

*Exxon Valdez* Oil Spill Trustee Council



General Operating Procedures

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## 1. TRUSTEE COUNCIL

### 1.1 Basic Governing Procedures

The current edition of [Robert's Rules of Order](#) will govern the Trustee Council. All provisions of these rules of order will apply to Trustee Council deliberations unless otherwise provided in these General Operating Procedures or the Trustee Council unanimously decides to proceed differently.

### 1.2 Trustee Council Membership

The following officials act on behalf of the public as trustees: the Attorney General of the State of Alaska; the Commissioner of the Alaska Department of Environmental Conservation; the Commissioner of the Alaska Department of Fish and Game; the Secretary of the United States Department of Agriculture; the Secretary of the United States Department of the Interior; and the Administrator of the National Oceanic and Atmospheric Administration, United States Department of Commerce. Each Trustee may designate a representative to serve on the Trustee Council. Any such designation shall be in writing and the designation shall be maintained in the official record. In the event a Trustee Council member is precluded from attending a meeting or must be excused during a meeting, an alternate may exercise voting privileges on behalf of the Trustee Council member. Alternates shall be designated in writing or an alternate may be identified at the meeting and so stated for the record.

### 1.3 Quorum

A quorum of two-thirds (2/3) of the total Trustee Council membership including at least two state members and two federal members shall be required to convene a meeting. All decisions shall be made by unanimous agreement of the six Trustee Council members, their designees, or their alternates, except that a quorum may convene a meeting, approve the agenda, take public testimony, and adjourn a meeting.

### 1.4 Chair

The Trustee Council shall designate a chair to preside at each meeting. The chair shall alternate meeting-to-meeting between the state and federal trustee members. The chair may participate in discussion and debate at the meetings and shall vote on all questions before the Trustee Council.

### 1.5 Trustee Council Action

All matters before the Trustee Council that require a vote, make a recommendation, approve, or disapprove an item, or otherwise render a decision shall require the unanimous agreement of the six Trustee Council members, their designees, or their alternates. All actions by the Trustee Council shall be taken at duly convened meetings except as provided in Section 1.10, Intervening Action.

### 1.6 Recusal

In the event a Trustee Council member has a conflict and must recuse himself or herself from voting, the Trustee Council member may request the decision be deferred until a designated alternate is available to vote.

### 1.7 Meetings

Meetings shall be public and shall be held at times and locations determined by the Trustee Council and conducted either in person, via teleconference, and/or a virtual meeting platform. The Executive Director shall, to the maximum extent possible, provide a proposed agenda and appropriate briefing materials to the Trustee Council members at least 10 days in advance of the meeting. All materials from the public or from agency personnel for inclusion on that meeting's agenda shall be turned in to the Executive Director at least 15 days before the meeting. It is a priority for the Trustee Council to have all materials in advance of the meeting. An exception to this requirement may be allowed by the Executive Director or the Trustee Council where the information is not available 15 days before the meeting.

### 1.8 Executive Session

Executive sessions shall be kept to a minimum and shall be used only for discussion of matters concerning confidential personnel issues, litigation or legal advice, habitat acquisition negotiations, confidential archaeological information, confidential fisheries information, or other matters included under [AS 37.14.430](#), [AS 44.62.310](#) (c) or other applicable State or Federal laws.

### 1.9 Minutes of Trustee Council Meetings

All meetings shall be recorded electronically or by a court reporter, and said records shall, along with the written, approved meeting notes, constitute the official record of the Trustee Council's actions.

### 1.10 Intervening Action

In the event of a matter requiring Trustee Council action in the intervening period before a meeting is held in accordance with the procedures described herein, the Executive Director shall poll the Trustee Council electronically, and matters may be approved by unanimous agreement of the members of the Trustee Council. Intervening Actions do not include substantive matters requiring public review and input prior to a Council decision. Any decisions of the Trustee Council taken in an intervening period shall be documented along with justification regarding the need to take action. In addition, any intervening action(s) taken outside of a meeting shall be noted at the next meeting of the Trustee Council.

## 2. ORGANIZATIONAL STRUCTURE

### 2.1 General

Pursuant to the agreement between the State of Alaska and the United States, the Trustee Council has created the position of Executive Director to manage the day-to-day administrative functions of the Trustee Council, prepare and implement budgets, hire, and oversee employees and contractors as necessary to carry out the Trustee Council's programs, and execute the overall restoration program.

