EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
INVESTMENT POLICIES
(Adopted November __, 2014)

4.9.14 DRAFT

1. ***Joint Trust Funds***. In 1991, the State of Alaska and the United States received approximately $900,000,000 in joint trust funds, as settlement of natural resource damage claims stemming from the 1989 *Exxon Valdez* oil spill (EVOS). The Memorandum of Agreement and Consent Decree (MOA) entered into by the State of Alaska and the United States in Civil Action No. A91-081, governs the use of the natural resource damages, paid by Exxon. The State and Federal Governments act as co-trustees in the collection and joint use of all natural resource damage recoveries for the benefit of natural resources injured, lost or destroyed as a result of EVOS. The terms of the settlement are contained in the Agreements and Consent Decrees entered into by the State of Alaska and Exxon Corporation in Civil Action No. A91-083, and United States of America and Exxon Corporation in Civil Action No. A91-082. The United States Congress in Public Law (PL) 102-229 recognized the MOA and Consent Decree. Alaska State Legislature recognized the MOA and Consent Decree in AS 37.14.400. The *Exxon Valdez* Oil Spill Trustee Council (Council) has the responsibility for the general management of these joint trust funds.

2. ***Investment Fund.*** Initially, the joint trust funds were invested in the Court Registry (CRIS). However, in 1999 Congress enacted PL 106-113. *Attached.* This law allowed the joint trust funds to be deposited in the United States Department of the Interior's Natural Resource Damage Assessment and Restoration Fund and/or accounts outside the United States Treasury. The law requires that the funds are invested only in income-producing obligations and other instruments or securities that have been determined unanimously by the Council to have a high degree of reliability and security. In addition, the law requires the funds to be managed and allocated consistent with the Resolution adopted by the Council on March 1, 1999 establishing a Restoration Reserve. *Attached.* Under the terms of PL 106-113 and after an extensive review process by a group of Alaskan and national investment experts, the Council chose the Alaska Department of Revenue, Division of Treasury (ADOR) to manage and invest the funds on behalf of the Council. The joint trust funds are invested in the ADOR EVOS Investment Fund (Fund). As specified in the March 1, 1999 Council Resolution concerning the Restoration Reserve, the Fund is divided into three sub-accounts: Research, Habitat and Koniag.

3. ***Council Responsibilities.*** The statutory responsibility of the Council is to invest Fund monies in income-producing obligations and other instruments or securities that have a high degree of reliability and security. Although it is a matter of debate whether the Fund is a true trust or simply a misnomer for public money restricted to a particular use, the statutory responsibilities of the Council in the management of the Fund may be considered through analogy to some aspects of the Restatement (Third) of Trusts. When investing trust property, the trustee has a duty to conform to the terms of the trust, and to conform to applicable law in the absence of provisions in the trust. In the absence of contrary law or trust provisions it imposes the standard of the "prudent investor" which

   ". . . requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation but in the context of the trust portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suitable to the trust." Restatement (Third) of Trusts, §277

To support the Council's duties, the purpose of this policy is to provide general guidelines for the proper management of the Council's investment decisions. The Council shall establish policy, set direction, and provide oversight and stewardship for the prudent investment and management of the Fund. In doing so, the Council will follow a procedurally prudent process when investing the Fund assets; prepare written investment policies; choose an appropriate asset allocation strategy with regard to the appropriate and intended use of the Fund; control investment expenses; monitor the activities of all investment managers and investment consultants; and avoid conflicts of interest and use "prudent experts" to make investment decisions.

3. ***Standard of Prudence.*** The standard of the "prudent investor" has been interpreted as approving a portfolio theory of investments but does not impose a duty to maximize income. Indeed, the standard for typical trusts gives primary emphasis to preservation of the trust estate, while receiving a *reasonable* amount of income without taking undue risks. Only where all else is equal should the trustee choose the investment that produces the greater return. With regard to the Fund, which does not require preservation of the Fund, the trust must be invested in such a way that the purpose of the trust is served. It is therefore imperative that investment policies and asset allocation strategies adopted by the Council reflect the underlying purposes and intent of the Fund.

