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Interim Guidance Document

August 2005 – December 2006



Exxon Valdez Oil Spill Trustee Council

www.evostc.state.ak.us

Introduction

Under the court-approved terms of the settlement reached in 1991 after the *T/V Exxon Valdez* spilled 11 million gallons of crude oil into Prince William Sound, a Trustee Council, comprised of three federal and three state government representatives, was formed to administer this fund to restore resources and services (resource-based human activities) injured by the spill.¹ The *Exxon Valdez* Oil Spill Restoration Plan was built upon information provided in the Final Environmental Impact Statement and Record of Decision. Adopted by the Council in 1994, it provides long-term guidance for restoring the resources and services injured by the oil spill. The Restoration Plan also contains policies for making restoration decisions and describes the implementation of restoration activities.

Trustee Council Focus Specific to this Guidance Document

This Guidance Document responds to prior Council direction, which states:

...the Council will evaluate work that is still needed to better understand the effects of lingering oil and to reach closure on the status of injured resources and services. Over the next 18 months, the Council has determined the need to realign priorities and restorative activities, placing focus on work required to reach closure in these areas of restoration. The Council will then be better prepared to meet the goals outlined in the 1994 Restoration Plan inclusive of the long-term requirements of the GEM Program. (2004 Annual Report)

For more than 15 years, restoration activities have been undertaken in Prince William Sound to identify and understand damages from the oil spill. The 1994 Restoration Plan directs restoration activities and their results to be synthesized and distributed yearly to give scientists and the public a look at the condition of injured resources and services and what has been learned during the year. At their February 2005 meeting, the Council indicated its intent to evaluate work that remains to be done to reach closure in the lingering-oil and injured-resources facets of restoration achievable under the 1994 Restoration Plan.²

The recovery status of the list of injured resources and services listed in the 1994 Restoration Plan has been updated (September 1996, March 1999, August 2002 and June 2003³) as new information was made available.

Additionally, the Council has committed to a long-term monitoring program in the spill zone. The Council will consider updating the Gulf of Alaska Ecosystem Monitoring (GEM) Program Science Plan

¹ More information about the spill and its aftermath is available online at www.evostc.state.ak.us/facts/index.html.

² The Restoration Plan is available for download at www.evostc.state.ak.us/pdf/restoration/restorationplan.pdf.

³ Updates of the list are available online at www.evostc.state.ak.us/publications.html.

only after syntheses from the 2006 Work Plan are completed and the status of injured resources and services has been updated.

How This Plan Will be Implemented

The Council intends to accomplish the short-term activities listed below while adhering to the EVOSTC annual work plan process and schedule. Some adjustments may be necessary to accomplish the review and update of injured resources and services in a timely manner. Changes will be widely announced to the public at the earliest opportunity.

What this plan does not do is preclude routine council activity such as public outreach, dissemination of information, support for the ARLIS program, development of improved data management methods, recovery of historic data products, and advancement in office automation methods. These activities and others as described in the Administrative Project Plan remain important Council activities and are necessary to maintain program continuity and are expected to help provide a bridge to the next phase of Council activities.

Scope of this Guidance Document

This Guidance Document focuses on several areas for study to assist the Council in their decision making process. It will remain throughout the development of the FY07 Work Plan until superseded by further Council direction or replaced by a revised science plan integrating appropriate lingering oil, restoration and monitoring strategies. The result of this effort will be to allow the Council the opportunity to update the list of Injured Resources and Services (last updated in 2003 and scheduled for update in 2006), and will help the Council determine what other restoration activity may be needed to meet the requirements of the 1994 Restoration Plan and settlement agreement. Planned actions are summarized below:

1. Determine the fate and impact of lingering oil in the spill area.
2. Determine the status of injured resources and services and issue an updated list.
3. Determine the status and future of the habitat acquisition program.

1. Fate and Effect of Lingering Oil

Background

By 1999, it was determined that some *Exxon Valdez* oil remained from the 1989 spill. Studies conducted in 2001 estimated that the quantity of lingering oil was more than twice the amount predicted in 1993 and

that oil ranging from very weathered (asphalt) to unweathered and nearly fresh was present in the lower intertidal (biological) zone.¹

Current Status

The Council has since taken a keen interest in lingering oil and has funded more than a dozen studies that try to answer questions about quantity, dissipation rates, bioavailability and effects on injured species.

