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DOJ, ENRD

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Case 3:91-cv-00083-HRH

Document 287-2

Filed 04/11/2008 Page 1 of 10

SARAH PALIN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Environmental

1031 WEST 4th AVENUE, SUITE 200

ANCHORAGE, ALASKA 99501-1994

PHONE: (907) 269-5274

FAX: (907) 278-7022

April 11, 2008

Mr. Gary Bader
Chief Investment Officer
Treasury Division, Dept. of Revenue
P.O. Box 110405
Juneau, AK 99811-0405

Re: Exxon Valdez Oil Spill Investment Fund

Dear Mr. Bader:

The Exxon Valdez Trustee Council has unanimously determined to expend \$831,600 in joint trust funds for restoration purposes consistent with the terms of the Memorandum of Agreement and Consent Decree entered by the federal district court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991. Of this amount, \$798,900 will come from the Research Investment Sub-Account and \$32,700 will come from the Habitat Investment Sub-Account; both Sub-Accounts are currently held by the State of Alaska in the Exxon Valdez Oil Spill Investment Fund and invested by the Treasury Division, Alaska Department of Revenue. Under the terms of the Reimbursable Services Agreement between the Alaska Department of Fish and Game and the Alaska Department of Revenue, please transfer the following amounts from cash held in the Exxon Valdez Oil Spill Investment Fund to the accounts described below:

State of Alaska

Amount: \$254,600
State of Alaska
Exxon Valdez Settlement Account
GeFONSI 33070
Account 22177

United States

Amount: \$577,000

Beneficiary
account: 14X5198
name: Natural Resource Damage Assessment and Restoration Fund

Attachment A

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→ TILLERY, C
Filed 04/11/2008 Page 2 of 10 003

Mr. Gary Bader
Treasury Division, Department of Revenue

Page Two
April 11, 2008

(NRDAR)

Beneficiary

account: 14010001

name: Department of the Interior
Financial Management Services National Business Center

Beneficiary Bank

account: 021030004

name: Treasury, NYC

OBI Text

Natural Resource Damage Assessment Restoration Fund 14X5198
EVOS Exxon Valdez, Civil Settlement, FY06 Joint Funds

Beneficiary Reference

A91-082Civil

The transfer should take place when most financially advantageous, preferably on or before April 18, 2008, or as soon thereafter as possible. If you have any questions, please call Elise Hsieh at (907) 269-5274.

Sincerely,



Elise Hsieh
Assistant Attorney General
State of Alaska



Regina R. Belt
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
United States of America

cc: Divina Pelayo, Alaska Department of Fish and Game
Christine O'Sullivan, Alaska Department of Fish and Game
Sue Bump, Alaska Department of Revenue
Bob Mitchell, Alaska Department of Revenue
Lynette Schroeder, Exxon Valdez Oil Spill Trustee Council Restoration Office

Attachment A
Page 2 of 27

**RESOLUTION 08-06 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING PORT GRAHAM HABITAT PROTECTION**

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 2007, as described in Attachment A.

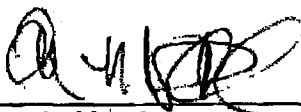
This resolution authorizes the distribution of \$32,700 of FY 08 funding for due diligence expenses in support of Port Graham Habitat Protection Efforts focusing on parcel PTG 01, as described in Attachment A, to be distributed according to the following schedule:

Department of Interior, National Park Service	\$32,700
TOTAL APPROVED FOR DISTRIBUTION	\$32,700

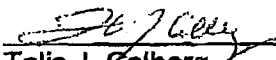
Authorization of the approved funding shall run from March 17, 2008 to September 30, 2009.

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 \$32,700 from the appropriate account as designated by the Executive Director.

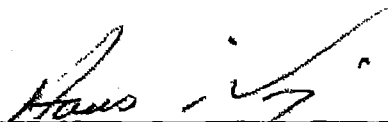
Approved by the Council at its meeting of March 17, 2008, held in Anchorage, Alaska, as affirmed by our signatures affixed below:



Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

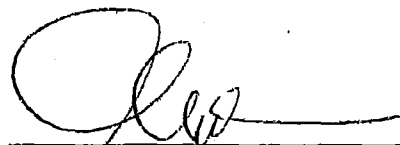


Talis J. Colberg
Attorney General
Alaska Department of Law

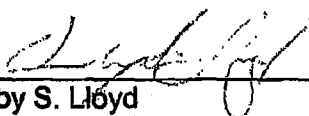


Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

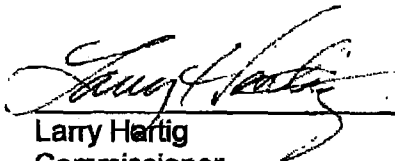
HANS NEIDIG For
Randall Luthi



James Balsiger
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce



Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game



Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

Attachment A – Port Graham Estimate of Due Diligence Costs; Port Graham Benefits Report 1994; Parcel Maps

ATTACHMENT A

Port Graham Estimate of Due Diligence Costs

Initial Costs	
Appraisal	\$20,000
Appraisal review	\$3,000
Hazmat	\$4,250
Subsurface Assessment	\$2,000
Preliminary Commitment for Title Insurance	\$750
Total Estimated Initial Costs	\$30,000

Budget Summary

Budget Category	FY 08-09
Personnel	\$0.0
Travel	\$0.0
Contractual	\$30,000
Commodities	\$0.0
Equipment	\$0.0
Subtotal	\$30,000
General Administration	\$2,700
Total Request	\$32,700

**Restoration Benefits Report for Habitat Acquisition
Port Graham Corporation
Parcels PTG 01 through 07**

Region and Locale

Kenai Peninsula. Parcels are located on the southeast coastline of the peninsula within Kenai Fjords National Park.

