

NEW VISION for EVOS

A roadmap to reshape the
Exxon Valdez OIL SPILL TRUST

By the EVOS Think Tank of Citizens

OCTOBER 2018

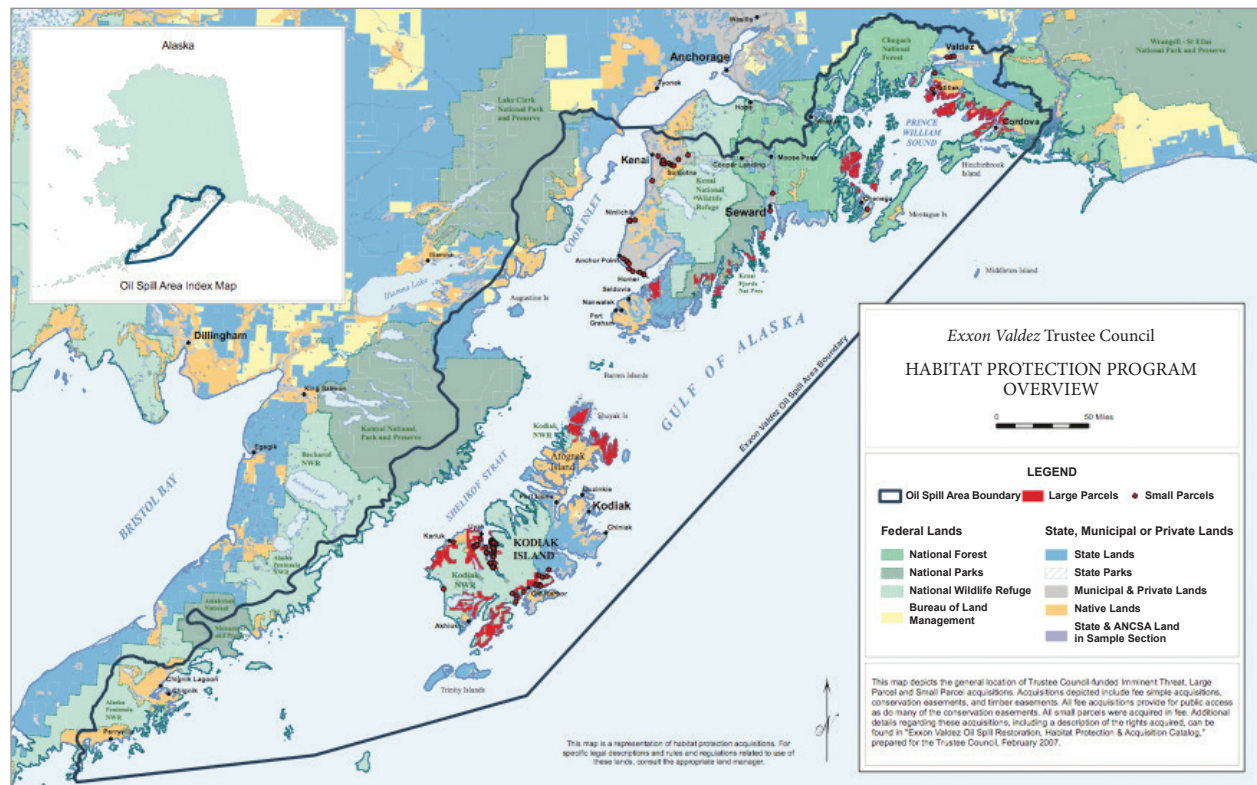


EXECUTIVE SUMMARY

The *Exxon Valdez* Oil Spill Trust has approximately \$196 million in assets remaining. A “sunset” plan launched in 2011 proposed to spend down funds in 20 years. Seven years later, the fund balance has increased due to strong investment returns. The current structure for administering EVOS funds is expensive, rigid and bureaucratic. A Think Tank of prominent Alaska citizens representing a diverse range of backgrounds and expertise convened to explore whether there is a better way to spend the remaining funds while staying true to the intent articulated in the settlement documents establishing the Trust in 1991.¹ The Think Tank recommends the EVOS Trustee Council allocate the remaining dollars (excluding wind-down costs and current obligations) to the Alaska Community Foundation (ACF) for continued focus on research and habitat acquisition/restoration in accordance with the settlement documents.

BACKGROUND

The 1989 *Exxon Valdez* Oil Spill (Oil Spill) discharged approximately 11 million gallons of crude oil into Prince William Sound. The Oil Spill affected the land, water, and wildlife and had a devastating effect on the people who rely on and value those natural resources for economic, aesthetic and subsistence uses. The *Exxon Valdez* Oil Spill Trust (EVOS Trust) is a \$900 million fund created through the settlement of state and federal lawsuits resulting from the Oil Spill.



Source: Pbworks.com

¹ Collectively, the Memorandum of Understanding between the United States and Alaska, the Memorandum of Agreement between the United States and Alaska, and the Agreement and Consent Decree.