Future Action

- Based upon currently funded lingering-oil projects, review the relationship between oil persisting in the environment and the resources and services injured by the spill.
 - ✓ The Subcommittee on Lingering Oil will review the body of recent work and explore remediation options based on current work². This may provide the basis for pursuing additional remediation or restoration upon anticipated project completion in spring 2006.
- The work on lingering oil and its possible remediation is to be reviewed by the Steering Group on Injured Resources and Services and taken into account in the development of recommendations to the Council regarding the update of the injured resources and services list. Specifically, the 2004 Assessment of Lingering Oil and resource injuries project, expected to be complete by the fall of 2005, are to be considered with the results of the new broader injured species synthesis effort solicited under the 2006 Invitation. Findings of the Lingering Oil Synthesis project will be incorporated into injured resources and services status recommendations as appropriate.
- Final draft reports will be developed by the EVOSTC staff and agency representatives and forwarded to the Executive Director for distribution.

2. Injured Resources and Services Update

Background

In November 1994, the *Exxon Valdez* Oil Spill Trustee Council adopted a list of resources and services injured by the spill for inclusion in the Restoration Plan. This list identified injuries caused by the oil spill and helped the Trustees and the public track the status of important resources and services. The fish and wildlife on this list are thought to have suffered population-level injuries, but the list does not include every species or resource that suffered some degree of injury.

¹ Short J. 2001. Evaluation of oil remaining in the intertidal from the *Exxon Valdez* oil spill. Project 01543.

² Michel J. In progress. Identify and evaluate oil remediation technologies. Project 050778.

⁵ Updates are available online at www.evostc.state.ak.us/publications.html under "Miscellaneous Documents".

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The list of injured resources and services is the standard used to measure completion of restoration under the 1994 Restoration Plan for injured resources and services. However, environmental conditions may render restoration (as defined in the 1994 Restoration Plan) difficult or impossible to achieve.

Analysis of these resources and their recovery status pertains only to recovery from the effects of the 1989 spill. Many resources are also experiencing the effects of other natural and human factors that may be impacting population levels. These effects may be difficult to distinguish from oil-related injuries.

The status of injured resources and services listed in the 1994 Restoration Plan is summarized on the next page.

Injured Resources and Services List Updates, 1996-2003⁵

Resource or Service	1996 Status	1999 Status	2002 Status	2003 Status
Archaeological resources	Not recovering	Recovering	Recovered	Recovered
Bald eagle	Recovering	Recovered	Recovered	Recovered
Black oystercatcher	Recovering	Recovering	Recovered	Recovered
Clams	Recovery unknown	Recovering	Recovering	Recovering
Commercial fishing	Recovering	Recovering	Not fully recovered	Not fully recovered
Common loon	Recovery unknown	Not recovering	Not recovering	Not recovering
Common murre	Not recovering	Recovering	Recovered	Recovered
Cormorant (3 spp.)	Not recovering	Not recovering	Not recovering	Not recovering
Cutthroat trout	Recovery unknown	Recovery unknown	Recovery unknown	Recovery unknown
Designated wilderness areas	Not recovering	Recovery unknown	Recovering	Not fully recovered
Dolly Varden	Recovery unknown	Recovery unknown	Recovery unknown	Recovery unknown
Harbor seal	Not recovering	Not recovering	Not recovering	Not recovering
Harlequin duck	Not recovering	Not recovering	Not recovering	Not recovering
Intertidal communities	Recovering (some)	Recovering	Recovering	Recovering
Killer whale (AB pod)	Recovering	Not recovering	Recovering	Recovering
Kittlitz's murrelet	Recovery unknown	Recovery unknown	Recovery unknown	Recovery unknown
Marbled murrelet	Not recovering	Recovering	Recovering	Recovering
Mussels	Recovering	Recovering	Recovering	Recovering
Pacific herring	Not recovering	Recovering	Not recovering	Not recovering
Passive uses	Recovering	Recovering	Not fully recovered	Not fully recovered
Pigeon guillemot	Not recovering	Not recovering	Not recovering	Not recovering
Pink salmon	Not recovering	Recovering	Recovered	Recovered
Recreation and tourism	Recovering	Recovering	Not fully recovered	Not fully recovered
River otter	Recovery unknown	Recovered	Recovered	Recovered
Rockfish	Recovery unknown	Recovery unknown	Recovery unknown	Recovery unknown
Sea otter	Not recovering	Recovering	Recovering	Recovering
Sediments	Not recovering	Recovering	Recovering	Recovering
Sockeye salmon	Recovering (some)	Recovering	Recovered	Recovered
Subsistence	Recovering	Recovering	Not fully recovered	Not fully recovered
Subtidal communities	Recovering (some)	Recovering	Recovery unknown	Recovery unknown

Definitions of recovery (2003 Annual Report)

Recovered: Recovery objectives have been met.

