

**RESOLUTION 09-07 OF THE *EXXON VALDEZ* OIL SPILL TRUSTEE COUNCIL  
REGARDING RESTORATION OF FUNDS INTENDED FOR PURCHASE OF  
ENGLISH BAY CORPORATION LANDS BY U.S. DEPARTMENT OF THE INTERIOR  
PURSUANT TO THE 1997 TRUSTEE COUNCIL RESOLUTION**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after public meetings, unanimous agreement has been reached to expend funds received in settlement of State of Alaska v. Exxon Corporation, et al., No. A91-083 CIV, and United States of America v. Exxon Corporation, et al., No. A91-082 CIV, U.S. District Court for the District of Alaska, for necessary Natural Resource Damage Assessment and Restoration activities for fiscal year 2009, as described in Attachment A.

This Resolution authorizes the transfer of \$341,746 from the Research Investment subaccount of the *Exxon Valdez* Oil Spill Investment Fund, administered by the Alaska Department of Revenue, to the Department of the Interior for the purpose of restoring the habitat funds originally set aside for the purchase of those lands identified in the Trustee Council's February 14, 1997 resolution and in the purchase agreement between the United States Department of the Interior and the English Bay Corporation dated May 20, 1997.

Department of the Interior, National Park Service	\$341,746
---	-----------

<b>TOTAL APPROVED FOR DISTRIBUTION</b>	<b>\$341,746</b>
--	------------------

By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make funds available in the amount of \$341,746 from the appropriate account as designated by the Executive Director.

Approved by the Council at its meeting of May 29, 2009, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

*for Steve Zorak*  
\_\_\_\_\_  
JOE L. MEADE  
Forest Supervisor  
Forest Service Alaska Region  
U.S. Department of Agriculture

*for Craig J. Tellez*  
\_\_\_\_\_  
RICHARD SWOBODNY  
Acting Attorney General  
State of Alaska

*K. L. Elton*  
\_\_\_\_\_  
KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
U.S. Department of Interior

*[Signature]*  
\_\_\_\_\_  
CRAIG R. O'CONNOR  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

*[Signature]*  
\_\_\_\_\_  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

*[Signature]*  
\_\_\_\_\_  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A: Memo Dated May 18, 2009, to EVOS Trustee Council, Liaisons, and Counsel from Elise Hsieh, EVOS Executive Director

# Exxon Valdez Oil Spill Trustee Council

441 W. 5<sup>th</sup> Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



## MEMORANDUM

**TO:** Trustee Council, Liaisons and Counsel

**FROM:** Elise Hsieh  
Interim Executive Director

**DATE:** May 18, 2009

**SUBJECT:** Restoration of funds intended for purchase of English Bay Corporation lands by the Department of the Interior pursuant to 1997 Trustee Council resolution

### Background:

At its February 14, 1997 meeting, the Trustee Council voted to expend \$14,100,000 for the purchase of 32,470 acres of land within the Kenai Fjords National Park and islands within the Alaska Maritime National Wildlife Refuge adjacent to the Park, the surface estate of which had been conveyed or was to be conveyed to the English Bay Corporation under the Alaska Native Claims Settlement Act (ANCSA). The resolution confirming this vote states that the purchase price was adjustable up or down in accordance with the actual acreage ultimately conveyed to the Corporation (at a rate of \$418.6433 per acre).

On May 20, 1997, the United States Department of the Interior, pursuant to the Trustee Council's February 14, 1997 resolution, signed a purchase agreement to acquire 32,537 acres of land from the English Bay Corporation for a total price of \$15,371,420.22. Of this amount, \$1,243,346 was to be paid by the United States from another source, namely the restitution funds obtained pursuant to the settlement of the United States' criminal case against Exxon Corp.; the remaining \$14,128,074.22 was to be paid from the civil settlement monies administered by the Trustee Council.

On September 3, 1997, the EVOSTC Executive Director Molly McCammon, notified the United States Department of Justice and the Alaska Department of that all of the terms and conditions in the Trustee Council's 1997 resolution had been satisfied. She requested they

seek from the federal district court a disbursement of funds from the Court Registry Investment System (where the monies were invested at that time) in the amount of \$14,128,074.22. That amount was disbursed to the United States Department of the Interior under an order dated September 5, 1997 and deposited in the Natural Resource Damage Assessment and Restoration Fund (NRDA-R Fund). This Fund is administered by the Office of the Secretary.

As conveyance of the ANCSA lands to the English Bay Corporation proceeded, monies were provided from the NRDA-R Fund to the National Park Service (NPS) to carry out the purchase agreement in staged closings. At this point in time, NPS has acquired 31,531.79 acres in two previous closings. The third and final closing (on some 843 acres) will immediately follow the conveyance of English Bay's final ANCSA selections in this transaction, expected in July or August of this year. The costs for this third closing are anticipated at \$398,000, including land cost, title insurance, and the performance of due diligence. There are already \$56,254 in available funds designated for this purchase from the Restitution Funds held by the Federal Government. The remaining amount, needed from the funds approved in 1997 by the Council, is \$341,746.

Due to a change of NRDA-R Fund staff and a misunderstanding in 2002-2003 about the character of inactive English Bay balances residing in the NRDA-R Fund, the monies remaining at that time for use in carrying out the purchase agreement with the English Bay Corporation were used instead to fund a portion of Phase I of the Trustee Council's FY03 Work Plan. A January 9, 2003 report to the Trustee Council's Executive Director indicating that \$1,239,036 was "available" from the NRDA-R Fund had mistakenly included in that figure (in addition to lapsed and returned funds and interest earned) \$414,430 in funds that were intended for the United States' remaining obligations under the purchase agreement with the English Bay Corporation. That \$414,430 instead became part of the \$1,055,700 in existing funds that was used to fund the federal portion of Phase I of the FY '03 Work Plan. Because that \$414,430 should have come instead from the Investment Fund, the Department of the Interior seeks to have those monies restored to its NRDA-R Fund in order to complete the final phase of the English Bay acquisition.

Recommendation: Approve the transfer of \$341,746 from the Research Investment subaccount of the *Exxon Valdez* Oil Spill Investment Fund, administered by the Alaska Department of Revenue, to the Department of the Interior for the purpose of restoring the habitat funds originally set aside for the purchase of those lands identified in the Trustee Council's February 14, 1997 resolution and in the purchase agreement between the United States Department of the Interior and the English Bay Corporation dated May 20, 1997.