The *Exxon Valdez* Trustee Council (Trustee Council) is comprised of three federal trustees and three state trustees who must act by unanimous agreement.² Prior to making expenditure decisions, the Trustee Council must consider input from the Public Advisory Committee, and the Federal trustees must obtain consent from the Environmental Protection Agency and the U.S. Department of Justice. All Trustee Council decisions must be for a purpose or activity specified in the settlement documents, including:

- “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...”³ and,
- “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...”⁴

Currently, the dollars are held in the *Exxon Valdez* Oil Spill Investment Fund at the Alaska Department of Revenue. They are split into two subaccounts: Habitat and Research.⁵ As of July 31, 2018, the balances totaled approximately \$196 million. Following Trustee Council approval, the Alaska Department of Law and the United States Department of Justice jointly request funding from the federal district court in Alaska.⁶ If approved, funds directed to state agencies are deposited into a state trust fund and then distributed to state agencies following an appropriation from the state Legislature.⁷ All funds directed to a federal agency are deposited in a Department of Interior account and then into specific agency accounts.⁸ All funds approved to go to a non-governmental agency are first directed to a state or federal agency who then distributes the funds to the private entity.

CURRENT COST STRUCTURE

The current EVOS structure is complicated and expensive, with approximately 46 cents of every dollar spent going toward administration or indirect costs. The following charts highlight the different components of the 2018 EVOS work plan. *Figure 1* provides a comprehensive breakout of the various administrative components and compares it to the amount going toward projects. *Figure 2* shows the six major components of the \$7.6 million budget. Each bucket has its own administrative component. For example, of the \$2.6 million allocated for long-term monitoring, 22% goes to administration and indirect costs. These individual administration buckets are in addition to the \$2.1 million allocated for EVOS Trustee Council administration. *Figure 3* shows how administrative and indirect costs affect projects on an individual basis. For instance, of the \$234,167 allocated for a specific long-term monitoring project in the 2018 work plan (first bar graph), only \$117,147 went toward the project.

² MOU, Article V.

³ MOA, Article VI. C.

⁴ Consent Decree 10.

⁵ Trustee Council Resolution, dated March 1, 1999; See also Sixty-Eighth Notice of Expenditures from the Investment Fund and from monies previously disbursed, Case 3:91-CV -0083 at 2-3, dated January 10, 2018.

⁶ MOU, Article VI.

⁷ GAO, p. 5.

⁸ GAO, p. 5.

Figure 1

ADMINISTRATION COSTS vs. PROJECT ALLOCATIONS

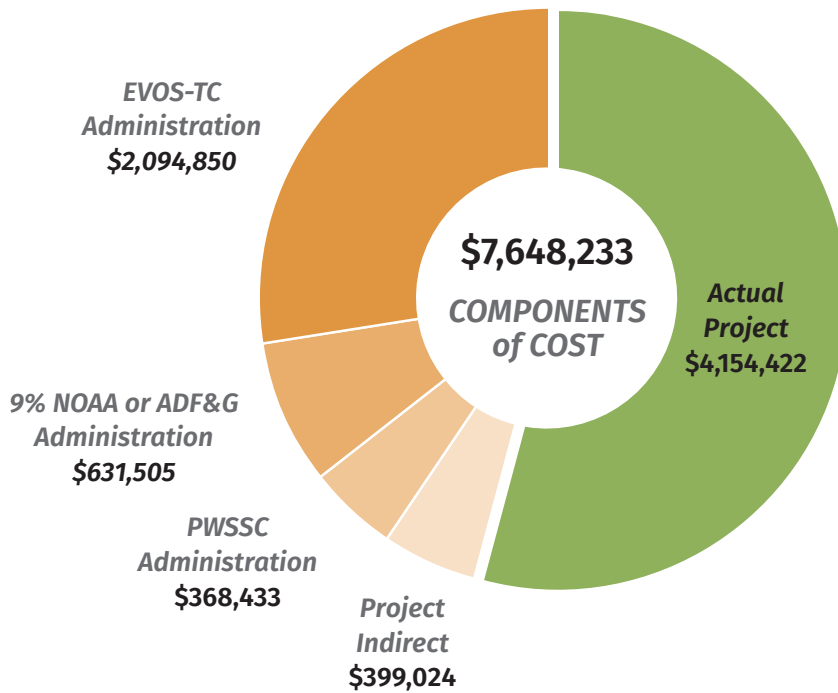
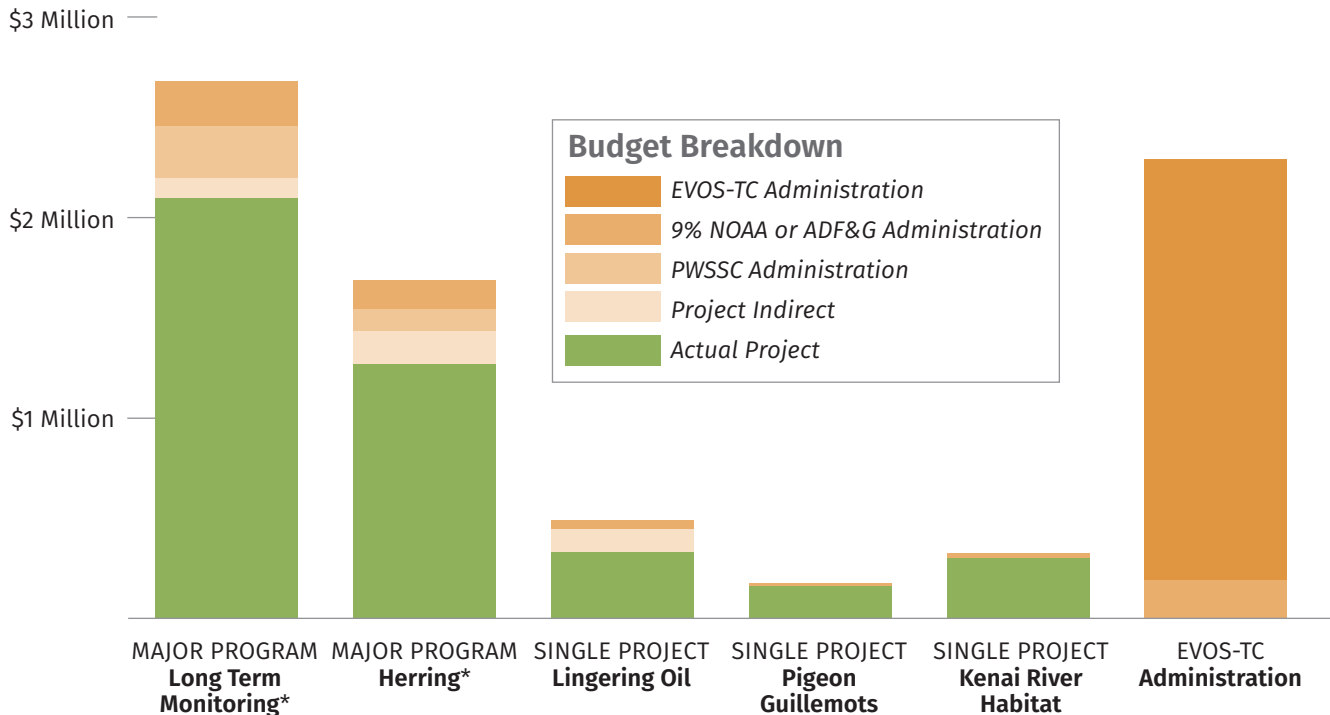