Recovering: Substantive progress is being made toward recovery objectives. The amount of progress and time needed to achieve recovery vary depending on the resource. [Some have also been categorized as "not fully recovered."]

Not Recovering: Species are showing little or no clear improvement since spill injuries occurred.

Recovery Unknown: Limited data are available on life history or extent of injury, current research inconclusive or not complete.

The Restoration Plan stipulates that the Injured Resources and Services list can be updated any time new information becomes available. The next major evaluation of changes in recovery status for all injured resources and lost or reduced services is scheduled for completion in 2006, 15 years after the 1991 settlement between the governments and Exxon and initiation of the restoration program.

Current Status

The Council has initiated a number of projects to better inform this process in preparation for the scheduled 2006 Update on Injured Resources and Services, including:

- A book by Bob Spies, *A Synthesis of the Ecological Findings from the EVOS Damage Assessment and Restoration Programs, 1989-2001*, which began in 2002 and which is scheduled to be complete in the near future.
- 2004 Assessment of Lingering Oil and Resource Injuries project (Jacobs/040776).
- 2006 invitation requesting broad synthesis projects on all of the listed species categorized as recovering, not recovering or recovery unknown.¹
- The book *The Gulf of Alaska: Biology and Oceanography* (2005), which received EVOSTC funding and was published by the Alaska Sea Grant College program (UAF). It is the first large Gulf of Alaska study published since 1986.²

The 2006 Invitation for Proposals was a focused request for synthesis projects on all listed species categorized as recovering, not recovering or recovery unknown. Proposals, ranging from syntheses on single species to synthesizing all resources and services listed but not recovered, are currently in the process of scientific and public review. The Council is scheduled to take action on the 2006 Work Plan at their August 2005 meeting.

Future Action

- Completion of the aforementioned projects should provide a great deal of useful information for possible updates to the Injured Resources and Services list.
- Lingering-oil synthesis reports will be put on an expedited peer review schedule finalized as soon as possible. Synthesis findings will be reviewed in the context of the Injured Resources and Services list and considered in recommendations to the Council for update of the list.
- Appoint a Steering Group on Injured Resources and Services to assist the EVOSTC Science Staff with the process of the 2006 update to the injured resources and services list. The Steering Group will be comprised of the Trustee Council Executive Director and Trustee representatives.

To accomplish its work, the Steering Group will confer with the Subcommittee on Lingering Oil and involve additional agency staff, other experts, and EVOS principal investigators as appropriate to access specific expertise and to garner diverse perspectives as needed to meet specific objectives. Ad-hoc working groups may be established by the Steering Group as necessary to facilitate the Committee's work.

¹ e.g., Otis T. In progress. Temporal stability of fatty acids used to discriminate pacific herring in Alaska. Project 050769.

² Hood DW. and Zimmerman ST. 1986. The Gulf of Alaska Physical Environment and Biological Resources. OCS Study 86-0095, USDOC, NOAA, NOS, and USDO, MMS. Anchorage, AK.

The tasks the Steering Group should address should include:

- Assisting in an iterative approach to constructing a responsive synthesis project package.
- Reviewing the policy implications of current goals, objectives, strategies and endpoints for restoration.
- Reviewing synthesis information from the various sources.
- Providing recommendations to meet additional informational needs pertaining to injured resources.
- Compiling the information pertaining to the cost benefit of additional restoration based on expenditures to date and proposed expenditures needed to restore injured resources or services.
- Formulating and forwarding recommendations for amending recovery goals, objectives and restoration strategies.
- Formulating and forwarding recommendations for updating the Injured Resources and Services list.

In order to facilitate communication among scientists and policy makers as this important update is undertaken, reports on the activity of the Steering Group shall be regularly provided to the Council.