   Prudence is based on the conduct of the Council in managing the assets, and is evaluated by the process through which risk is managed, assets are allocated, custodians and managers are chosen, and results are supervised and monitored. A standard of prudence places the emphasis on responsibilities related to the investment portfolio and its purpose, rather than on investment performance. The Council is not an investment manager or investment specialist and is not responsible for the ultimate investment results. Although it is not possible to guarantee investment success, following the process outlined herein will significantly improve the odds of structuring an investment portfolio which will stand up to public scrutiny and will serve the Fund's purposes.

4. ***Indemnification.*** State law, found at AS 37.10.071(e), provides that the State shall indemnify fiduciaries or an officer or employee of the State against liability, under AS 37.10.071(d), for breach of a statutory duty in exercising investment, custodial, or depository powers or duties to the extent that the alleged act or omission was performed in good faith and was prudent under the applicable standard of prudence. However, actions which do not fall within the area of good faith and prudent practices are not statutorily entitled to indemnification. Indemnification language consistent with AS 37.10.071(e), as well as the desire of State trustees to hold retained investment managers and other retained fiduciaries to high standards, are included in contract language with such retained consultants.

5. ***Trustee Council Activities.*** In establishing policy, setting direction and providing oversight and stewardship for the prudent investment and management of the Fund, the Council will: adopt an appropriate asset allocation strategy; maintain one or more consultants, bank custodians, external investment managers, and legal counsel who may include the Alaska Department of Law and the United States Department of Justice; control investment and administrative expenses and incur only those costs that are reasonable in amount and appropriate to the investment responsibilities of the co-trusteeship; make financial and investment policies and performance available to the public; avoid conflicts of interest; and conform to the fundamental fiduciary duties of loyalty and impartiality.

6. ***Executive Director/Council Staff Activities.*** The Executive Director of the Council shall engage experts and contract for investment services, as the Council deems appropriate. This may involve entering into 'reimbursable services agreements' with State and/or Federal agencies (e.g., the Alaska Department of Revenue and/or the United States Department of the Interior) for personnel

services costs and associated contractual costs. In addition, to support the Council's management of the Fund, the Executive Director/Council staff will: make recommendations concerning policies, investment strategies, and procedures in consultation with the Investment Working Group (IWG, see below); advise the Council regarding the selection of custodians, an investment consultant, and investment managers in consultation with the IWG; account for and report on the investment activity of all funds under the investment responsibility of the Council; and advise the Council on the evaluation of investment policies and performance of the portfolios in consultation with the IWG.

7. ***Investment Working Group Membership.*** The Council has broad authority to engage experts and to delegate its investment responsibilities, as it deems appropriate. The Council, when formulating investment policies, will review the recommendations from the Executive Director. The Executive Director will consult with the IWG and such other consultants as the Council may retain from time to time. The IWG consists of one state and one federal Council member or designee, as determined by the Council, and appropriate state and federal officials and at least two investment experts, who are selected by the Executive Director. At least two members of the IWG must have experience and expertise in financial management and the management of institutional investment portfolios.

8. ***Investment Working Group Activities.*** The IWG may engage in a variety of activities to serve the Executive Director and Council, including: reviewing investment policies, strategies and procedures; making recommendations to the Executive Director concerning policies, investment strategies and procedures; providing advice as requested by the Executive Director, which may include the selection of custodians, an investment consultant, and investment managers; brief the Council at the Executive Director's request and/or at the request of a member of the IWG; act as "prudent expert" on behalf of the Executive Director; develop and recommend investment policies and strategies to the Executive Director; develop and recommend internal control systems and procedures to the Executive Director to ensure all investment assets are safeguarded; recommend to the Executive Director information systems adequate to fulfill the accounting, monitoring, investing, cash management and other information needs of the Council; and advise the Executive Director on the evaluation of investment policies and performance of the portfolios.

