

# Exxon Valdez Oil Spill Trustee Council

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



## MEMORANDUM

TO: Craig Tillery, Alaska Department of Law  
Regina Belt, U.S. Department of Justice

FROM: *Molly McCammon*  
Executive Director

DATE: March 3, 2003

RE: Court Notice – Fifth Joint Notice from the Investment Fund

*filed 3-4-03*

The purpose of this memorandum is to request that the Alaska Department of Law and the United States Department of Justice notify the United States District Court of our intent to expend \$1,130,000 from the EVOS Habitat Investment Sub-Account:

Description	From Habitat Sub-Account	To Be Disbursed To
Acquisition of Small Parcel PWS 1010 (Jack Bay)	\$1,130,000	United States

There have been no Trustee Council meetings since the last court notice, which was filed December 10, 2002.

The following documents are attached:

- Resolution 01-04 (dated 12/4/00), in which the Trustee Council resolved to provide \$1,130,000 for the acquisition of PWS 1010 should a purchase agreement be executed by 6/21/01. The notes from the meeting at which this resolution was adopted (12/4/00) are attached. Resolution 01-04 and the 12/4/00 meeting notes were originally submitted to the court on 12/31/00 as part of the 5<sup>th</sup> Joint Notice of Expenditures from Monies Previously Disbursed.
- Resolution 02-03 (dated 12/11/01), in which the Trustee Council resolved to provide \$1,130,000 for the acquisition of PWS 1010 should a purchase agreement be executed by 9/30/02. The notes from the meeting at which this resolution was adopted (12/11/01) are attached. The 12/11/01 meeting notes

were originally submitted to the court on 12/28/01 as part of the 10<sup>th</sup> Joint Notice of Expenditures from Monies Previously Disbursed; it appears that Resolution 02-03 was not part of that submittal.

- Meeting Notes from the 10/29/02 Trustee Council meeting, at which the Council approved a motion to amend Resolution 02-03 by extending the date by which a purchase agreement must be executed to 12/31/02.
- Executive Director's certification that the terms and conditions of Resolution 02-03 have been met.

If you have any questions or need additional materials, please let me know.

# Exxon Valdez Oil Spill Trustee Council

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



December 3, 2002

I certify that on November 25, 2002 the *Exxon Valdez* Oil Spill Trustee Council approved a motion for the State of Alaska Department of Natural Resources to receive an additional \$48,400 under Project 030126 for habitat protection support costs.

A handwritten signature in cursive script, reading "Molly McCammon". The signature is written in black ink and is positioned above a horizontal line.

Molly McCammon  
Executive Director

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**Federal Trustees**

U.S. Department of the Interior  
U.S. Department of Agriculture  
National Oceanic and Atmospheric Administration

**State Trustees**

Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation  
Alaska Department of Law

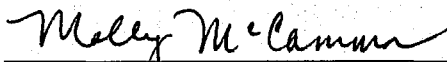
# Exxon Valdez Oil Spill Trustee Council

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



December 3, 2002

I certify that on November 25, 2002 the *Exxon Valdez* Oil Spill Trustee Council approved a motion for the State of Alaska Department of Fish and Game to receive an additional \$8.05 (eight dollars and five cents) under Project 97197/Alaska SeaLife Center Fish Pass to address a funding shortfall in this capital project.



Molly McCammon  
Executive Director

1 GREGG D. RENKES  
ATTORNEY GENERAL

FILED  
U.S. DISTRICT COURT  
DISTRICT OF ALASKA

2013 MAR -4 PM 4:02

2 CRAIG J. TILLERY  
3 Assistant Attorney General  
4 State of Alaska  
5 Department of Law  
6 1031 West Fourth Avenue, Suite 200  
7 Anchorage, Alaska 99501-1994  
8 Telephone: (907) 269-5274  
9 Facsimile: (907) 278-7022

10 Attorneys for the State of Alaska

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF ALASKA

13 STATE OF ALASKA, )

14 Plaintiff, )

15 v. )

16 EXXON CORPORATION, and EXXON )  
17 SHIPPING COMPANY, )

18 Defendants. )

No. A91-083 CIV (HRH)

**FIFTH JOINT NOTICE  
OF EXPENDITURES FROM  
INVESTMENT FUND**

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 269-5100

19 The State of Alaska and the United States (the "Governments") jointly provide notice  
20 of the expenditure of \$1,130,000 from the EXXON VALDEZ Oil Spill Investment Fund  
21 ("Investment Fund"). The Governments' natural resource trustee agencies will use these funds for  
22 purposes consistent with the Memorandum of Agreement and Consent Decree entered by this Court  
23 in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991 ("MOA").