Figure 2

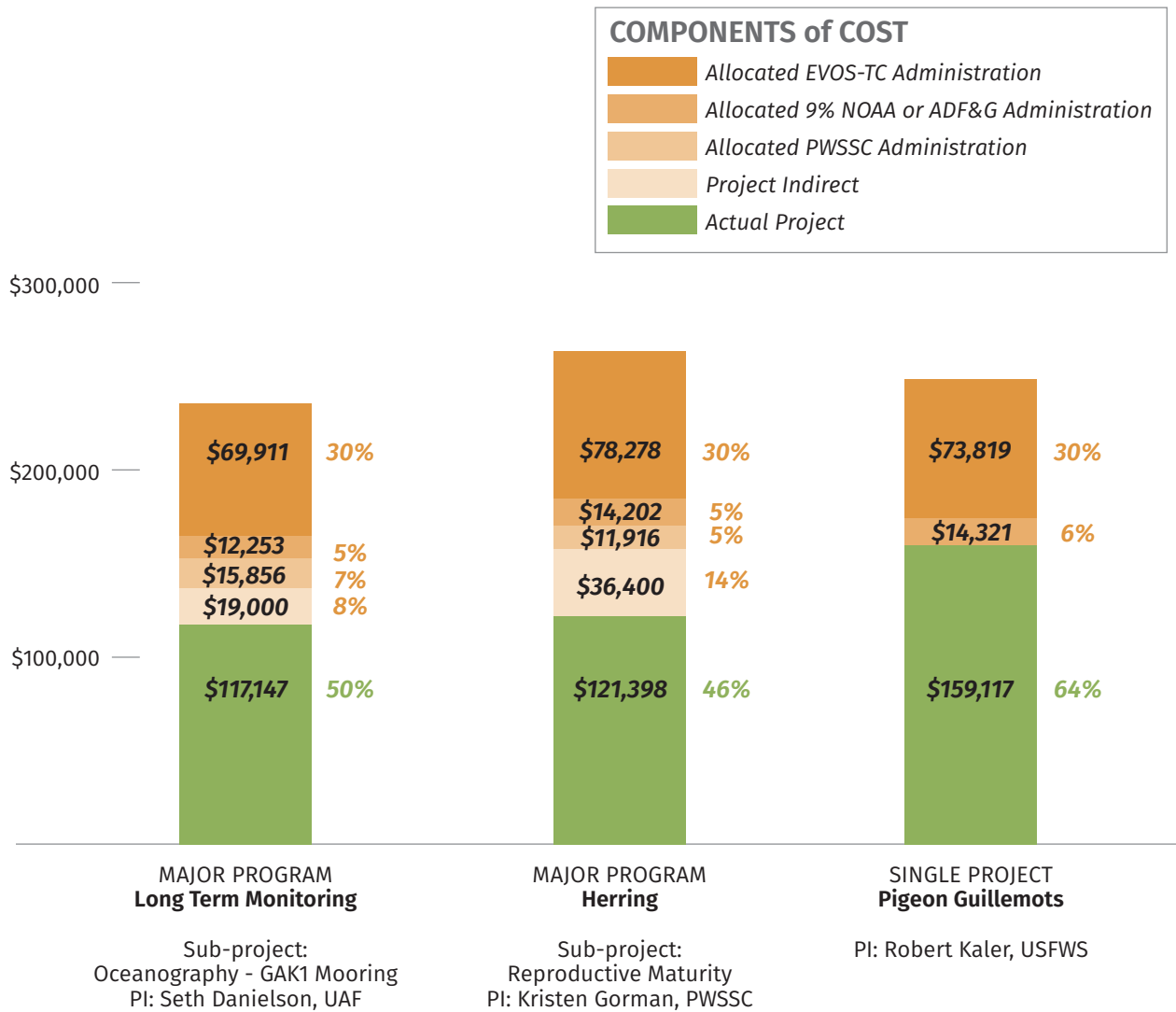
SIX MAJOR COMPONENTS IN FY18 WORK PLAN



Source: EVOS-TC Fiscal Year 2018 Work Plan, Revised January 2018
 *Data management costs divided between two major programs

Figure 3

EXAMPLES OF PROJECT COST WITH OVERHEAD COMPONENTS



Sources: EVOS-TC Fiscal Year 2018 Work Plan, Revised January 2018
 Final Proposal Package for the Gulf Watch Alaska Program, dated August 24, 2016
 Final Proposal Package for the Herring Research and Monitoring Program, dated August 12, 2016

FORMATION OF THE THINK TANK

In March 2017, Rasmuson Foundation was approached by two nonprofits located in the spill-affected area who felt there had to be a more efficient and impactful way to use the EVOS funds. Tara Riemer, president and CEO of the Alaska SeaLife Center (ASLC) in Seward and Katrina Hoffman, president and CEO of the Prince William Sound Science Center (PWSSC) in Cordova, requested Foundation support in exploring the possibilities, and funding was allocated to begin researching the legalities of such a request. Based on this, Rasmuson Foundation reached out to Gov. Bill Walker and Lt. Gov. Byron Mallott and received their support for assembling a Think Tank comprised of Alaska citizens to research the idea in more detail and provide recommendations. The Think Tank members are:

- **Sheri Burette**, chair of Chugach Alaska Corporation, the regional Alaska Native corporation in the spill area. She previously served on the Prince William Sound Regional Citizens' Advisory Council and the *Exxon Valdez* Oil Spill Public Advisory Group.
- **Shauna Hegna**, president of Koniag Inc., the Alaska Native corporation based in Kodiak.
- **Diane Kaplan**, president and CEO of Rasmuson Foundation.
- **Marilyn Leland**, retired. She previously served as executive director of Cordova District Fishermen United and was a founding member and ultimately deputy director of the Prince William Sound Regional Citizens' Advisory Council. She was on the board of directors for the Oil Spill Recovery Institute and worked on loan to the U.S. Coast Guard in writing and implementing regulations in accordance with the Oil Pollution Act of 1990.