9. ***Investment Consultants.*** The Council selects investment consultants to provide advice on specific investment classes, including debt and equity securities, alternative investments, and other areas where focused attention is needed. Investment consultants do not accept discretionary decision-making authority on behalf of Council. Investment consultants function in a research, evaluation, education and due diligence capacity for Council and are fiduciarily responsible for the quality of the service delivered. Their activities may include: recommending strategic procedures and processes; identifying problems, issues and opportunities and making recommendations; upon the request of the Council, preparing an asset allocation study together with alternatives; assisting with manager structure, selection, monitoring and evaluation, if the manager is a third-party; monitoring and evaluating the overall performance of the portfolio; carrying out special projects at the request of Council; and providing continuing education to the Council and staff, as appropriate.

10. ***Investment Managers.*** The Council selects investment managers to carry out the "prudent expert" role of the Council; to develop a portfolio strategy within the specific mandate and asset size determined by the Council; to manage, purchase and sell assets for the portfolio; and to act as a fiduciary for assets under its management.

11. ***Delegation of Authority.*** The Council, through the appropriate state and/or federal agencies, may contract for investment, custodial or depository services on a discretionary or non-discretionary basis to the State and Federal governments and their employees, or to independent investment

management firms, banks, financial institutions or trust companies by designation through appointments, contracts or letters of authority.

12. ***Code of Ethics and Conflicts of Interest***. The State trustees and employees of the Trustee Council Office are subject to the Alaska Executive Branch Ethics Act (AS 39.52). In general, the State law provides that high moral and ethical standards are essential for the conduct of free government and that a Code of Ethics for the guidance of public officers will discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities, and will improve standards for public service and promote and strengthen faith and confidence in public officers.

    The State Code of Ethics provides that any effort to benefit a personal or financial interest through official action is a violation. The Code details specific prohibitions pertaining to the abuse of official position, acceptance of gifts, improper use of disclosure of information and improper influence. By law, the State trustees are subject to conflict of interest disclosure requirements of AS 39.50 which includes the delivery of annual reports on financial and business interests to the Alaska Public Officers Commission.

    All federal government employees are subject to the standards of conduct provided by the Ethics in Government Act of 1978, Public Law 95-521, as amended, including the Ethics Reform Action of 1989, Public Law 101-194. The statutory prohibitions are found in Title 18 of the United States Code, Sections 201 through 209, which include representational activities, conflict of interest, and dual compensation. Standards of conduct for all government employees are also delineated by Executive Order 12674, as amended by Executive Order 12731. The federal standards of conduct are further delineated in the regulations of the Federal Register, and include acceptance of gifts from outside sources; gifts between employees; gifts from foreign sources; acceptance of travel and related expenses; outside work; honoraria; outside activities; political activity; lobbying; procurement; misuse of government time, equipment, and information; nepotism; negotiating for non-federal employment; post employment; disclosure of financial interests; and penalties. The Department of the Interior, Commerce and Agriculture have additional ethics standards and requirements for all of their employees, including annual training and financial disclosure statements for specific persons, which include members of the Trustee Council.

13. ***General Investment Objective***. The general investment objective for the Fund is to equal or exceed target returns over time while limiting total risk to that which is appropriate to the investment goals and time horizon.

14. ***Individual Account Objectives.*** The objectives of the individual accounts may shift with unanimous Council action. Such action would supersede these policies and require their update. As of the date of the adoption of this policy, the account objectives for the Fund's sub-accounts are as follows:

    a. Research Sub-Account: As forecast in the annually-updated Trustee Council Long Term Spending Scenario, liquidity and future income to support administrative expenses, projects and long-term programs. The expenditures in this area as noted in the Scenario, if continued to be supported by the Council, are somewhat predictable over the future term and thus there is advance notice of the general amount of liquidity required for funding released on an annual cycle in approximately mid-September and a potential investment horizon ending in 2032.

    b. Habitat Sub-Account: income for on-going habitat restoration purposes, including the acquisition of lands or conservation easements. Future land purchases are subject to ongoing

negotiations and the timeline of their corresponding investments cannot be determined until such negotiations are concluded. There is typically at least a six-month period of notice of a need for liquidity and may occur at any time during the year. The investment horizon for these funds will likely not exceed 2032.

