the 1994 restrictions on Alaska SeaLife Center operations that were part of the November 1994 resolution of the Council that supported funding for construction and operation of the Center. While the latter are not specifically a part of the document that was made available for public comment, they are central to our overall response to this notice and we believe it timely to revisit these requirements.

### **1. Mechanisms for Disbursement of the Remaining EVOSTC Funding**

At the public meeting the Council convened in Seward on 16<sup>th</sup> March, we (and many other community representatives) expressed concern about both the relatively high costs of current disbursement mechanisms and the lack of adequate provision for truly long term funding of research, restoration and spill preparedness efforts.

The Trust Council operations involve high levels of transaction costs, both in the manner of operations of the Council secretariat (up to \$2.5m/year for grant administration and related functions) and in the requirements imposed on grantees. Based on the experience of similar granting institutions, particularly the North Pacific Research Board which has both a cap on administration charges and a very efficient grants disbursement mechanism (the Alaska SeaLife Center acts as fiscal agent), we believe that there is considerable room for improvement if the Council remains in the business of being a direct granting agency.

We understand there may be statutory limits on the extent to which the Council may be able to wind down its operations and so would like to propose two scenarios for further evaluation by the Council.

The preferred scenario would be for the Council to establish an endowment fund with all remaining available restoration funds (we understand that to be between \$80-100m). Such a fund would generate approximately \$4m to \$5m in perpetuity if managed in accordance with the standard practices of charitable foundations seeking to average a return of 4% to 5%. We make no comment on the mechanisms for such a fund, other than to note there are many precedents in government for these types of long term investment vehicles (e.g. Dinkum Sands settlement that supports the North Pacific Research Board (NPRB) – see <http://www.nprb.org/about/history.html>). We strongly believe that such mechanisms are far preferable to one time grants (even large grants), and with appropriate governance and review could be administered at low unit cost via a grant administration partner such as the Alaska SeaLife Center to achieve defined research, restoration and spill response preparedness objectives with minimal effort on the part of the Council. We further believe that an endowment mechanism provides the necessary long term view, sustainability and predictability to achieve the full potential of the remaining funds administered by the Council.

Alternatively, the second scenario (independent of an endowment) would be to adopt the fiscal agent model of the NPRB under which the Alaska SeaLife Center acts as the Board's grant administration agent. The Center has an outstanding record in that regard, having completed six (6) sequential grant cycles that were independently audited and met all relevant federal standards. That scenario would have the dual advantage of (a) enabling the administration costs of Council grants to be reduced to the minimum necessary to ensure prudent management whilst enabling full Council oversight and (b) further support the administrative effectiveness of the Alaska SeaLife Center and thus enable it to remain a viable legacy investment of the Council.

## 2. Focus of Funding

The Council has identified five (5) focal areas for further research and restoration efforts. Our comments address these in order and then propose alternative areas not addressed in the notice of intent. We believe the lack of discussion of alternatives is a significant omission in this notice, although we appreciate that they may be required as part of the more complete environmental impact assessment (EIS).

- A. **Herring** – we understand that herring are one of the resources that have not demonstrated recovery from the 1989 oil spill and that a concerted effort to implement a herring restoration program may be a viable restoration response. We note there are many uncertainties associated with this strategy and question whether a \$20m investment really is adequate and feasible over a 20 year period. However, assuming the rate of return for an endowment fund as discussed above (which would enable up to \$1m per year for this work in perpetuity), recognizing the tremendous momentum in this area that will involve capable local institutions and that will yield direct benefits to affected communities, we support this focus.
- B. **Lingering Oil** – we appreciate the complexity and potential local significance of this focal area, but there is insufficient information in the description of this item under the notice for us to make comment at this stage.
- C. **Long term Monitoring** – we strongly support the need for better long term monitoring of both spill impacts and overall change in the Gulf of Alaska for two principal reasons. First, research that we have undertaken on a range of species both with support from the Council and with independent resources demonstrates there is much we still do not understand about species and ecosystem level effects of a perturbation such as the Exxon Valdez spill. Second, we have an inadequate understanding of range of variability and long term changes in the Gulf of Alaska generally to enable us to detect ongoing spill impacts or to better cope with future spills. We believe the investment level of just over \$1m per year proposed by the Council is inadequate in this area and would propose at least a doubling of that level of effort. Under our endowment proposal, this would enable support at the level of at least \$2m per year in perpetuity. At that

level, we would encourage three (3) levels of monitoring effort – (a) Macro studies of key processes and species such as is proposed under the Gulf of Alaska Integrated Research Program by the North Pacific Research Board; we would encourage the Council to partner with that program to supplement key data collection and modeling on long term data sets such as the Seward line, (b) Meso level – specific studies of key species and processes at the sub-regional scale (PWS, Resurrection Bay, etc.) to enable a finer scale analysis of trends. This might, for example, enable integrated citizen science efforts to detect invasive species or changes in cetacean behavior, and (c) Micro-scale studies of specific species and places – for example to assess recovery from lingering oil, or stock changes at spawning aggregation sites, or breeding colonies or even toxicological studies of lingering oil at the species scale.