Proposed Acquisition Description

Port Graham (PTG) parcels 01 through 07 are located along the deep water fjords of Kenai Fjords National Park. The park is characterized by a highly indented coastline, interspersed protected waters and extremely scenic uplands. The fjords support tide-water glaciers, many that have receded dramatically this century. Upland slopes are predominately steep, though there are relatively flat areas; soils are generally shallow. Coastal parts of the parcels are covered by a temperate rainforest dominated by Sitka spruce and western hemlock. Under story vegetation is typical of that found with this forest type. More inland parts of the parcels are covered with shrub and tundra vegetation types. Parcels PTG 05 and PTG 01 contain Delight, Desire and Addison Creeks that support commercial red and pink salmon fisheries.

Kenai Fjords National Park provides the most dramatic fjord system in the United States that is protected as a national park. Waters adjacent to the park are teeming with marine life and are often occupied with harbor seals, sea otters, Northern sea lions, porpoises and Minke, Humpback, Orca and Gray whales. Several species of salmon, including pink salmon and red salmon injured by the Exxon Valdez Oil Spill (EVOS), are supported by the park's upland habitat. Numerous species of marine and other birds, including harlequin ducks, marbled and Kittlitz's murrelets, pigeon guillemots, black oystercatchers, cormorants, common loons and bald eagles injured by the EVOS, are found throughout the area and use park uplands. The park is a birder's paradise. Upland areas also support black bear, moose, mountain goat, river otter, mink, marten, wolverine, coyote, snowshoe hare, and porcupine.

Although the park was established amidst great controversy in 1980, it is now the major attraction for the city of Seward's booming tourism economy. A 1996 MOU signed by the City, NPS, USFS, State Parks and the Chamber of Commerce supports the construction of an interagency, cooperatively run Visitor Center/Administrative Offices/Conference Center on City-owned land near the Seward Small Boat Harbor. Numerous businesses, related to the park, have been created in the city since that time. Several businesses, such as Kenai Fjords Tours, Major Marine Tours, and Mariah Charters, have matured into companies of significant size. Because of increased demand, companies are still adding capacity to carry more visitors to see the park, its magnificent landscape, and its wildlife. The Anchorage Daily News runs daily advertisements throughout the year for several commercial companies providing

boat tours of the park. The Alaska Railroad runs daily summer trains to Seward, which are scheduled to connect to these tours. National magazines carry monthly advertisements for guided trips to the park. Large cruise ship companies have discovered Seward (110 dockings in 1996) and their passengers fill the park's visitor center as they disembark into town and seek out points of interest. Many of the cruise ship tourists take flight-seeing tours of the park and have helped stimulate yet more jobs. Half the park's 1994 commercial use licenses were for flight-seeing businesses.

The parcels in this package contain most of the resources and services injured from the oil spill. By protecting the habitat upon which these resources depend, the Trustee Council's goal of providing restoration benefits through protective measures can be accomplished on the Kenai Peninsula.

Parcel Acreage and Ratings. All parcels have been appraised. Combined, the parcels total 46,621 acres, more or less. Parcels have been evaluated by the Trustee Council's Habitat Work Group (1993 & 1994) and score from high to low. High and moderate parcels comprise about 29,000 acres; low rated parcels comprise 18,000 acres.

Other Information

Most of these parcels were conveyed to Port Graham Corporation in 1995 and 1996 under the authority of the Alaska Native Claims Settlement Act. Port Graham's remaining acreage entitlement of 4,290 acres is scheduled to be conveyed in future years. All future conveyances will be within Kenai Fjords National Park. Habitat protection would include conveyed lands and future conveyances. The Port Graham Corporation has expressed willingness to negotiate sale of some or all of their lands within the park on a fee simple basis. The subsurface estate of these parcels has or will be conveyed to the Chugach Alaska Corporation. This subsurface estate has been appraised, but an offer will not be presented at this time.

A number of additional parcels have been rated by the Trustee Council's staff on the Kenai Peninsula near the villages of Port Graham and English Bay. Ratings were from moderate to low value. Lands within the boundaries of Kenai Fjords National Park represent the best potential to acquire lands which have the highest potential to contribute to the Trustee Council's restoration goals.