~~c. Koniag Sub-Account: The Council and Koniag, Inc. have entered into a long-term agreement allowing for pre-determined annual payments to Koniag in October and the potential sale of certain properties to the Council in October of any year from 2012 – 2022 for the balance in this sub-account. The Council is currently investing these funds with the objective of achieving a real, after-inflation return of 5%. Thus, this account requires that a known amount be liquidated in October of each year through 2022 so long as Koniag opts not to exercise its option to sell.~~

15. ***Annual Asset Allocation by Council.*** The Council recognizes that strategic asset allocation is the single most important policy decision affecting portfolio return and risk. At least annually, the Council will evaluate its current strategic asset allocation policies. The current policies will be compared with potential alternative policies on a consistent basis. This evaluation may include recommendations by the Executive Director based upon the IWG, comparisons with alternative policies; the status of the Fund; actual historic and future expected performance, risk and return; time horizons, and Council funding priorities.

    The specific status of the Joint Trust Fund, including funding status, earnings assumptions, liquidity requirements, and expected growth may be considered. The Council's investment consultant may use a "mean variance" optimization approach to evaluate the current and alternative policies. The specific inputs to the modeling process may be defined and contrasted with actual historic results. The implications for expected return and risk may be considered over multiple time horizons. The development of optimized asset allocations may include estimates of risk (standard deviation of returns for each asset class), the modeled return for each asset class, and the correlations of each asset class with other asset classes. The strategic analysis may include those asset classes for which the Council believes reasonable inputs are available. Asset subsets where meaningful historic data are not available may not be considered as a part of the strategic asset allocation analysis. Such subsets or categories, however, may be included as part of an appropriate broad asset category.

16. ***Review of Investment Manager Performance.*** The Council may review its investment management, in consultation with the Executive Director, IWG, Council staff, and investment consultants. If the Council determines a new investment manager is necessary, a rigorous, objective due diligence process will be utilized in the selection of any investment managers retained by the Council. Such review may include an analysis by an investment consultant of the Council's choosing and recommendations by the Executive Director and IWG.

17. ***Securities Lending.*** The Council may enter into a securities lending arrangement with an agent(s) when the Council concludes that such an arrangement would benefit the Fund. Securities lending services may be provided by the Council's bank custodian or an independent service provider. Securities lending programs result in the agent undertaking a direct or indirect asset management function. The Council will use the same skill and due diligence in the evaluation and selection of such agent(s) as utilized in the selection of money managers.

18. ***Rebalancing Guidelines.*** The Council may periodically instruct staff to shift and/or limit staff's authority to shift assets within asset classes and/or among asset classes. Unless restricted by Council action, the Executive Director or an appropriate designee shall have discretion to move

assets among investment managers and asset categories provided that the actual asset allocation is within the variability bands of the Council's strategic asset allocation policy.

Attachments:
Public Law 106-113
Resolution 99-03-01 Regarding Restoration Reserve and Long-Term Restoration Needs