### 2.2 Trustee Council Office

Under supervision of the Executive Director, the Trustee Council Office is responsible for:

- a. facilitating communication between the federal and state government Trustee Council members, the Science Panel, the Public Advisory Committee, and any Trustee Council-funded projects/programs,
- b. maintaining the official record of the Trustee Council's actions,
- c. soliciting project/program proposals and administering the proposal process, including supporting the Science Panel and any additional subcommittees and working groups that are formed to advise on the scientific development of the project/program,
- d. preparing and analyzing financial and project/program status information,
- e. developing and implementing procedures to achieve the goals and objectives of the Trustee Council,
- f. performing and/or overseeing special and ongoing projects/programs,
- g. facilitating public outreach and public participation, and
- h. preparing budgets for Trustee Council approval and administering approved budgets (including multi-year budgets) to accomplish the goals of the Trustee Council.

### 2.3 Trustee Agencies

Under supervision of the agency's Trustee Council member, each Trustee agency is responsible for administrative oversight of projects funded to or through their agencies. This oversight shall include (1) ensuring that the procedures described herein, and the appropriate state or federal procedures, are followed, including compliance with the National Environmental Policy Act and other applicable legal requirements, and (2) ensuring that projects funded meet their stated objectives and schedules and are accomplished consistent with the funds authorized.

## 3. PROPOSAL SOLICITATION AND REVIEW

### 3.1 Invitation for Proposals

Upon the decision by the Trustee Council to issue an invitation, the public, private sector, non-profit organizations, and government agencies will be invited to submit proposals for funding based on identified restoration priorities and needs.

### 3.2 Review

Proposals are subject to policy, content, budget, legal and peer review, and may also undergo review by independent scientists or other experts, the Science Panel, agency staff, and the Public Advisory Committee. A draft work plan, including funding recommendations from the Trustee Council's Science Panel, Public Advisory Committee, and Executive Director will be available for public review and comment.

#### *3.2.1 Non-Distribution Agreement/Confidentiality Statement*

The complete contents, including budget tables and potential personally identifiable information, of a project proposal received in response to an invitation issued by the Trustee Council are closely held as confidential within the review process until Trustee Council approval is complete, at which time funded projects are available to the public. The Science Panel may review project proposals and make recommendations to the Executive Director as a part of the funding process. Members of the EVOSTC Public Advisory Committee and other reviewers, including agency staff, may also be asked to review the project proposals. A non-distribution agreement and confidentiality statement will be signed by each reviewer obtaining the complete contents of proposals or any portion of a proposal containing sensitive information (e.g., proprietary or personally identifiable information). The reviewer will agree not to distribute the project proposals to others, nor discuss them with anyone that has not been approved by the Executive Director. The agreement does not preclude the reviewer from discussing the project proposal with an individual or group that has been established as part of the review process for that proposal by the Executive Director; an example of such a group is the EVOSTC Science Panel.

#### *3.2.2 Conflict of Interest Statement*

Anyone reviewing full proposals on behalf of the Council will be asked to sign a statement that disavows any financial or other conflict of interest between themselves and the funding decisions of the Trustee Council.

### 3.3 Approval

Based on recommendations and comments received during the review processes and as presented within the draft work plan, the Executive Director shall make a recommendation to the Trustee Council on which proposals should be funded. The Trustee Council, in open session, shall receive public comments and review the Executive Director's recommendation. The Trustee Council may make changes to the proposals or include terms and conditions of funding as the Trustee Council deems appropriate. The recommendation to fund can only be adopted by the Trustee Council by unanimous approval. To receive funding, the proposer must demonstrate in writing that the requested changes or terms and conditions included in the Trustee Council's funding approval decision were made.

### 3.4 Multi-Year Projects and Programs

A multi-year project is a project that involves an overall work plan and budget spanning more than one fiscal year. For multi-year project proposals, the Executive Director's recommendation shall include the number of years of funding to be provided for each project. The Trustee Council may approve funding to support a project/program for any number of fiscal years that the Council deems appropriate, is consistent with applicable laws and policies, and is consistent with the invitation under which the proposal was submitted. The Council's decisions regarding the number of years of funding for a project/program will be documented in the Trustee Council Resolution and/or the attachments to the Resolution approving the project/program. Funded multi-year projects must submit annual and final reports in accordance with Trustee Council reporting procedures, and will be reviewed at least biennially to ensure compliance with Trustee Council goals and funding conditions. Review may be performed by entities including Trustee Council staff, Science Panel, and Public Advisory Committee, as appropriate. The Executive Director, with support of the Trustee Council staff, will prepare biennial restoration program status reports for submission to the Trustee Council for review. Should the reviewing entities discover issues that may warrant notable adjustments to a project/program's scope or funding (e.g., a demonstration of non-performance or inappropriate use of EVOSTC funds), they will relay such findings to the Executive Director, who may include in the status report a recommendation to the Trustee Council to remedy the issue. Remedies may include, but are not limited to adjustments of project/program scope; adjustments of project/program funding; suspension or termination of projects/programs at any point during the period of performance. The Executive Director may suspend the project/program pending review by the Trustee Council. The Trustee Council will decide the appropriate remedy, if any, as an Intervening Action or at the next Trustee Council meeting.