- **Molly McCammon**, former executive director of the *Exxon Valdez* Oil Spill Trustee Council, former chief of staff to three Alaska legislators, and deputy press secretary to Gov. Bill Sheffield. She has decades of experience in natural resource policy and management.
- **Phil Mundy**, retired. Most recently he served as laboratory director for National Oceanic and Atmospheric Administration Fisheries in Juneau. EVOS experience includes service on the staff of the Trustee Council as science coordinator and science director. Before joining the staff of the TC, he served as a science advisor to the U.S. Department of Justice from the time of the spill until the formation of the Trustee Council when he became a member of the Council's team of primary scientific peer reviewers.
- **Ann Rothe**, nonprofit consultant. Previously she engaged in environmental management, policy and advocacy in Alaska for nearly 40 years through her work with the U.S. Department of Interior, Alaska Department of Natural Resources, National Audubon Society, National Wildlife Federation (whose Alaska office she established) and the Prince William Sound Regional Citizens' Advisory Council, (which she helped create after the *Exxon Valdez* Oil Spill). She was executive director of Trustees for Alaska for 10 years, and she recently retired from the Alaska Conservation Foundation after nine years.
- **Mead Treadwell**, former Alaska lieutenant governor and deputy commissioner of the State Department of Environmental Conservation. He co-chaired the State Committee on Research, and was a member of the U.S. Arctic Research Commission. He served as Cordova's Spill Response Office director and co-founded the Prince William Sound Science Center and its congressionally-endowed Oil Spill Recovery Institute. He was a co-founder and officer of the Prince William Sound Regional Citizens' Advisory Council. He was an alternate EVOS Trustee Council member and later served on the public advisory group.
- **Fran Ulmer** is chair of the U.S. Arctic Research Commission. She previously served as mayor of Juneau, state legislator, lieutenant governor and chancellor of the University of Alaska Anchorage. She was appointed to the Alaska Special Committee on the *Exxon Valdez* Oil Spill and to the BP *Deepwater Horizon* Oil Spill Commission.