24 On September 25, 1991 the State of Alaska and the United States settled their claims  
25 against the Exxon Corporation, Exxon Shipping Company, Exxon Pipeline Company, and the T/V  
26 EXXON VALDEZ arising from the EXXON VALDEZ oil spill. All funds resulting from these

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1 settlements were subsequently ordered by this Court to be placed in an interest-bearing account in  
2 the Court Registry Investment System ("CRIS") administered through the United States District  
3 Court for the Southern District of Texas.

4 On June 7, 2000 this Court entered its Third Amended Order for Deposit and  
5 Transfer of Settlement Proceeds ("Third Amended Order"). The Third Amended Order allows the  
6 Governments the option of investing the money in an account outside the United States Treasury.

7 On September 29, 2000, upon application by the Governments, the Court entered an Order Re:  
8 Transfer of Funds from the Exxon Valdez Liquidity Account and the Reserve Fund to an Investment  
9 Fund Within the Alaska Department of Revenue, Division of Treasury, authorizing transfer of  
10 settlement proceeds to an account within the State. On October 5, 2000 all funds and securities were  
11 transferred from the CRIS to the Investment Fund. The Third Amended Order further allows the  
12 Governments to establish separate sub-accounts within the primary account "as the Trustee Council  
13 determines appropriate." On October 1, 2002 three sub-accounts were created in the Investment  
14 Fund, to wit: the Research Investment Sub-Account, the Habitat Investment Sub-Account, and the  
15 Koniag Investment Sub-Account. These sub-accounts were established to carry out the Trustee  
16 Council's decision in its Resolution of March 1, 1999 to separately manage the remaining assets of  
17 the Joint Trust Funds for the specific purposes of funding a long term research and monitoring  
18 program, the acquisition of lands along the Karluk River and the establishment of a fund to purchase  
19 small parcels of land that may become available in the future.

20  
21  
22 Paragraph 27 of the Third Amended Order provides that "funds in an Investment  
23 Fund shall remain on deposit in that Fund until such time as the Exxon Valdez Oil Spill Trustee  
24 Council unanimously resolve to expend all or part of the funds." The funds may then be expended,  
25 for purposes consistent with the MOA, upon the joint notification of the Governments to the  
26

1 Investment Fund and the Court.<sup>1</sup> The notification is to inform the Court of the proposed uses of the  
2 funds in the same manner and to the same extent as was the Governments' practice when the funds  
3 were in the registry of the Court.

4 The Governments provide notice of the expenditure of \$1,130,000 from the Habitat  
5 Sub-Account of the Investment Fund for the acquisition of small parcel PWS 1010, consisting of 942  
6 acres of land owned by the University of Alaska in Prince William Sound.<sup>2</sup> Of the \$1,130,000 that  
7 is the subject of this notice, all will be provided to the United States.

8 A complete summary of the Council's activities since approval of the settlement was  
9 appended to our Second Application, filed January 19, 1993, Attachment B, and interim updates of  
10 activities appeared as Attachments to each of the Governments' Third, Fourth, Fifth, Sixth, Eighth,  
11 Ninth, Tenth, Eleventh, Twelfth, Fifteenth, Nineteenth, Twenty-First, Twenty-Second, Twenty-  
12 Fourth through Twenty-Ninth, Thirty-First, and Thirty-Third through Forty-Fifth applications for  
13 disbursement and the Fifth through Seventh and Tenth through Thirteenth Joint Notices of  
14 Expenditure From Settlement Account Monies Previously Disbursed, and the First, Second and  
15 Fourth Joint Notice of Expenditures From Investment Fund. Since the last summary provided to the  
16 Court, the Trustee Council has not met.

17  
18  
19  
20 <sup>1</sup> A copy of the notice provided to the Investment Fund pursuant to paragraph 27 of  
21 the Third Amended Order for Deposit and Transfer of Settlement Proceeds is appended to this  
22 Notice as Attachment A, pp. 1 - 2.

23 <sup>2</sup> A resolution evidencing the Trustee Council's approval for the purchase of small  
24 parcel PWS 1010 appeared in the Fifth Joint Notice of Expenditures from Settlement Account  
25 Monies Previously Disbursed at Attachment B, pp. 36-39. A second resolution approving the  
26 purchase, with certain changes to the conditions for approval, is attached at Attachment A, pp. 3-  
6. The time for completion of the purchase was subsequently extended by unanimous vote of the  
Trustee Council at its October 29, 2002 meeting. The certification of the Program Director of the  
Trustee Council that all terms and conditions in the second resolution as amended have been met  
may be found at Attachment A, p. 7.