Restoration Benefits

Injured Resources and Services. Sixteen of the 19 listed injured resources and services used to rate the parcels are present on or directly associated with the lands in this package. The following list contains those rated by the Trustee Council staff as having high or moderate potential to benefit restoration.¹ Injured resources on or immediately adjacent to these lands

¹Rating done by the Habitat Protection Work Group (HPWG),

include: spawning pink salmon, spawning red salmon, feeding and likely spawning Dolly Varden, spawning Pacific herring, nesting bald eagles, feeding black oystercatchers, feeding and haulout areas for harbor seals, molting harlequin ducks, intertidal & subtidal biota (including some dense mussel beds, kelp and eelgrass areas), probable nesting marbled murrelets, feeding and probable nesting pigeon guillemots, high use areas and latrine sites for river otters, and feeding sea otters. Public services provided by these lands include: nationally known and advertised recreation and tourism destinations, pristine wilderness settings, and several archaeologic and historic cultural resource sites. Additionally, commercial pink and red salmon fisheries are supported by Delight and Desire Creeks in PTG 05 and Addison Creek in PTG 01. Furthermore, these lands and adjacent coastal waters provide habitat for clams, common loons, cormorants, killer whales, Kittlitz's murrelets, mussels, rockfish, sediments, and passive use, injured resources and services added since the original ratings.

Acquisition of this package will result in habitat protection for not only the lands acquired, but for a much larger area. These lands are within the designated boundaries of Kenai Fjords National Park, an area comprised of 669,000 acres. As such, adding these lands back into park status will ensure that the thousands of acres of protected habitat in the park are not fragmented by various man-made developments and extractive activities. Both the lands acquired, and the lands in the park will provide protection for injured resources and services injured by the oil spill.

Currently, this area is receiving steadily increasing recreational visitation. Both large commercially-operated and small privately-owned boats ply the fjords in greater numbers. The area is well known by sport fishermen who seek out salmon and halibut. Kayakers, campers, photographers and birders from around the world have discovered the park and use it regularly.

Flight-seeing is increasingly popular, and a growing number of tourists see the park in this way. The number of commercial users in the park is on a steady upward trend; between 1995 and 1996 the number of businesses operating in Kenai Fjords with a Park Service commercial use license increased from 34 to 43.

Park management will maintain habitat acquired in its natural condition, thereby protecting injured resources and services from further injury. Park rangers, other park staff and volunteers in the park will regularly patrol the park to ensure a high level of compliance with park regulations and Trustee Council restoration goals. At the same time, services like recreation and tourism can continue to occur and increase, in balance with restoration needs. The park already provides some remote visitor cabins. Cultural sites of particular importance to the Native community will be protected consistent with state and federal laws. The commercial red and

"Comprehensive Habitat Protection Process: Large Parcel Evaluation & Ranking," as presented to the Council November 30, 1993, The list of injured resources and services has been expanded to 30 as of the Trustee Council meeting on 8/29/96.

pink salmon fisheries associated with Delight, Desire and Addison Creeks will be maintained by protection of spawning and rearing habitat.

Should the parcels not be acquired, private management would determine the nature and rate of change to the land. Development could take many forms. While the unspoiled and wild landscape of the park provides protection for injured resources and services and is a prime visitor attraction, the same landscape could be severely altered with lodges, cabins and docks in bays with greatly increased boat and aircraft traffic. Developed parcels would fracture habitat into smaller blocks, and protection for injured resources and services would be diminished. Most biologists agree that large, protected natural areas provide better habitat for populations of animals, such as those injured by the EVOS, than parcels interrupted by human developments.

In future years forested areas of the park could be logged. Logging would begin to impact the habitat of injured resources and services on lands logged and possibly on surrounding lands. Even small logging operations would severely impair the scenic, wilderness and recreational qualities of the otherwise undisturbed area.

Proposed Management Structure. Lands acquired would be managed by the National Park Service pursuant to the National Park Service's Organic Act, 16 USC 1, and the Alaska National Interest Lands Conservation Act (ANILCA), 16 USC 3101. These two laws provide the key legislative mandates for management. For Kenai Fjords National Park, ANILCA section 201 (5) says,

Kenai Fjords National Park... shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Ice Field, its outflowing glaciers, and coastal fjords and islands in their natural state; and to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes....

These mandates from Congress mesh well with the Trustee Council's restoration goals for the injured resources and services. The very core of the Park Service mission is both protection and use. On the one hand, most areas will be left in their natural state thus providing undisturbed habitat for the many species that will benefit from such protection. On the other hand, services like recreation and tourism can continue to occur. People from Alaska, from the rest of the USA, and from around the world could visit the park, marvel at its scenery, and learn about its natural resources.