GUIDING PRINCIPLES

In considering the future of the EVOS Trust, the Think Tank applied the following principles:

1. Adhere to the original intent of the settlement documents as closely as possible to support research, monitoring and general restoration. The goal of the trust funds is to restore, rehabilitate, replace or acquire the equivalent of the resources injured by the spill and the affected human services (commercial fishing, tourist/recreation, subsistence, passive use) they support. Targeted help for the people impacted by the spill has lagged behind recovery efforts for the wildlife, land and sea.
2. Benefit the communities, resources and institutions in the spill-affected region (which is highlighted on the map on page 2).
3. Honor existing commitments so long as they fall within the spill-affected region.
4. Focus habitat acquisition on long-term protection, local control and use of lands. Protect lands with a priority that acquired land stays in local ownership and for the purpose of benefiting the local community. Consider new options for co-management, conservation easements, and other options, rather than fee acquisitions.
5. Provide opportunity for meaningful public participation in the ongoing awarding of funds with significant representation from spill-impacted communities.
6. Reduce administrative costs to maximize funding available to restore, replace, enhance and rehabilitate natural resources; enhance and rehabilitate the resources injured as a result of the Oil Spill and the reduced or lost human services provided by such resources.
7. Maintain scientific and financial integrity and administrative efficiency.

ALTERNATIVE TO EVOS TRUST

Alaska Community Foundation (ACF) was established in 1995 and manages more than \$90 million in assets. ACF oversees more than 450 funds, many that require specific expertise. ACF has a variable administrative fee structure — .75% for accounts larger than \$100,000 — and the cost includes all grantmaking overhead, program personnel, program convening, financial management and oversight, and investment asset management. ACF has the capacity and wherewithal to administer complex grant processes and can do so at significantly lower cost than the current structure.

It does this by working with community and field leaders to identify and convene qualified committee members who inform grant guidelines, review applications, and recommend awards. There is precedent for privatizing a previously state-administered fund. In 2010, the state legislature passed HB 190 which transferred management of the Alaska Children's Trust fund from the Alaska Department of Revenue to the Alaska Community Foundation. At the time the transfer was completed in 2012, the corpus totaled approximately \$10 million. Today, the Trust has grown to just over \$12 million, through careful investment, grants and private donations.