App. C., Section 350, Public Law No. 106-113

Sec. 350. Investment of *Exxon Valdez* Oil Spill Court Recovery in High Yield Investments and in Marine Research. (1) Notwithstanding any other provision of law and subject to the provisions of paragraphs (5) and (7), upon the joint motion of the United States and the State of Alaska and the issuance of an appropriate order by the United States District Court for the District of Alaska, the joint trust funds, or any portion thereof, including any interest accrued thereon, previously received or to be received by the United States and the State of Alaska pursuant to the Agreement and Consent Decree issued in United States v. Exxon Corporation, et al. (No. A91-082 CIV) and State of Alaska v. Exxon Corporation, et al. (No. A91-083 CIV) (hereafter referred to as the ``Consent Decree''), may be deposited in-- (A) the Natural Resource Damage Assessment and Restoration Fund (hereafter referred to as the ``Fund'') established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102-154; 43 U.S.C. 1474b); (B) accounts outside the United States Treasury (hereafter referred to as ``outside accounts''); or (C) both. Any funds deposited in an outside account may be invested only in income-producing obligations and other instruments or securities that have been determined unanimously by the Federal and State natural resource trustees for the Exxon Valdez oil spill (``trustees'') to have a high degree of reliability and security. (2) Joint trust funds deposited in the Fund or an outside account that have been approved unanimously by the Trustees for expenditure by or through a State or Federal agency shall be transferred promptly from the Fund or the outside account to the State of Alaska or United States upon the joint request of the governments. (3) The transfer of joint trust funds outside the Court Registry shall not affect the supervisory jurisdiction of the district court under the Consent Decree or the Memorandum of Agreement and Consent Decree in United States v. State of Alaska (No. A91-081-CIV) over all expenditures of the joint trust funds. (4) Nothing herein shall affect the requirement of section 207 of the dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for the incremental cost of ``Operation Desert Shield/Desert Storm'' Act of 1992 (Public Law 102-229; 42 U.S.C. 1474b note) that amounts received by the United States and designated by the trustees for the expenditure by or through a Federal agency must be deposited into the Fund. (5) All remaining settlement funds are eligible for the investment authority granted under this section so long as they are managed and allocated consistent with the Resolution of the Trustees adopted March 1, 1999, concerning the

Restoration Reserve, as follows: (A) $55 million of the funds remaining on October 1, 2002, and the associated earnings thereafter shall be managed and allocated for habitat protection programs including small parcel habitat acquisitions. Such sums shall be reduced by-- (i) the amount of any payments made after the date of enactment of this Act from the Joint Trust Funds pursuant to an agreement between the Trustee Council and Koniag, Inc., which includes those lands which are presently subject to the Koniag Non-Development Easement, including, but not limited to, the continuation or modification of such Easement; and (ii) payments in excess of $6.32 million for any habitat acquisition or protection from the joint trust funds after the date of enactment of this Act and prior to October 1, 2002, other than payments for which the Council is currently obligated through purchase agreements with the Kodiak Island Borough, Afognak Joint Venture and the Eyak Corporation. (B) All other funds remaining on October 1, 2002, and the associated earnings shall be used to fund a program, consisting of-- (i) marine research, including applied fisheries research; (ii) monitoring; and (iii) restoration, other than habitat acquisition, which may include community and economic restoration projects and facilities (including projects proposed by the communities of the EVOS Region or the fishing industry), consistent with the Consent Decree. (6) The Federal trustees and the State trustees, to the extent authorized by State law, are authorized to issue grants as needed to implement this program. (7) The authority provided in this section shall expire on September 30, 2002, unless by September 30, 2001, the Trustees have submitted to the Congress a report recommending a structure the Trustees believe would be most effective and appropriate for the administration and expenditure of remaining funds and interest received. Upon the expiration of the authorities granted in this section all monies in the Fund or outside accounts shall be returned to the Court Registry or other account permitted by law.

RESOLUTION
of the
Exxon Valdez Oil Spill Trustee Council
concerning the
Restoration Reserve and Long-term Restoration Needs

WHEREAS, in November 1994, following an extensive public process, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") adopted the *Restoration Plan* to guide a comprehensive and balanced program to restore resources and services injured by the oil spill;

WHEREAS, since that time the Trustee Council has used the *Restoration Plan* to guide development of the annual work plans as well as the acquisition and protection of large and small habitat parcels important to the long-term recovery of injured resources and services;

WHEREAS, the *Restoration Plan* identified a series of large parcel purchases and the Trustee Council has been successful in obtaining habitat protection agreements with willing-seller landowners to provide protection for approximately 635,000 acres;

WHEREAS, the *Restoration Plan* recognized that complete recovery from the oil spill would not occur for decades and that through long-term observation and, as needed, restoration actions, injured resources and services could be fully restored;

WHEREAS, the *Restoration Plan* specifically recognized establishment of the Restoration Reserve to provide a secure source of funding for restoration into the future beyond the last annual payment from the Exxon Corporation;