1 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of March, 2003 at Anchorage, Alaska.

2 FOR THE STATE OF ALASKA  
3 GREGG D. RENKES  
4 ATTORNEY GENERAL

5 By:

*Craig J. Tillery*

6 CRAIG J. TILLERY  
7 Assistant Attorney General  
8 State of Alaska

9 Department of Law  
10 1031 West Fourth Avenue, Suite 200  
11 Anchorage, Alaska 99501-1994  
12 Telephone: (907) 269-5274  
13 Facsimile: (907) 278-7022

14 FOR THE UNITED STATES OF AMERICA  
15 THOMAS L. SANSONETTI  
16 Assistant Attorney General  
17 Environment & Natural Resources Division

18 WILLIAM D. BRIGHTON, Asst. Chief  
19 Environmental Enforcement Section  
20 Environment & Natural Resources Division  
21 U.S. Department of Justice  
22 Washington, D.C. 20530

23 By:

*Regina R. Belt*

24 REGINA R. BELT  
25 Environmental Enforcement Section  
26 Environment & Natural Resources Division  
U.S. Department of Justice  
801 B Street, Suite 504  
Anchorage, Alaska 99501-3657  
(907) 271-3456

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 269-5100



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4<sup>th</sup> day of March, 2003,  
copies of the foregoing document, attachment, and proposed  
order were served by U.S. mail, first class, postage prepaid,  
on the following:

Regina R. Belt  
James F. Neal  
Douglas J. Serdahely  
Patrick Lynch  
John F. Clough III

Craig J. Tilley

3/4/03  
Date

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL  
ANCHORAGE BRANCH  
1031 W. FOURTH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 269-5100

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI,  
GOVERNOR

1031 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907)269-5100  
FAX: (907)276-3697

March 4, 2003

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 \$1,130,000 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, the entire \$1,130,000 will come from the Habitat Sub-Account. These joint trust funds 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:

### United States

Amount: \$1,130,000

Beneficiary

account: 14X5198

name: Natural Resource Damage Assessment and Restoration Fund  
(NRDAR)

Beneficiary

account: 14010001

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

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ATTACHMENT A  
PAGE 1 OF 7

Beneficiary Bank

account: 021030004  
name: Treasury, NYC

OBI Text

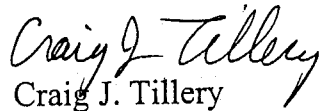
Natural Resource Damage Assessment Restoration Fund 14X5198  
EVOS Exxon Valdez, Civil Settlement, FY03 Joint Funds

Beneficiary Reference

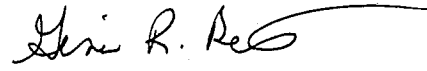
A91-082Civil

The transfer should take place when most financially advantageous, but no later than Friday, March 7, 2003 or as soon thereafter as possible. If you have any questions, please call Craig Tillery at (907) 269-5274.

Sincerely,



Craig J. Tillery  
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: Kevin Buckland

ACE 30399526

ATTACHMENT   A  

PAGE   2   OF   7

**RESOLUTION 02-03 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
JACK BAY SMALL PARCEL PWS 1010**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill (EVOS) Trustee Council (Council), after extensive review and after consideration of the views of the public, find as follows:

1. On December 4, 2000, the Council resolved to provide funding for the United States to purchase fee simple title to all of the seller's rights and interests in the small parcel PWS 1010, consisting of 942 acres, and to provide funds necessary for closing costs recommended by the Executive Director of the Council (Executive Director) and approved by the Council, subject to certain conditions. One of the conditions was that a title search satisfactory to the State of Alaska and the United States must be completed and that the seller is willing and able to convey fee simple title by general warranty deed to the property. The seller is the University of Alaska (University).

2. The Forest Service, on behalf of the United States, has conducted a title search of the property and determined that the University is unable to convey fee simple title by general warranty deed because the State of Alaska (State) reserved the mineral estate when it conveyed the parcel to the University as part of the University's land entitlement.

3. An appraisal approved by the state and federal review appraisers estimated the fee simple fair market value of PWS 1010 is \$1,130,000. The appraisal must be up-dated to consider the fair market value of the property without the mineral estate and the current market. The up-dated market value, however, is not expected to exceed \$1,130,000.

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4. For all of the reasons detailed in the Council's resolution of December 4, 2000, the Council continues to find that the purchase of PWS 1010, even without the mineral estate, is an appropriate means to restore a portion of the injured resources and services in the spill area.