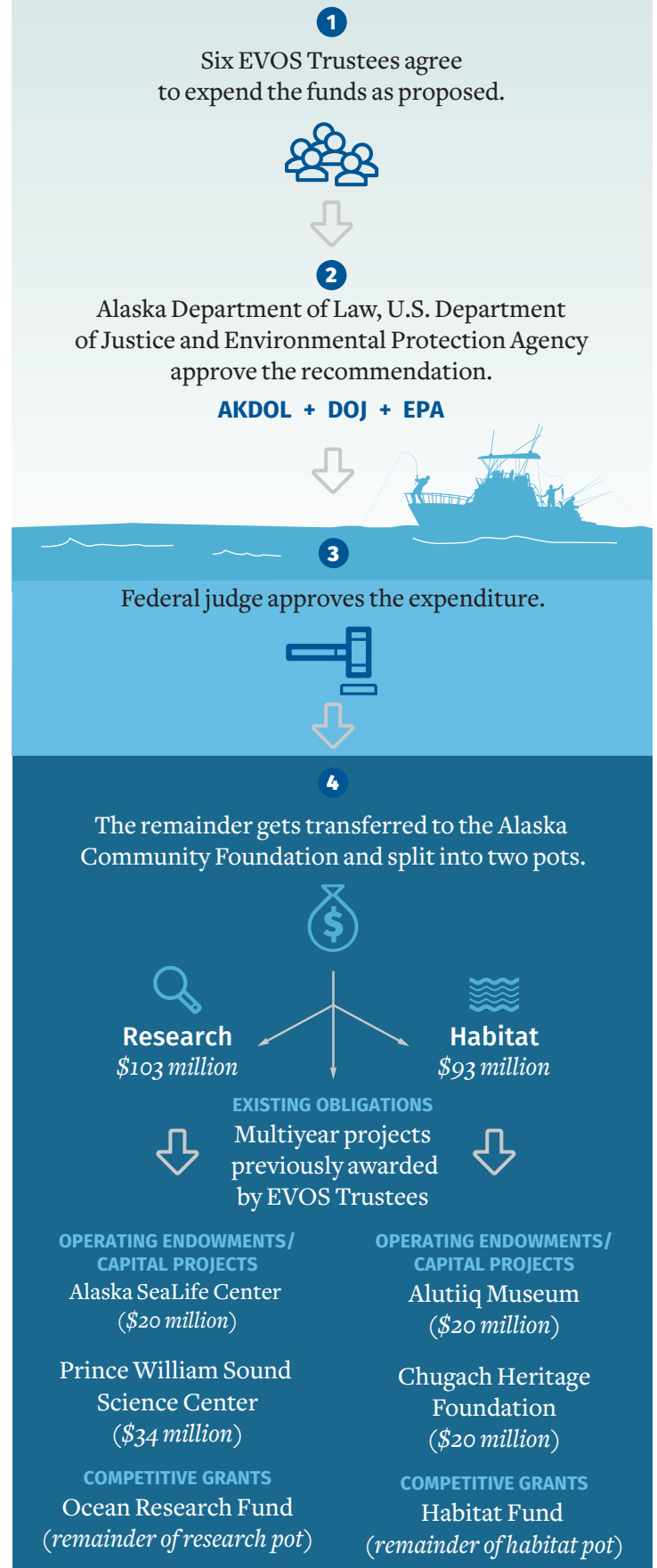
NEXT STEPS

The Think Tank recommends the remaining EVOS funds (minus wind-down costs and existing commitments) be transferred to ACF for two purposes: research and habitat protection (described in detail in the chart). The group further recommends that ACF be required to manage the EVOS funds in accordance with the Memorandum of Agreement (MOA) and Settlement Agreement. ACF will be responsible for adopting clear decision-making guidelines that conform to the allowed purposes and activities set forth in the MOA and Settlement Agreement, provide a transparent decision-making structure with public accountability, and require annual reporting of its actions regarding the EVOS Trust.

The Think Tank recommends the ACF Board appoint an Advisory Board to make recommendations on the use of funds that includes representatives appointed by the governor and the Department of Interior, as well as Alaska Native, environmental, and fishing interests in the Oil Spill region. The North Pacific Research Board can serve as an example of board makeup, function and process, with decisions being made by simple majority following Robert's Rules of Order. Annually, for at least five years, ACF shall invite public comment on funding priorities as well as report on how funds were distributed.

The amounts for research and habitat pots in the chart to the right are estimates. The exact figures will be determined by the size of the EVOS Trust at the point the plan is implemented.

A Proposal to Reengineer EXXON VALDEZ OIL SPILL TRUST



RECOMMENDED USES FOR THE RESEARCH SUBACCOUNT

Due to the scarcity of environmental monitoring data within the region at the time of the spill, federal and state agencies were challenged to assess damage caused by the spill versus other phenomenon like natural variability, multi-decadal regime shifts and climate change. EVOS investment in research programs like Gulf Watch Alaska, and in local nonprofits like Prince William Sound Science Center and Alaska SeaLife Center, greatly enhanced the understanding of the region's marine ecosystem. Millions have been invested in research and long-term monitoring of salmon and herring, the forage fish they depend on, sea birds, whales, seals, otters and other resources. Yet, government managers still acknowledge that full recovery has not been achieved, and with some oil still lingering on beaches, it is likely still decades away.

The remaining EVOS research funds should be managed and allocated in ways that leverage additional support to maximize long-term understanding of the affected ecosystems. If as much as possible of the remaining funds are kept intact as a corpus generating interest, the region could draw upon the resource in perpetuity. The EVOS research subaccount has approximately \$103 million remaining. The Think Tank recommends the transfer of all funds in the research account to ACF and a continued commitment to their use for research and long-term monitoring in a manner consistent with the scope articulated in the settlement documents. The group further recommends that:

- The current 5-year research commitments, through January 2022, be continued and completed.
- **\$14 million be committed** for the construction of a new PWSSC facility that will dramatically increase the center's ability to continue leading the region in field research.
- **Establish \$20 million operating endowments** each for the PWSSC and ASLC to ensure the organizations can continue scientific and community-focused work.
- **Establish an Ocean Research Fund (Fund)** at ACF focusing on the health of Alaska's oceans and marine environment and the people who rely on them. The Fund shall be administered as an endowment for 20 years at which time the Advisory Committee shall recommend whether to continue as an endowment or initiate a spend-down. EVOS research dollars would seed the Ocean Research Fund and be tracked separately. ACF would be charged with growing the corpus and leveraging the EVOS dollars to attract additional investment, as opposed to the current strategy of spending the remaining dollars down by 2032. ACF would allow for investment flexibility and for the receipt of bequests, foundation grants and other environmental fines and settlements. The Fund could be used for long-term research and monitoring programs in the spill-affected region with priorities on the entire ecosystem, continuation of long-term data sets, open access to the data, inclusion of community-based monitoring, and local and indigenous knowledge. These programs would be advised by a broad-based science advisory panel, guided by an integrated science plan developed by the advisory panel and administered through a competitive, peer-reviewed process. The advisory board may wish to request the assistance of the North Pacific Research Board to develop its review process.