- D. **Harbor Protection and Marine Restoration** – while we strongly support the need for improved handling of point and non-point source pollution we believe these needs are well met under alternative programs such as NOAA marine debris initiatives and community efforts. An alternative need that is not addressed in this notice but which is critical in enabling improved response to future spills is for better understanding of local effects of oil in harbors within the spill affected area. The only such current system for understanding and predicting these effects is the Harboret system deployed by Alaska Ocean Observing System (AOOS), the University of Alaska Anchorage (UAA) and the Alaska SeaLife Center. These low unit cost systems will provide real time harbor oceanographic and climactic information that enable harbor masters and harbor users to make better decisions about activities and to track threats such as oil spills. A start up grant to the other harbors within the spill affected area would cost less than \$500,000 and ongoing annual maintenance cost would be less than \$50,000 for all harbors.

It should be noted again, we make no comment on the response and damage assessment element of this focal area, except to note that clearly there is value in sharing lessons learned and there would be value in an annual session at the Alaska Marine Science Symposium (AMSS) or other relevant forums to update communities, scientists and resource managers on lessons learned and emerging best practices for addressing future spills. We would propose an annual allocation of around \$100k to \$150k to be divided between Council sponsorship of a session at the Alaska Marine Science Symposium and participation in other events (perhaps a set of annual travel awards and scholarships to students or citizen scientists).

- E. **Habitat Acquisition and Protection** – we strongly believe this strategy is misdirected and has already received a disproportionately large percentage of overall restoration efforts. Before any further investment in this strategy could be justified we believe a thorough independent economic and ecological analysis should be undertaken (as part of the EIS) to assess what has been achieved through this and related strategies and the opportunity costs of alternative investments. We propose that if independent analysis supports our perception of this strategy

as low a “bang for buck” then those funds should be reintegrated with the balance of funds to strengthen the proposed endowment principal.

- F. **Proposed Complementary and Alternative Focal Areas (not mentioned in Notice)** – as previously discussed, there are a number of additional areas where we believe it would be worthwhile to allocate ongoing financial investment. These include:
- a. **Strandings response** – we learned much from the *Exxon Valdez* response from a wildlife rescue, rehabilitation and related research perspective. That knowledge continues to inform the work we do as lead institution within the Alaskan Strandings Network and has led to both improved animal handling practices and the generation of significant new knowledge on the biology of affected species. One of the lessons learned from that work is there is a need to continue to invest in a capacity to respond to such incidents. Maintaining that capacity is particularly challenging in Alaska since there is not an equivalent provision to the Oil Spill Recovery Institute (OSRI) for wildlife response -- public funding for such response is extremely limited and public philanthropic support even more modest (c.f. other States with long coastlines such as California). We believe there is a critical need for ongoing investment to maintain a wildlife response capacity and for part of that capacity to be devoted to furthering techniques that were pioneered during the EVOS for handling oiled marine mammals and seabirds. The minimum investment required would be \$400,000 per year to maintain expertise, facilities and volunteer stranding response networks within the *Exxon Valdez* oil spill impact area.
  - b. **Shared science networks** – some of the above studies (herring, monitoring, etc.) can be undertaken by the very capable local institutions within the spill area such as the Prince William Sound Science Center, the Alaska SeaLife Center and the Fisheries Industrial Technology Center in Kodiak. These institutions can be even more effective if they work together to address needs at sub-regional and Gulf scales and potentially have greater impact if they are supported by dedicated expertise available in the State’s premier marine science institution, the School of Fisheries and Ocean Science at the University of Alaska Fairbanks. We would propose that the EIS evaluate how these institutions (and potentially others such as AOOS and ADF+G) might work together to deliver research, restoration and preparedness priorities in future. We believe that there is value in collaborative approaches working throughout the spill impact area. One option that would foster this collaboration is to endow certain positions in each of these institutions to act as designated science leads for this network. As previously noted, we would be willing to act as both fiscal agent and network coordinator for such collaboration.
  - c. **Education** – one of the aspects of restoration that has been inadequately addressed is public education and engagement. The vast body of knowledge that has been assembled over the past twenty (20) years is not organized nor presented in such a way