WHEREAS, the Trustee Council has sponsored an extensive public involvement process to provide opportunity for comment on possible future uses of the Restoration Reserve including public meetings in communities throughout the spill impact region and also in Anchorage, Fairbanks and Juneau;

WHEREAS, a large volume of public comment regarding the Restoration Reserve has been solicited and received urging a wide range of uses for remaining settlement funds including a strong showing of support for additional habitat protection efforts as well as research and other restoration efforts;

WHEREAS, numerous Native tribal members and other community residents from the spill area have indicated a strong interest in continued support for community-based efforts consistent with those that have been previously funded by the Trustee Council such as subsistence restoration, Traditional Ecological Knowledge, youth area watch, cooperative management, and local stewardship efforts;

WHEREAS, the Public Advisory Group (PAG) has reviewed and discussed long-term restoration needs and use of the Restoration Reserve at considerable length and the views of the PAG members have been communicated to the Trustee Council;

WHEREAS, upon consideration of the restoration mission as provided by the settlement and the *Restoration Plan*, past restoration program efforts and accomplishments, public comments received by the Trustee Council, the views of the Public Advisory Group members, and the most current information regarding the status of recovery of the resources and services injured by the oil spill, the Trustee Council has identified substantial and continuing long-term restoration needs;

WHEREAS, full recovery of many injured resources and services is not yet complete and long-term restoration, conservation and improved management of these resources and services will require a substantial on-going investment to improve our understanding of the biology and marine and coastal ecosystems that support the resources as well as the people of the spill region;

WHEREAS, prudent use of the natural resources of the spill area without unduly impacting their recovery requires increased knowledge of critical ecological information about the northern Gulf of Alaska that can only be provided through a long-term research and monitoring program;

WHEREAS, together with scientific research and monitoring, a continuing commitment to habitat protection and general restoration actions, where appropriate, will help ensure the full recovery of injured resources and services;

WHEREAS, consistent with the *Restoration Plan*, restoration needs identified by the Trustee Council require a long-term comprehensive and balanced approach that includes a complementary commitment to scientific research and monitoring; applied science to inform and improve the management of injured resources and services; continued general restoration activities where appropriate; support for community-based efforts to restore and enhance injured resources and services; and protection for additional key habitats;

WHEREAS, by October 2002, as a result of the past and anticipated future deposits into the Restoration Reserve, it is estimated that the principal and interest in the reserve, together with remaining unobligated settlement funds, will be approximately $170 million unless, prior to that time, on-going negotiations concerning the Karluk and Sturgeon rivers and adjacent lands or other potential habitat transactions result in habitat acquisition agreements that obligates some of these funds;

WHEREAS, absent such additional acquisition agreements, $170 million is the total of the funds estimated to be available to support long-term restoration based on projected investment returns allowable through the Court Registry under its existing authority and thus reasonably anticipated as available for restoration purposes by the Trustee Council starting with FY 2003 ("estimated funds remaining on October 1, 2002"); and

WHEREAS, the limits of the existing investment authority of the Trustee Council have resulted in the loss of millions of dollars in potential earnings that would have been available to effectively address restoration needs in the future and support a comprehensive program that maintains its value over time, and it is necessary that the limits on the investment authority for the joint settlement funds be amended by Congress if we are to optimize our potential restoration program;

THEREFORE BE IT RESOLVED, that the Trustee Council has determined that recovery from the *Exxon Valdez* oil spill remains incomplete and there is need for establishing at this time a continuing long-term, comprehensive and balanced restoration program consistent with the *Restoration Plan*;

BE IT FURTHER RESOLVED, that funds in the Restoration Reserve and other remaining unobligated settlement funds available on October 1, 2002 (for expenditure starting in FY 2003) be allocated in the following manner consistent with the "Outline of Action Under Existing Authority" dated 3/1/99 attached to this resolution:

- $55 million of the estimated funds remaining on October 1, 2002 and the associated earnings thereafter will be managed as a long-term funding source with a significant proportion of these funds to be used for small parcel habitat protection and it is recognized that any funding that may be authorized for purchase of lands along or adjacent to the Karluk or Sturgeon rivers or other potential habitat acquisitions would be made from within this allocation; and