RECOMMENDED USES FOR THE HABITAT SUBACCOUNT

The MOA specifies that settlement funds are to be used for restoring, replacing, enhancing or acquiring the equivalent of natural resources injured by the spill and the reduced or lost services they support. The Consent Decree specifies that funds also are to be used to restore, rehabilitate or replace archeological sites and artifacts injured, lost, or destroyed by the spill. The EVOS Restoration Plan indicates that reduced or lost services include subsistence, commercial fishing, tourism, recreation and passive use. These all are linked to human activities in the region, and therefore we have referred to them as “human services” in our recommendations.

Since the establishment of the EVOS Restoration Fund, more than \$400 million of the original \$900 million settlement has been spent on habitat restoration (for habitat that supports injured resources as well as human services) in the spill-impacted region, with nearly all of the funds used for land acquisitions — both fee title and conservation easements. More than 500,000 acres of Alaska Native/private lands and borough lands have been acquired and added to existing federal conservation system units (national parks, national wildlife refuges and national forests) that were established to protect nationally significant resources in the national interest, as well as state conservation system units (state parks, critical habitat areas and game refuges).

LAND ACQUISITIONS

SELLERS	ACRES
Chugach Region (ANCSA Village Corporations)	242,738
Koniag Region (ANCSA Regional and Village Corporations)	287,596
Kodiak Borough	26,958
Other	23,701
Total	580,993

TYPE OF ACQUISITION	ACRES
40% are Conservation Easements	232,397
60% are fee title acquisitions	348,596

The most recent assessment of restoration progress done by the EVOS Trustee Council (2014) indicates that human services (commercial fishing, passive use, recreation & tourism, and subsistence) have not yet recovered.

Approximately \$93 million remains of the funds set aside for restoration of habitat that support fish and wildlife resources and human services. The MOA specifies that, beyond land acquisitions, settlement funds can be used for all phases of restoration, replacement and enhancement of resources and services. Habitat acquisition is just one tool of replacing resources, including archaeological resources, which support human services. And in recent years, a variety of additional habitat protection tools have gained traction, including land trusts, conservation easements, tribal management, and co-management agreements. Moving forward, we think a much broader approach should be used to determine how the balance of the funds should be spent — one that focuses on restoration and enhancement of archeological resources and human services.

We recommend that the balance of the funds be allocated for the following purposes:

- **\$20 million for the ongoing operation** of the Alutiiq Museum and facility expansion to care for more than 250,000 artifacts stored in the archeological repository. (\$1.2 million of EVOS funds were used for construction of the museum. Additional artifact storage is needed.) The Consent Decree specifically allows for funding to be used for the “restoration, rehabilitation, or replacement of ... archaeological sites and artifacts injured, lost or destroyed as a result of the Oil Spill. ...” An operating endowment for the museum will ensure that it remains a vibrant cultural and research space.
- **\$20 million endowment to Chugach Heritage Foundation** that can be used for:
 - Archaeological investigations at the 50 to 80 Chugach historic, cultural and archaeological sites located throughout the Oil Spill area that were directly impacted by the Oil Spill, spill cleanup and monitoring activities.
 - Improved long-term monitoring and management of the Native American Graves and Repatriation Act (NAGPRA) sites to benefit not only the Chugach region and its communities within the oil spill area, but also partnering agencies and academic researchers.
 - Support for each of the seven villages still operating facilities that display cultural and archeological items impacted during the Oil Spill, including upgrades, ongoing operations and maintenance.

We recommend that the remaining funds be used to support the following types of activities within the spill-affected region:

- **Water Habitat:** Support projects relating to marine water quality monitoring, marine debris and pollution abatement, community access to clean marine waters, and other programs that are critical to maintaining healthy water habitat and communities.
- **Land Trusts:** Creation of land trusts for the spill-impacted region governed by boards of directors comprised of residents of the region. The trusts would be directly involved in identifying additional lands (and coastal waters) for protection through acquisition, conservation easements and/or co-management agreements, and be actively engaged in management decisions for those lands that have already been acquired, including development of special use regulations and co-management agreements that serve to restore resources that sustain human services in the spill-impacted region. Existing land trusts, such as the Great Land Trust, could be used as interim trusts for regions without existing trusts. The Great Land Trust has been working under contract with the EVOS Trustee Council for the past five years and has a history of developing conservation easements with Alaska Native corporations, including Eklutna and Leisnoi corporations.
- **Land and Natural Resource Education and Engagement:** Create opportunities for residents to engage in managing land and natural resources by using funds to support scholarships and programs/curriculums for ecological research and resources management. (The Alaska Native Science and Engineering Program has created an educational model that could serve as a guide for establishing a natural resources and land management program.) This will help ensure that outcomes of scientific research and resource management efforts in the spill-impacted region connect back to the local communities.

- **Local Community Fisheries Vitality:** Support funding mechanisms that aid commercial and subsistence fisheries access, training and technical support in the spill-impacted region.
- **Human Service Infrastructure Restoration Management:** Restore, replace and enhance infrastructure that allows humans to access resources including boat harbors, hardened shorelines and banks, and other infrastructure that supports subsistence, commercial fishing, tourism, recreation and passive use.
- **Archeological and Cultural Resources:** Support projects that care for cultural and archeological resources that were injured, lost or destroyed as a result of the Oil Spill, including culture camps and other infrastructure that protect and promote access to archeological and cultural resources.
- **Habitat Protection on Small Land Parcels:** Support continued protection of small parcels (largely under 1,000 acres) through a variety of new and emerging tools and programs, including the use of existing and creation of new local land trusts governed by boards of directors comprised of residents of the region, conservation easements, co-management agreements, and corporation, tribal and local borough and municipal management.