as to encourage public understanding of the outcomes of nearly \$800 million of investments. Despite some popular publications and occasional events such as the 2009 20<sup>th</sup> anniversary event at the Alaska Zoo, there has been inadequate priority given to knowledge sharing. One measure of demand for such information is that the *Exxon Valdez* exhibit is the third most popular area of visitor inquiry at the Alaska SeaLife Center (after live animals and salmon). We believe there is both a need for general resident and visitor education and for public engagement in the science and outcomes of recovery. We propose such needs can be met in a variety of ways, from public information days in communities to web services, to knowledge transfer via networks such as the Oceans Today Kiosk at the Alaska Sealife Center (which is part of the national OTK network coordinated via the Coastal America Partnership and hubbed at the Smithsonian (see <http://www2.nos.noaa.gov/oceannewskiosk/>). We encourage the Council to make provision for knowledge transfer using the network of local science centers in the spill area and suggest that roughly ten percent (\$400k to \$500k) of the proposed endowment be set aside for that effort annually.

### **3. Unwinding the 1994 Trust Council Resolution on Alaska SeaLife Center Operations**

As we indicated at the public meeting with Council representatives on March 16<sup>th</sup> (and previously in conversations with EVOSTC staff in 2009), the business viability of the Alaska SeaLife Center is jeopardized by the severe restrictions that were imposed on the Center in the November 3<sup>rd</sup>, 1994 resolution that approved the award of the \$26m that enabled the Center to be built. Those restrictions included:

- Ownership of the facility by the City of Seward, with oversight control by the Alaska Department of Fish and Game. Those requirements have since been implemented by a series of lease operating agreements that are overly restrictive and limit the ability of the Center to raise capital and to operate as a viable non-profit business entity (we cannot, for example, secure capital investment and maintenance funding via normal commercial channels because the building is not owned by the operator);
- Oversight of the science activities undertaken at the Center by the University of Alaska Fairbanks. Even though we have an outstanding relationship with the University (we currently employ five UAF research faculty, the Dean of SFOS and Vice Chancellor for Administration sit on our Board, UAF faculty serve on our Science Advisory Committee and we are jointly planning to expand collaboration as the new ARRV Sikuliaq is to be home ported in Seward), this requirement severely limits our operational flexibility. For example, we have previously been unable to recruit staff who required approval by the University and have entirely different staffing policies that cause operational challenges (e.g. University staff are guaranteed annual salary raises while ASLC staff are not).

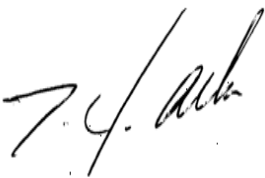
- Unreasonable requirements on space allocation and unrealized research commitments. We were, for example required to set aside 4,000 square feet of laboratory space for ADF+G use. Additionally, EVOSTC undertook to support research at the facility, a provision that was never implemented as proposed. Due to this lack of implementation, opportunities to undertake relevant research and restoration activities in highly impacted areas and species were unrealized (although EVOSTC did support some other work at the Sealife Center). As a consequence, the Center has not fully realized the key research role that was originally envisaged.

Those limits were understandable at the time given the need to protect this very significant investment, to ensure appropriate contingency plans existed in the event the Center defaulted on bonds and to ensure this facility lived up to expectations. However, there is no reason why this resolution should continue to unreasonably restrict the operations of the Alaska Sealife Center. We therefore request the Council immediately provide relief from this resolution by transferring ownership of the building to the City of Seward and relinquishing all other restrictions of the 1994 resolution. This step will enable the Center to continue the path towards financial sustainability, and involve minimal cost to the Council

We appreciate these proposals would benefit from further explanation and dialogue with the Council. The ASLC Board is concerned with the long term recovery of ecosystems and communities in the Gulf of Alaska. We stand by to work with the Council to ensure that the remaining resources are allocated for their greatest public good. To summarize, we believe that good can best be ensured by placing the remaining funds in a long term endowment, engaging the Alaska Sealife Center to act as your fiscal agent and a core partner together with other capable local institutions on key research, restoration and preparedness activities and by providing us with relief from the restrictive conditions of the 1994 award.

We thank you again for your support to date and the opportunity to revisit the way these resources are to be allocated.

Yours sincerely,



Todd Allen  
Chair, Board of Directors



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