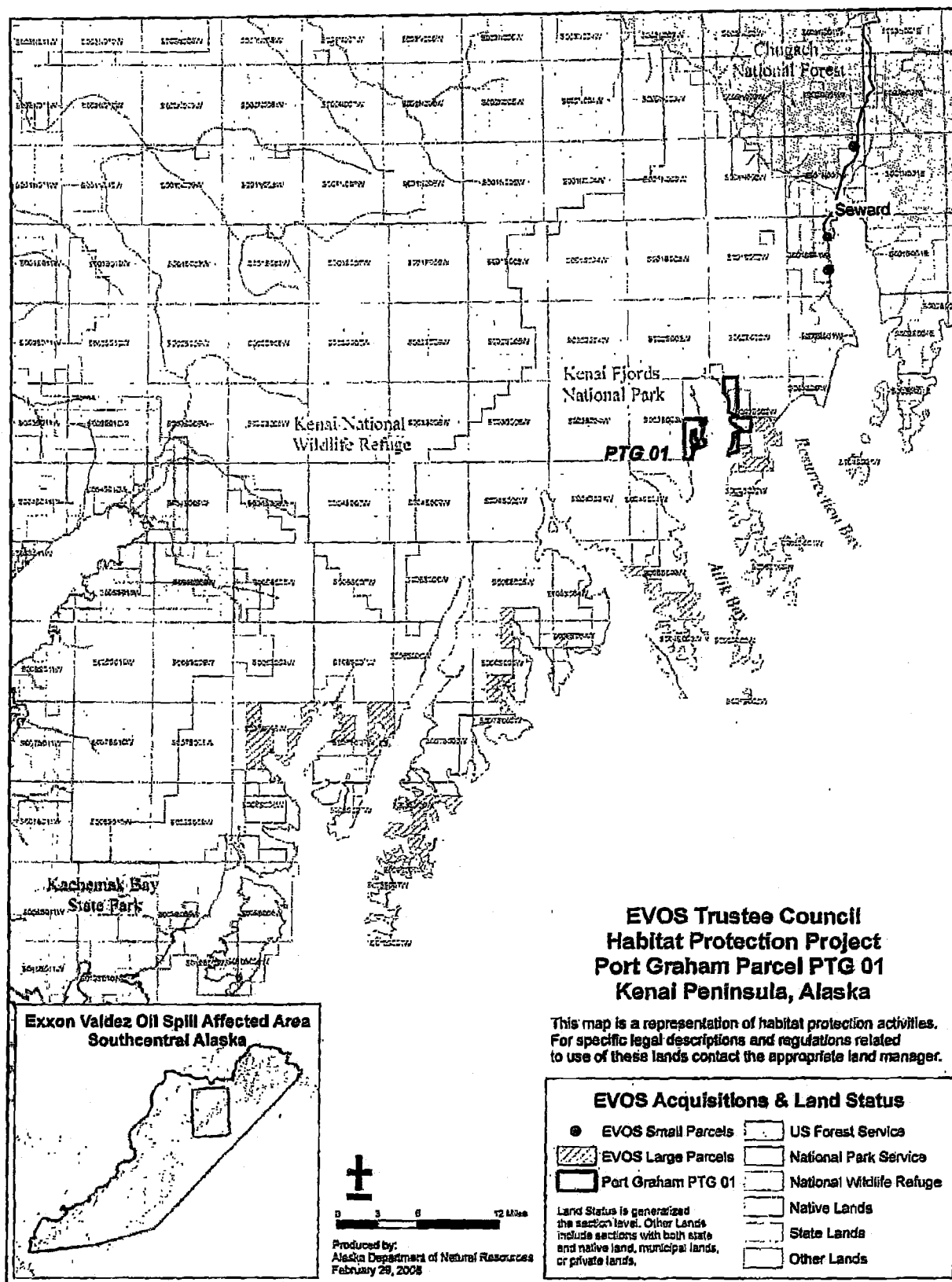
Terms and Conditions

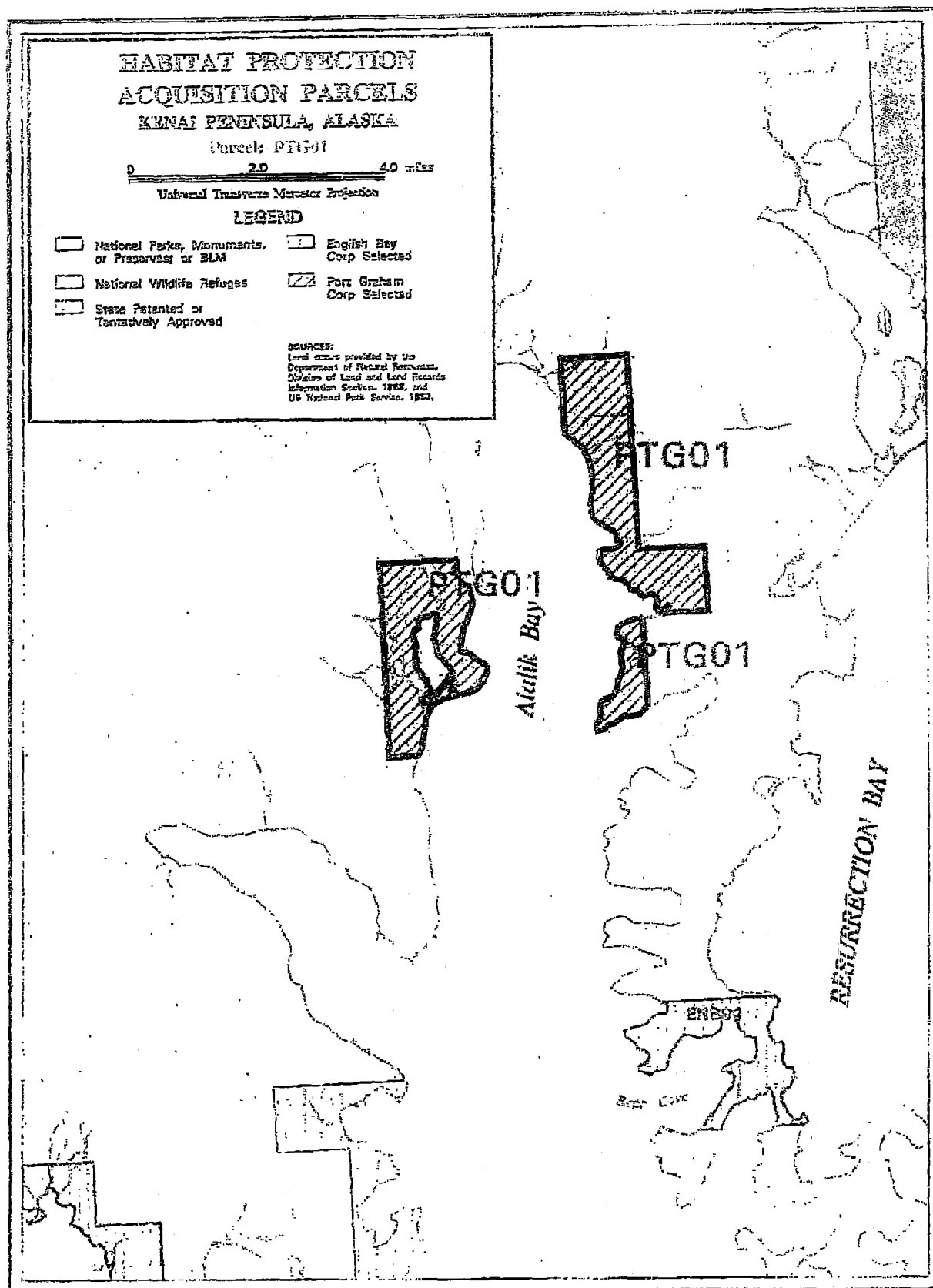
Fee simple acquisition of all parcels.

Sources of Revenue. Civil restoration fund monies.

Recommendation

Fee simple acquisition of all parcels.





**RESOLUTION 08-09 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
FY 08 Funding for Projects 080759-A, 080839, 070808-A**

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 2008 in the amount of \$698,900, to be distributed according to the following schedule:

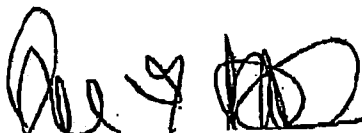
<u>Project Approved</u>	<u>Lead Agency</u>	<u>Project Number</u>	<u>PI</u>	<u>Project Title</u>	<u>FY 08 Approved</u>
3/17/2008	ADF&G	080759-A	Rosenberg	Harlequin Duck Population Dynamics in Prince William Sound: Measuring Recovery from the Exxon Valdez Oil Spill. Amendment to add Pilot Study to assess transect variability	\$ 40,600
3/17/2008	ADF&G	080839	Hollmen	Evaluating Injury to Harlequin Ducks (<i>Histrionicus histrionicus</i>) Caused by Sublethal Hydrocarbon Exposure in Prince William Sound Using Species-Specific Cell Lines.	\$ 148,600
3/17/2008	ADF&G			Project management fees (2 months @\$7,700)	\$ 15,400
				STATE OF ALASKA - ADF&G - Sub-total	\$ 204,600
					\$ 447,100
3/17/2008	USGS	070808-A	Bailachey	Nearshore Synthesis: Sea Otters and Sea Ducks	\$ 8,280
3/17/2008	USGS			Project management fees (92% of \$9,000)	\$ 82,800
				USGS Sub-total	\$ 455,380
					\$ 38,200
3/17/2008	NOAA			Nearshore Synthesis: Sea Otters and Sea Ducks	\$ 720
3/17/2008	NOAA			Project management fees (8% of \$9,000)	\$ 7,200
				NOAA Sub-total	\$ 38,920
				UNITED STATES - Sub-total	\$ 494,300

TOTAL APPROVED FOR DISTRIBUTION: \$698,900

Of the \$698,900 approved for distribution, \$204,600 is directed to the State of Alaska and \$494,300 is directed to the United States.

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 \$698,900 from the appropriate account as designated by the Executive Director.

Approved by the Council at its meeting of March 17, 2008 as affirmed by our signatures affixed below.



Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

Talis J. Colberg
Attorney General
Alaska Department of Law

Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

Jim Balsiger
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce

Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game

Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

Attachment A
Page 14 of 27

Resolution 08-09

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 \$698,900 from the appropriate account as designated by the Executive Director.

Approved by the Council at its meeting of March 17, 2008 as affirmed by our signatures affixed below.

Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

Talis J. Colberg
Attorney General
Alaska Department of Law

Randall Luthi
Director
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U.S. Department of Interior

Jim Balsiger
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Larry Hartig
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Conservation

Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

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Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

Hans NEIDIG For Randall Luthi

Denby S. Lloyd
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Alaska Department of Fish and Game

Talis J. Colberg
Attorney General
Alaska Department of Law

Jim Balsiger
Administrator, Alaska Region
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Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

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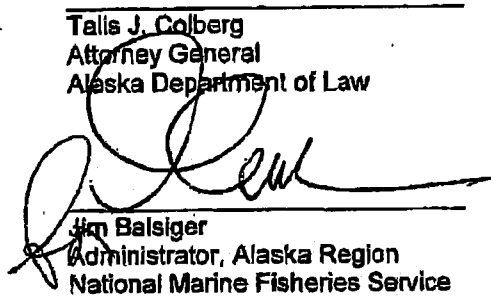
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U. S. Department of Agriculture

Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game

Talis J. Colberg
Attorney General
Alaska Department of Law



Jim Balsiger
Administrator, Alaska Region
National Marine Fisheries Service
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Larry Hartig
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Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

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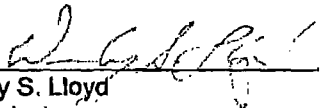
Approved by the Council at its meeting of March 17, 2008 as affirmed by our signatures affixed below.

Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

Talis J. Colberg
Attorney General
Alaska Department of Law

Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

Jim Balsiger
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce



Denby S. Lloyd
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Alaska Department of Fish and Game

Larry Hartig
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Alaska Department of Environmental
Conservation

Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

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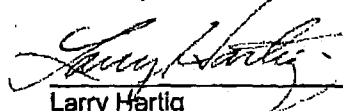
Joe L. Meade
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Alaska Department of Fish and Game



Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

Attachment A – FY 08 Work Plan Projects Approved on March 17, 2008

Resolution 08-09 - Attachment A
FY 08 Work Plan
Projects Approved on March 17, 2008

Attachment A
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Project #	PI	Project Title	FY 08 PJ Amt Approved (includes PJ Mgmt G&A)	FY 08 PJ Mgmt Approved	PJ Mgmt G&A	Total Resolution 08-09
080759-A	Rosenberg	Harlequin Duck Population Dynamics in Prince William Sound: Measuring Recovery from EVOS	\$40,600	\$7,700		
80839	Hollmen	Evaluating Injury to Harlequin Ducks (<i>Histrionicus histrionicus</i>) Caused by Sublethal Hydrocarbon Exposure in Prince William Sound Using Species-Specific Cell Lines	\$148,600	\$7,700		
ADF&G			\$189,200	\$15,400		\$204,600
Total to the State of Alaska			\$189,200	\$15,400	\$0	\$204,600
070808-A	Ballachey	Nearshore Synthesis: Sea Otters and Sea Ducks	\$447,100	\$8,280		
USGS			\$447,100	\$8,280		\$455,380
070808-A	Ballachey	Nearshore Synthesis: Sea Otters and Sea Ducks	\$38,200	\$720		
NOAA			\$38,200	\$720		\$38,920
Total to the United States of America			\$485,300	\$9,000	\$0	\$494,300
Total Approved Resolution 08-09			\$674,500	\$24,400	\$0	\$698,900

**RESOLUTION 08-10 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
NOAA Analysis of the 1994 EVOS Restoration Plan EIS and 20th Anniversary Media Roll-out**

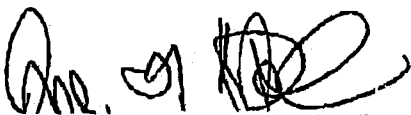
We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District 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 2008 in the amount of \$100,000. Of this amount, \$50,000 is designated to fund a NOAA analysis of the 1994 EVOS Restoration Plan Environmental Impact Statement (EIS) and \$50,000 is designated to fund development of a media plan for the 20th Anniversary of the *Exxon Valdez* oil spill. All funds are designated to the State of Alaska and the United States. Funding is to be distributed as follows:

State of Alaska – Department of Fish & Game	\$50,000
Total State of Alaska	\$50,000
United States – National Oceanic and Atmospheric Administration	\$50,000
Total United States	\$50,000
TOTAL	\$100,000

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 \$100,000 from the appropriate accounts as designated by the Executive Director.

Attachment A
Page 21 of 27

Approved by the Council at its telephonic meeting of March 17, 2008 as affirmed by our signatures affixed below.



Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

Talis J. Colberg
Attorney General
Alaska Department of Law

Randall Luthi
Director
U.S. Minerals Management Services
U.S. Department of Interior


Craig R. O'Connor
Special Counsel
National Oceanic & Atmospheric
Administration
U.S. Department of Commerce

Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game

Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

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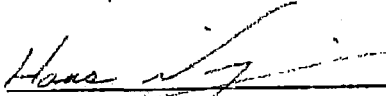
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Forest Service Alaska Region
U. S. Department of Agriculture



Randall Luthi
Director
U.S. Minerals Management Services
U.S. Department of Interior
For Randall Luthi

Denby S. Lloyd
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Conservation

Attachment A
Page 25 of 27

Resolution 08-10

Case 3:91-cv-00083-HRH Document 287-4 Filed 04/11/2008 Page 14 of 15

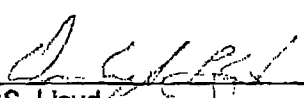
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Attachment A
Page 26 of 27