SPILL-AFFECTED COMMUNITY INVESTMENTS

As described above, four nonprofits would receive operating endowments from the settlement funds: the Alaska SeaLife Center, Prince William Sound Science Center, Alutiiq Museum and Chugach Heritage Foundation. The first three were formed as a direct result of the spill and have grown over the years to become not only important regional facilities, but valuable statewide resources with reputations of excellence. And while Chugach Heritage Foundation was not formed from EVOS funding, it received EVOS Trustee Council grants to help ensure cultural artifacts damaged by the spill were preserved. It also has played a critical role in making sure people in the region have access to education resources following the crash of fisheries. More specifically:

ALASKA SEALIFE CENTER

The **Alaska SeaLife Center** in Seward opened its doors May 2, 1998. The facility provides public education about the marine environment, unique research facilities, and rehabilitation of injured marine mammals and seabirds. Of the \$55 million total cost of construction, EVOS-TC provided \$26.2 million for the research portions of the facility. More than 3 million people have visited the facility since it opened its doors.

PRINCE WILLIAM SOUND SCIENCE CENTER

Founded after the spill in 1989, the **Prince William Sound Science Center** in Cordova is an independent, nonprofit research and education center. Since inception the organization has generated more than \$90 million for science and education, contributing an estimated \$50.5 million dollars to the Prince William Sound economy and \$106.2 million to the Alaska economy, with the vast majority of its work focused on EVOS-related research.

CHUGACH HERITAGE FOUNDATION

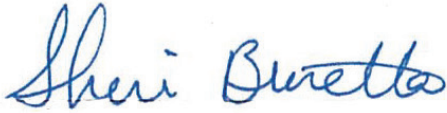
The **Chugach Heritage Foundation** is a non-profit foundation focused on preserving, studying, and promoting the culture, history and traditions of the people in the Chugach Region, which encompasses Prince William Sound and parts of the Kenai Peninsula. CHF serves as the cultural arm of Chugach Alaska Corporation to help protect and preserve the historic, cultural and archeological sites in the Chugach Region that were directly impacted by the Oil Spill, Oil Spill clean-up, and monitoring activities.

ALUTIIQ MUSEUM

The **Alutiiq Museum** opened in Kodiak, Alaska, in 1995. The initial funding for its construction came from the EVOS Trustee Council for the purpose of constructing a repository for artifacts from the Oil Spill area. The Museum currently houses over 250,000 items reflecting the culture and history of the Alutiiq people. The museum has developed into a cultural center for the Alutiiq people who reside throughout the Oil Spill area and whose traditional lands and archeological sites were directly impacted by the Oil Spill.

CONCLUSION

EVOS settlement funds were set aside for the benefit of the spill-affected region. Coming up on the 30th anniversary of the spill, there's an opportunity to change the structure in a way that will maximize the benefit to the spill-affected region. The *Exxon Valdez* Oil Spill was a turning point for the Prince William Sound region. This is a once-in-a-lifetime opportunity to change course once again and create something that will benefit the region in perpetuity.



Sheri Burette



Shauna Hegna



Diane Kaplan



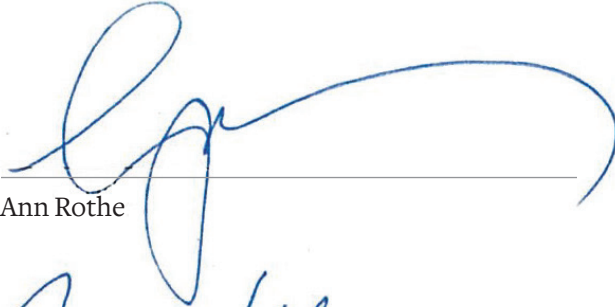
Marilyn Leland



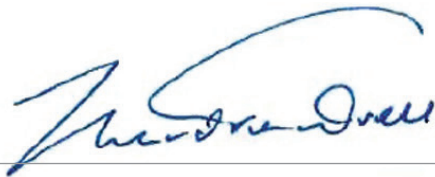
Molly McCammon



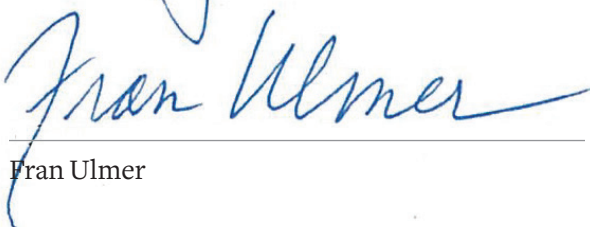
Phil Mundy



Ann Rothe



Mead Treadwell



Fran Ulmer