- the remaining balance of funds on October 1, 2002 will be managed so that the annual earnings, estimated at approximately 5% per year, will be used to fund annual work plans that include a combination of research, monitoring, and general restoration including those kinds of community-based restoration efforts consistent with efforts that have been previously funded by the Trustee Council, such as subsistence restoration, Traditional Ecological Knowledge, Youth Area Watch, cooperative management, and local stewardship efforts, as well as local community participation in ongoing research efforts;

BE IT FURTHER RESOLVED, that the Restoration Office and the Chief Scientist, under the direction of the Executive Director, shall begin to develop a long-term research and monitoring program for the spill region that will inform and promote the full recovery and restoration, conservation and improved management of spill-area resources; and

BE IT FURTHER RESOLVED, that it is the intent of the Trustee Council that this long-term reserve for research, monitoring and general restoration be designed to ensure the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of those resources injured by the *Exxon Valdez* oil spill and the long-term health and viability of the spill area marine environment;

BE IT FURTHER RESOLVED, that in developing a long-term restoration research, monitoring and general restoration program for the spill region, the Executive Director shall solicit the views of the Public Advisory Group, community facilitators, resource management agencies, researchers and other public interests as well as coordinate restoration program efforts with other marine research initiatives including the North Pacific Research Board;

BE IT FURTHER RESOLVED, that the Executive Director shall work with the Alaska Congressional delegation and appropriate State and federal agencies to obtain the necessary investment authority to increase the earnings on remaining settlement funds, so that the Trustee Council will be able to conduct an effective restoration program that maintains its value over time; and

BE IT FURTHER RESOLVED, that in developing long-term implementation options for consideration by the Trustee Council, the Executive Director shall:

- investigate possible establishment of new or modified governance structures to implement long-term restoration efforts,
- explore alternative methods to ensure meaningful public participation in restoration decisions, and
- report back to the Trustee Council by September 1, 1999 regarding these efforts.

Adopted this 1st day of March, 1999, in Anchorage, Alaska.

3/15/99
DAVE GIBBONS — Date
Trustee Representative
Alaska Region
USDA Forest Service

Craig J. Tillery 3/9/99
for BRUCE M. BOTELHO — Date
Attorney General
State of Alaska

Marilyn Heiman 3/11/99
MARILYN HEIMAN — Date
Special Assistant to the
Secretary for Alaska
U.S. Department of the Interior

3/15/99
STEVEN PENNOYER — Date
Director, Alaska Region
National Marine Fisheries Service

3-16-99
FRANK RUE — Date
Commissioner
Alaska Department of
Fish and Game

3/17/99
MICHELE BROWN — Date
Commissioner
Alaska Department of
Environmental Conservation

3/9/99 final

3/1/99

OUTLINE OF ACTION UNDER EXISTING AUTHORITY

Assumptions:

- Use of the Restoration Reserve funds will commence with FY 2003 (October 2002)
- The Trustee Council will allocate an additional $36M to the Restoration Reserve (annual $12M payments in FY 2000, 2001 and 2002)
- Additional restoration program authorizations from March 1999 to October 2002, exclusive of contractual land payments and other habitat commitments, will amount to not more than $35M
- Remaining unobligated balance of restoration funds in October 2002 will be $170M including funds that may be needed for a possible Koniag Karluk-Sturgeon acquisition
- Trustee Council receives no new investment authority and continues to invest settlement funds in treasury instruments that yield approximately 5%

Elements of a Long-Term Restoration Program:

- Consistent with the *Restoration Plan*, the core elements of a long-term restoration effort would focus on research, monitoring, and general restoration including community-based restoration, and habitat protection
- Starting in FY 2003, and except as otherwise approved by the Council for habitat protection, restoration efforts would be funded from the earnings of remaining funds
- Earnings estimated at approximately 5% per year from treasury investments (nominal yield)
- The approximately $170M in restoration funds remaining on October 1, 2002 will be allocated into two parts:
    - ✓ $55M for habitat protection, including a possible Koniag Karluk-Sturgeon acquisition and any other additional acquisitions approved by the Council prior to that date
    - ✓ remainder (estimated at $115M plus, under the current assumptions) for research-monitoring, general restoration and community-based projects (e.g., subsistence, TEK, stewardship)
- Absent changes in the investment authority and consequent increased yield on investments, there would be no inflation-proofing with the consequent loss of purchase power over time in proportion to prevailing inflation rates (in order to support an annual restoration program of effective size)
- Cost of program management apportioned according to relative expense (public involvement, agency participation, peer review, habitat acquisition support, administration, etc.) to either the habitat or research, monitoring and general restoration funds as appropriate

Habitat Protection:

- $55M of remaining funds on October 1, 2002 (FY 2003) for Habitat Protection would include any amounts needed to complete the Koniag Karluk-Sturgeon acquisition or other potential habitat protection purchases

- $55M of the estimated funds remaining on October 1, 2002 and the associated earnings thereafter will be managed as a long-term funding source with a significant proportion of these funds to be used for small parcel habitat protection and it is recognized that any funding that may be authorized for purchase of lands along or adjacent to the Karluk or Sturgeon rivers or other potential habitat acquisitions would be made from within this allocation
- After December 2001 (the end of the current easement), the $16.5M previously allocated for the Koniag Karluk-Sturgeon acquisition, if not obligated at that point, would be available for other habitat protection efforts
- Issues that require further consideration:
    - ✓ priority, criteria and decision-making process for specific parcel selection
    - ✓ possible role of non-governmental organization to implement program after October 2002
    - ✓ extent of public involvement in future program

<u>Research, Monitoring and General Restoration</u>:

- Remaining balance of funds (estimated at $115M plus under the current assumptions) for Restoration Research, Monitoring, and General Restoration would be managed so that earnings-only would be used to support annual work plans starting with FY 2003
- Annual earnings currently estimated at 5% per year if within the U.S. Treasury (nominal yield, no inflation proofing)
- Annual work plan would support continuing restoration and enhancement of oil spill injured resources including long-term research-monitoring, development of improved management tools, synthesis of results, general restoration activities, and community-based restoration projects such as subsistence restoration, Traditional Ecological Knowledge, Youth Area Watch, cooperative management, and local stewardship efforts as well as local community participation in on-going research efforts
- Issues that require further consideration:
    - ✓ whether changes in the annual work plan process are appropriate in light of reduced scale
    - ✓ means and extent of scientific peer review
    - ✓ means and extent of public involvement in process
    - ✓ how and to what extent communities and tribes of the spill area would be involved in long-term research, monitoring, stewardship and cooperative management efforts
    - ✓ whether a new organization or governance structure is needed

3/1/99

Executive Director WORKING DRAFT Recommendation

SUMMARY OF PAST AND ESTIMATED FUTURE USES OF SETTLEMENT

(in $millions)

REIMBURSEMENTS FOR SPILL RESPONSE	213.1

RESTORATION MANAGEMENT	FFY 92-99	FFY 00-02	FFY 03+	
Science Management, Public Involvement & Administration	24.7	5.1	TBD	(a)

RESTORATION IMPLEMENTATION	FFY 92-99	FFY 00-02	Remaining Funds (b)	TOTAL	
Research, Monitoring, General Restoration	145.0	25.4	115.0	285.4	39.8%
Habitat Protection	372.1	4.5	55.0	431.6	60.2%
	517.1	29.9	170.0	717.0	100.0%

(a) To date, Restoration Office science management, public involvement and administration has cost approximately 5% of restoration program expenditures overall. Beyond FFY 02, science management, public involvement and administration costs will be allocated in proportion to program area costs.

(b) Estimate of remaining funds includes Restoration Reserve (with $12 million per year to be placed into the reserve FFY 00 - FFY 02), interest accrued, the $16.5 million committed to a Koniag purchase through 2001 plus additional funds currently unallocated.