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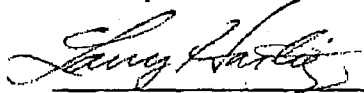
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Alaska Department of Environmental
Conservation

TALIS J. COLBERG
ATTORNEY GENERAL

CRAIG J. TILLERY
DEPUTY ATTORNEY GENERAL

ELISE HSIEH
Assistant Attorney General
State of Alaska
Department of Law
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501-1994
Telephone: (907) 269-5274
Facsimile: (907) 278-7022
Email: Elise.Hsieh@alaska.gov

Attorneys for the State of Alaska

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

STATE OF ALASKA,)	
)	
Plaintiff,)	No. 3:91-CV-0083 (HRH)
)	
v.)	TWENTY-EIGHTH
)	JOINT NOTICE OF
EXXON CORPORATION, and EXXON)	EXPENDITURES FROM
SHIPPING COMPANY,)	THE INVESTMENT
)	FUND
Defendants.)	
)	

The State of Alaska and the United States (the "Governments") jointly provide notice of the expenditure of \$831,600 in settlement funds, specifically \$798,900 from the Research Sub-Account and \$32,700 from the Habitat Sub-Account of the of the EXXON VALDEZ Oil Spill Investment Fund ("Investment Fund"). The Governments' natural resource trustee agencies will use these funds for purposes consistent with the Memorandum

of Agreement and Consent Decree entered by this Court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991 ("MOA").

On September 25, 1991 the State of Alaska and the United States settled their claims against the Exxon Corporation, Exxon Shipping Company, Exxon Pipeline Company, and the T/V EXXON VALDEZ arising from the EXXON VALDEZ oil spill. All funds resulting from these settlements were subsequently ordered by this Court to be placed in an interest-bearing account in the Court Registry Investment System ("CRIS") administered through the United States District Court for the Southern District of Texas.

On June 7, 2000 this Court entered its Third Amended Order for Deposit and Transfer of Settlement Proceeds ("Third Amended Order"). The Third Amended Order allows the Governments the option of investing the money in an account outside the United States Treasury. On September 29, 2000, upon application by the Governments, the Court entered an Order Re: Transfer of Funds from the Exxon Valdez Liquidity Account and the Reserve Fund to an Investment Fund Within the Alaska Department of Revenue, Division of Treasury, authorizing transfer of settlement proceeds to an account within the State. On October 5, 2000 all funds and securities were transferred from the CRIS to the Investment Fund. The Third Amended Order further allows the Governments to establish separate sub-accounts within the primary account "as the Trustee Council determines appropriate." On October 1, 2002 three sub-accounts were created in the Investment Fund, to wit: the Research Investment Sub-Account, the Habitat Investment Sub-Account, and the Koniag Investment Sub-Account. These sub-accounts were established to carry out the Trustee Council's decision in its Resolution of March 1, 1999 to separately manage the remaining assets of the Joint Trust Funds for the specific purposes of funding a long term research, monitoring and

restoration program, the acquisition of lands along the Karluk River and the establishment of a fund to purchase small parcels of land that may become available in the future.

Paragraph 27 of the Third Amended Order provides that "funds in an Investment Fund shall remain on deposit in that Fund until such time as the Exxon Valdez Oil Spill Trustee Council unanimously resolve to expend all or part of the funds." The funds may then be expended, for purposes consistent with the MOA, upon the joint notification of the Governments to the Investment Fund and the Court.¹ The notification is to inform the Court of the proposed uses of the funds in the same manner and to the same extent as was the Governments' practice when the funds were in the registry of the Court.

The Governments provide notice of this twenty-eighth expenditure from the Investment Fund for: (1) due diligence activities related to a potential small parcel acquisition;² and (2) necessary natural resource damage assessment and restoration activities during federal fiscal year 2008.³ Of the \$831,600 that is the subject of this Notice, \$577,000

¹ A copy of the notice provided to the Investment Fund pursuant to paragraph 27 of the Third Amended Order for Deposit and Transfer of Settlement Proceeds is appended to this Notice as Attachment A, pp. 1 - 2.

² Appended to this Notice at Attachment A, p. 3 - 12, is Trustee Council Resolution 08-06, documenting the Trustee Council's unanimous agreement, at its March 17, 2008 meeting, to provide \$32,700 to the National Park Service for due diligence activities vis-a-vis small parcel PTG 01.

³ Appended to this Notice at Attachment A, pp. 13-27 are Trustee Council resolutions documenting the Council's unanimous agreement, at its March 17, 2008 meeting, to authorize the expenditure of (1) an additional \$698,900 in funding for the FY 2008 Work Plan (Resolution 08-09); (2) \$50,000 to the Annual Program Development and Implementation Budget for FY 2008 to fund media activities pertaining to the 20th anniversary of the *Exxon Valdez* Oil Spill (Resolution 08-10); and (3) \$50,000 to the TWENTY-EIGHTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND
3:91-CV-0083 (HRH)

will be provided to the United States and \$254,600 will be provided to the State of Alaska.