## 4. HABITAT PROTECTION AND ACQUISITION

### 4.1 General

Habitat Protection and Acquisition is an important means of restoring injured resources and the services that are dependent upon those resources. Habitat Protection and Acquisition may include the purchase of lands or interests in land such as conservation easements, mineral rights, timber rights, surface and subsurface.

### 4.2 Parcel Nomination

Only those parcels nominated on behalf of a willing seller may be considered for purchase. The Executive Director shall prepare and maintain written procedures regarding nomination of parcels. Proposals shall include, at a minimum, a description of the parcel and the interests to be acquired, the parcel's habitat values, the proposed acquisition's connection to EVOS injured natural resources and services, and the proposed management for the parcel (e.g., a "benefits report"). Proposals may include the costs of due diligence activities as well as the estimated price of acquisition of the interests in the land.

A proposal requesting funds for land/interests' acquisition may be submitted to the Trustee Council prior to the completion of all due diligence activities and/or final agreement on the purchase price between the buyer and seller. The Trustee Council may award funding for such a proposal up to the ceiling amount specified in the proposal and contingent upon a fair market value appraisal of the interests to be acquired in accordance with government appraisal standards and the future satisfactory completion of due diligence activities and upon certain other criteria being met.

### 4.3 Parcel Evaluation

Nominated parcels shall be evaluated based on their importance to the conservation and protection of marine and coastal resources, ecosystems, and habitats, in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the oil spill and the spill area ecosystem. The Trustee Council will also consider the relative ranking of the proposed parcel/interest within the Council's habitat prioritization.

If the Trustee Council has awarded funding to a habitat protection proposal contingent upon the completion of due diligence activities or satisfaction of other requirements, authority to determine whether the due diligence activities or other requirements have been satisfied may be delegated to the Executive Director in consultation with the Alaska Department of Natural Resources, U.S. Department of the Interior Office of the Solicitor, and the Alaska Department of Law.

### 4.4 Terms and Conditions

By unanimous agreement of the six Trustees, their designees or their alternates, a resolution shall be adopted authorizing the purchase of interests in land or ownership rights. The resolution shall set forth the terms and conditions appropriate for the identified parcel(s).

### 4.5 Title and Management

The lands or ownership rights shall be specified in the resolution adopted by the Trustee Council. All interests in land acquired shall be managed in accordance with the terms and conditions of the Trustee Council.

#### 4.6 Public Review and Comment

Prior to final Trustee Council action, reasonable public notice shall be given, and the public shall be provided an opportunity to comment.

## 5. PUBLIC PARTICIPATION

### 5.1 General

The Trustee Council recognizes that public participation in the restoration program is an integral part of the process. To that end, the public is invited to review, comment on, and participate in the development and implementation of the restoration program.

### 5.2 Exxon Valdez Oil Spill Public Advisory Committee

By order of the District Court for the District of Alaska, the Public Advisory Committee is to advise the Trustees appointed to administer the fund established in settlement of United States v. Exxon Corporation, Civil Action No. A91-082, and State of Alaska v. Exxon Corporation, Civil Action No. 091-083, both in the United States District Court for the District of Alaska, in all matters described in Paragraph V.A.1 of the [Memorandum of Agreement and Consent Decree dated August 29, 1991](#). The overall procedures for the [Public Advisory Committee](#) are contained in a Charter signed by the Secretary of the United States Department of the Interior. The Public Advisory Committee consists of members appointed by the Secretary of the United States Department of the Interior.

### 5.3 Public Notice

Reasonable public notice shall be given for all meetings of the Trustee Council. The notice shall include, when possible, notification on the EVOSTC website and publication in one or more newspapers of general circulation in the following communities: Anchorage, Cordova, Homer, Juneau, Kenai, Kodiak, Seward, and Valdez. To the maximum extent possible, reasonable public notice shall also be provided to other communities within the spill area. The public notice shall identify the purpose of the meeting and include a reasonable opportunity for public comment.

### 5.4 Access of Information

Except where documents are confidential under state or federal law, and in accordance with Council procedures, the public shall have access to the official record of the Trustee Council's actions and information regarding proposed or completed projects or other activities funded by the Trustee Council. Council records are available on the EVOSTC [website](#) and historical records are also available at the Alaska Resources Library and Information Services ([ARLIS](#)) and with the Alaska State Archives at: <https://archives.alaska.gov/>.