3. Habitat Protection and Acquisition

Background

The 1994 Restoration Plan identifies habitat protection and acquisition as one of the principles for restoring and ensuring continued recovery in the spill area. The Comprehensive Habitat Protection Process was designed to help restore injured resources and services by identifying and protecting strategic habitats and services in order to prevent further harm.³ This process has been extensively documented in materials prepared for the Council and provided to each trustee agency, EVOSTC staff and ARLIS.

The Large Parcel Process focused on ecosystem-scale units and considered the ecological significance of each parcel, adjacent land management and any additional considerations and protection objectives. In 1993, 81 large parcels were identified and evaluated. An additional 15 parcels were added in November 1994. Fifteen acquisition packages were successfully pursued.

The Small Parcel Process rated the benefits of nominated small parcels (less than 1,000 acres each) to injured resources and services and considered each parcel's relevance to adjacent public land management and threats to injured resources and services. The resulting "benefit reports" described how parcels would achieve restoration objectives, and allowed the Council to apply additional merit

³ For more information, see individual reports or visit www.evostc.state.ak.us/habitat/index.html.

considerations as appropriate. Nominations were initially screened using threshold criteria designed to determine whether a parcel merited further consideration. Four hundred eighty parcels were nominated for consideration and screening, and to date, 106 parcels have been pursued through the Small Parcel Process.

Current Status

Habitat protection was designated as a restoration strategy for a significant number of injured resources. Council members have not recently taken any action on Large Parcel Acquisitions. The Council wants to evaluate the restoration benefits of the habitat acquisition program and to determine if a need exists for additional small parcel acquisitions to meet restoration objectives.

The Small Parcel Acquisition Working Group reviewed the status of the small-parcel acquisition procedure, and made recommendations to the Council at the February 2005 meeting. The Council decided to delay adopting a new policy until they had more information and could determine if parcels already purchased had succeeded in protecting habitat.

Future Action

Habitat and Acquisition Catalog and Review of Purchases. A catalog of habitat acquisitions will be created that will identify purchases, categories of purchases, acreage, costs, species and services associated with each parcel and other information pertinent to the acquisition decision. The catalog will reflect the current status of the small- and large-parcel acquisition programs and provide a tool useful for determining future program direction.

Relationship of the Guidance Document to the FY07 Invitation for Proposals

It is the intent of the Council to accomplish these priority, short-term actions while adhering to the EVOS annual process and schedule as described in the Restoration Plan to the extent practical. This is to be done with the understanding that some adjustments may be made to the process to accomplish the Injured Species and Services review and update and the assessment of lingering oil and restoration in a timely and efficient manner. Any such changes will be announced to the public through the Trustee Council website at the earliest practical opportunity.

Each item in the action plan includes component projects at various stages from projects already funded and underway to proposals awaiting review. Additional informational needs may develop as this process progresses. During this time the annual adaptive management cycle outlined in the 1994 Restoration Plan will continue to be used for preparation, review and issuance of the FY07 Invitation.

It is anticipated that the FY07 invitation will include the opportunity for single year projects which would 1) extend current monitoring efforts and historical data sets, and/or show a significant cost benefit to continuing use of new technology; 2) provide supplemental synthesis information; and 3) perform direct restoration as identified through the current review of lingering oil.

No update to the GEM Science Plan will be adopted until after the Injured Species and Services update has been completed.

Conclusion and Outcomes of the Interim Guidance Document

The Council intends for the work performed under the direction of this Document to achieve specific outcomes related to the questions of lingering oil and injured resources and services.

Fate and Effect of Lingering Oil

Complete an evaluation of lingering-oil studies and determine if further remediation is necessary. Evaluation of species impacted by lingering oil will be done in conjunction with the Update on Injured Resources and Services. If further oil remediation is deemed to be not beneficial, any long-term monitoring needs should then be identified.

Injured Resources and Services Update

Complete the evaluation and synthesis of all information necessary to complete the Update on Injured Resources and Services. Review recovery objectives and strategies and modify as necessary to define a clear, measurable and achievable endpoint for each injured resource and service that has not recovered. Determine the recovery status for restoration of the injured resource or service taking into account natural variation, lack of pre-spill data, diminishing returns, uncertainties in species information and new information not known at the time of the settlement. Identify future restoration activities that will result in short term recovery and evaluate the benefit of additional actions.

Habitat Protection and Acquisition

Create a catalog of Habitat Protection and Acquisition that includes statistics on acreage, costs and proximity to injured resources and services. Finalize the small parcel program revision for Council consideration.