A complete summary of the Council's activities since approval of the settlement was appended to our Second Application, filed January 19, 1993, as Attachment B, and interim updates of activities appeared as Attachments to each of the Governments' Third through Sixth, Eighth through Twelfth, Fifteenth, Nineteenth, Twenty-First, Twenty-Second, Twenty-Fourth through Twenty-Ninth, Thirty-First, and Thirty-Third through Forty-Fifth applications for disbursement; the Fifth through Seventh and Tenth through Fourteenth Joint Notices of Expenditure From Settlement Account Monies Previously Disbursed; and the First, Second, Fourth, and Seventh through the Twenty-Second, and Twenty-Fourth through Twenty-Seventh Joint Notices of Expenditures from Investment Fund (and from Monies Previously Disbursed). The Trustee Council has met once since the Governments' filing on November 15, 2007 of their Twenty-Seventh Joint Notice of Expenditures from Investment Fund. The Governments will submit the meeting notes for that March 17, 2008 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's November 9, 2007 meeting are appended to this Notice as Attachment B.

RESPECTFULLY SUBMITTED this 11th day of April, 2008 at Anchorage,
Alaska.

FOR THE STATE OF ALASKA

National Oceanic & Atmospheric Administration for a review of the analysis undertaken pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.*, in connection with the adoption of the Exxon Valdez Oil Spill Restoration Plan (Resolution 08-10).

TWENTY-EIGHTH JOINT NOTICE OF EXPENDITURES
FROM THE INVESTMENT FUND
3:91-CV-0083 (HRH)

**TALIS J. COLBERG
ATTORNEY GENERAL**

By: s/Elise Hsieh
Assistant Attorney General
State of Alaska
Department of Law
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501-1994
Telephone: (907) 269-5274
Facsimile: (907) 278-7022
Email: Elise.Hsieh@alaska.gov
Alaska Bar #9511048

FOR THE UNITED STATES

s/Regina R. Belt (consent)
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
801 B Street, Suite 504
Anchorage, Alaska 99501-3657
Telephone: (907) 271-3456
Facsimile: (907) 271-5827
Email: Regina.Belt@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of April, 2008, a copy of the foregoing TWENTY-EIGHTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT, together with attachments A and B thereto were served by U.S. mail, first class, postage prepaid, on the following:

Regina R. Belt
U.S. Dept. of Justice
801 B Street, Suite 504
Anchorage, AK 99501-3657

James F. Neal
Neal & Harwell
2000 One Nashville Place

**TWENTY-EIGHTH JOINT NOTICE OF EXPENDITURES
FROM THE INVESTMENT FUND
3:91-CV-0083 (HRH)**

Case 3:91-cv-00083-HRH Document 287 Filed 04/11/2008 Page 6 of 6

150 Forth Avenue North
Nashville TN 37219

Douglas J. Serdahely
Patton Boggs LLP
601 W. 5th Avenue, Suite 700
Anchorage, AK 99501

Patrick Lynch
O'Melveny & Meyers
400 South Hope Street
Los Angeles, CA 90071

John F. Clough III
Clough & Associates
PO Box 211187
Auke Bay, AK 99821-1187

s/Gail Byers

TWENTY-EIGHTH JOINT NOTICE OF EXPENDITURES
FROM THE INVESTMENT FUND
3:91-CV-0083 (HRH)

Page 6 of 6

Exxon Valdez Oil Spill Trustee Council

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



TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

November 9, 2007

Chaired by: Steve Zemke
Trustee Council Member

Trustee Council Members Present:

• Steve Zemke, USFS *
Hans Neidig, USDOl **
Craig O'Connor, NOAA ***

Talis Colberg, ADOL
Tom Brookover, ADF&G ****
Larry Hartig, ADEC

- Chair
- * Steve Zemke alternate for Joe Meade
- ** Hans Neidig alternate for Randall Luthi
- *** Craig O'Connor alternate for James Balsiger
- **** Tom Brookover alternate for Denby Lloyd

The meeting convened at 9:06 a.m. by teleconference, November 9, 2007 in Anchorage at the EVOS Library.

1. Approval of the Agenda

APPROVED MOTION: Motion to approve the draft agenda dated November 9, 2007, distributed on November 7, 2007.

Motion by Hartig, second by Colberg

2. Approval of October 12, 2007 meeting notes

Attachment B
Page 1 of 2

APPROVED MOTION: Motion to approve the October 12, 2007 meeting notes

Motion by O'Connor, second by Hartig

Public comment period began at 9:10 a.m.

Three public comments were received.

Public comment closed at 9:15 a.m.

3. FY 08 Draft Work Plan

APPROVED MOTION: Motion to approve project 080821 – Linley as resubmitted

Motion by O'Connor, second by Niedig

4. FY 08 – Project Management Fees

APPROVED MOTION: Motion to approve adding one month's salary to project 080821 for ADF&G project management fee

Motion by O'Connor, second by Hartig

Meeting adjourned at 9:45 a.m.

APPROVED MOTION: Motion to adjourn O'Connor, second by Brookover