THEREFORE, we resolve to provide funds for the United States to purchase all of the University's rights and interests in the small parcel PWS 1010 and to provide funds necessary for closing costs recommended by the Executive Director and approved by the Council, pursuant to the following conditions:

(A) the amount of funds to be provided by the Trustee Council to the United States shall be the approved appraised fair market value but in no instance shall it exceed \$1,130,000 for small parcel PWS 1010:

(B) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 30, 2002;

(C) completion of a title search satisfactory to the State of Alaska and the United States and the University is willing and able to convey fee simple title to its estate by general warranty deed acceptable to the United States;

(D) no timber harvest, road development or alteration of the land will be initiated by the seller prior to the purchase without the express agreement of the State and the United States;

(E) completion of a hazardous materials survey satisfactory to the State and the United States;

(F) compliance with the National Environmental Policy Act;

(G) the United States shall manage the parcel as open to public access;

(H) a conservation easement on parcel PWS 1010, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed by the University

to the State. It is the intent of the Council that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcel except such limited commercial use as may be consistent with applicable state or federal law and the goals of restoration to pre-spill conditions of any natural resource injured, lost or destroyed as a result of the EVOS and the services provided by that resource or replacement or substitution for the injured, lost or destroyed resources and affected resources as described in the Memorandum of Agreement and Consent Decree between the United States and the State of Alaska entered August 28, 1991 and the Restoration Plan approved by the Council;

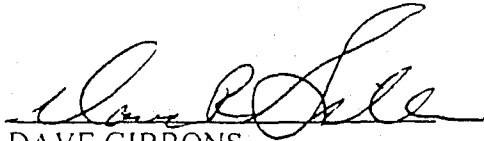
(1) completion of a mineral assessment or survey satisfactory to the State of Alaska and the United States that indicates a low likelihood of commercially viable quantities of minerals on the parcel.

By unanimous consent, following execution of the purchase agreement between the seller and the United States and written notice from the Executive Director that the terms and conditions set forth herein and the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the purchase price for the above-referenced parcel from the appropriate account designated by the Executive Director.

Such amount represents the only amount due under this resolution to the sellers by the United States to be funded from the joint trust funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

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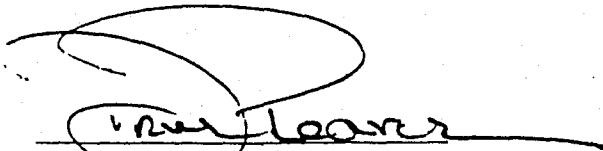
Approved by the Council at its meeting of December 11, 2001 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



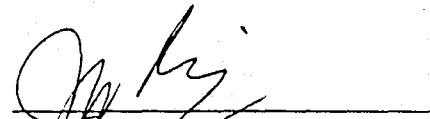
DAVE GIBBONS  
Alaska Region  
USDA Forest Service



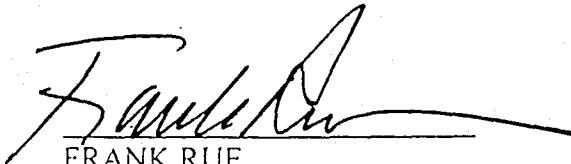
CRAIG TILLERY  
Assistant Attorney General  
State of Alaska



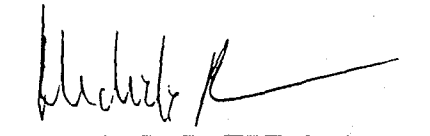
DRUE PEARCE  
Senior Advisor to the Secretary  
for Alaskan Affairs  
U.S. Department of the Interior



JAMES BALSIGER  
Director, Alaska Region  
National Marine Fisheries Service



FRANK RUE  
Commissioner  
Alaska Department of  
Fish & Game



MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation

ACE 30399530

# Exxon Valdez Oil Spill Trustee Council

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



March 4, 2003

I certify that the terms and conditions of the *Exxon Valdez* Oil Spill Trustee Council's Resolution 02-03 (dated December 11, 2001), as amended by unanimous vote of the Trustee Council on October 29, 2002, have been met. I hereby request that the Alaska Department of Law and U.S. Department of Justice notify the U.S. District Court of the following disbursement from the EVOS Habitat Investment Sub-Account:

<u>Parcel Number</u>	<u>Landowner</u>	<u>Purchase Price</u>
PWS 1010 (Jack Bay)	University of Alaska	\$1,130,000

Sandra Schubert

Sandra Schubert  
Program Director

ACE 30399531

ATTACHMENT A  
PAGE 7 OF 7