

IGNACIA MORENO  
Assistant Attorney General  
Environment & Natural Resources Division  
United States Department of Justice

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Washington, D.C. 20530

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Environment & Natural Resources Division  
United States Department of Justice  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115  
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ATTORNEYS FOR THE UNITED STATES

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EXXON CORPORATION, EXXON SHIPPING  
COMPANY, and EXXON PIPELINE COMPANY,  
et al., in personam, and the T/V EXXON VALDEZ,  
in rem,

Defendants.

No. 3:91-CV-0082 Civil (HRH)

THIRTY-NINTH JOINT NOTICE  
OF EXPENDITURES FROM THE  
INVESTMENT FUND

The United States and the State of Alaska ("the Governments") jointly provide this notice of their expenditure of \$70,850 from the Research Sub-Account 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").

THIRTY-NINTH JOINT NOTICE OF  
EXPENDITURES FROM INVESTMENT FUND  
(Case 3:91-CV-0082 (HRH))

On September 25, 1991, the United States and the State of Alaska 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 ("EVOS"). 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: 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 manage separately the remaining assets of the Joint Trust Funds for the specific purposes of funding a long term research and monitoring 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 EVOS Trustees 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. 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.<sup>1/</sup>

The Governments provide notice of this thirty-ninth expenditure from the Investment Fund in order to fund a Long-term Monitoring Work Group, which will develop a long-term monitoring plan for the Fiscal Year 2012 Invitation for Restoration Proposals and review of proposals.<sup>2/</sup> All of the \$70,850 that is the subject of this Notice will be provided to the State of Alaska.

The Trustee Council has met twice since the Governments' filing on March 15, 2010 of their Thirty-Eight Joint Notice of Expenditures. The Governments will submit the meeting notes for the May 14, 2010 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's February 26, 2010 and April 30, 2010 meetings are appended to this Notice at Attachment B.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of May, 2010.

IGNACIA MORENO  
Assistant Attorney General  
Environment & Natural Resources Division

s/ Michael J. Zevenbergen  
MICHAEL J. ZEVENBERGEN  
Senior Counsel  
Environmental Enforcement Section  
United States Department of Justice  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115  
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ATTORNEYS FOR THE UNITED STATES

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<sup>1/</sup> 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.

<sup>2/</sup> The Trustee Council unanimously agreed to provide \$70,850 for this purpose at its May 14, 2010 meeting, as reflected in Resolution 10-07 appended to this Notice at Attachment A, pp. 3-4.

DANIEL S. SULLIVAN  
Attorney General  
State of Alaska

By: s/ Craig J. Tillery (consent)  
CRAIG J. TILLERY  
Deputy Attorney General  
1031 West Fourth Avenue Ste. 200  
Anchorage, Alaska 99501-1994  
Telephone: (907) 269-5274  
Facsimile: (907) 278-7022  
Email: Craig.Tillery@alaska.gov  
Alaska Bar # 7906055

ATTORNEYS FOR THE STATE OF ALASKA

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28<sup>th</sup> day of May, 2010, a copy of the foregoing THIRTY-NINTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND, together with Attachments A and B, was served by United States mail, first class, postage paid, upon the following:

Craig J. Tillery  
Deputy Attorney General  
Alaska Department of Law  
1031 West 4th Ave., Suite 200  
Anchorage, AK 99501

James F. Neal  
Neal & Harwell  
2000 One Nashville Place  
150 Forth Avenue North  
Nashville TN 37219

Douglas J. Serdahely  
Patton Boggs LLP  
601 West 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

I further certify that the above-described documents were served by the Court's Electronic Case Management system upon all persons registered to received filings in this matter.

s/ Michael J. Zevenbergen

ATTACHMENT A

SEAN PARNELL, GOVERNOR

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

*Environmental*  
1031 WEST 4<sup>th</sup> AVENUE,  
SUITE 200  
ANCHORAGE, ALASKA

May 27, 2010

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 \$70,850 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). The entire \$70,850 is to be expended from the Research Investment sub-account. 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: \$70,850 from the Research Sub-Account  
Beneficiary: State of Alaska  
Account: GeFONSI 33070, Account 22177  
Name: Exxon Valdez Settlement Account


Mr. Gary Bader  
Treasury Division, Department of Revenue

Page 2  
May 27, 2010

The transfer should take place when most financially advantageous, preferably on or before June 11, 2010, or as soon thereafter as possible. If you have any questions, please call Elise Hsieh at (907) 265-9330.

Sincerely,

  
Craig Tillery  
Deputy Attorney General  
State of Alaska

  
Michael Zevenbergen  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
United States of America

cc: Regina Belt, U.S. Department of Justice, *via email*  
Jeff Hoover, Alaska Department of Fish and Game, *via email*  
Matt vanSteenwyk, Alaska Department of Fish and Game, *via email*  
Christine O'Sullivan, Alaska Department of Fish and Game, *via email*  
Bronze Ickes, Alaska Department of Revenue, *via email*  
Bob Mitchell, Alaska Department of Revenue, *via email*  
James McKnight, Alaska Department of Revenue, *via email*  
Bruce Nesslage, Department of the Interior, *via email*  
Cherri Womac, Exxon Valdez Oil Spill Trustee Council Restoration Office, *via email*

**RESOLUTION 10-07 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING AUTHORIZATION FOR LONG-TERM MONITORING WORK GROUP**

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 in the amount of \$65,000 plus applicable General Administration (GA) for authorization of a Long-term Monitoring Work Group to be identified by the *Exxon Valdez* Oil Spill Trustee Council's executive director. Alaska Department of Fish and Game waives the project management fees. The Long-term Monitoring Work Group is tasked with developing a long-term monitoring plan for the Fiscal Year 2012 Invitation for Restoration Proposals and review of proposals. The monies are to be distributed according to the following schedule:

Alaska Department of Fish and Game (includes 9% GA)	\$70,850
TOTAL TO STATE OF ALASKA	\$70,850
<b>TOTAL APPROVED</b>	<b>\$70,850</b>

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

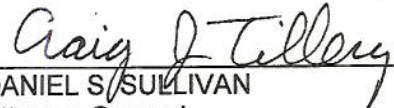
make available additional funds for the Long-term Monitoring Work Group from the appropriate account designated by the Executive Director.


Approved by the Council at its meeting of May 14, 2010 held in Anchorage, Alaska as affirmed by our signatures affixed below.

  
STEVE ZEMKE  
Alternate Trustee  
Chugach Nation Forest  
U.S. Department of Agriculture

  
KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
U.S. Department of the Interior

  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
for DANIEL S. SULLIVAN  
Attorney General  
Alaska Department of Law

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

  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

ATTACHMENT B

## Exxon Valdez Oil Spill Trustee Council

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



### TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

February 26, 2010

Chaired by: Pat Pourchot  
Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS \*  
• Pat Pourchot, US DOI \*\*\*\*\*  
Craig O'Connor, NOAA \*\*

Craig Tillery, ADOL \*\*\*  
Tom Brookover, ADF&G \*\*\*\*  
Larry Hartig, ADEC

- Chair
- \* Steve Zemke alternate for USFS
- \*\* Craig O'Connor alternate for James Balsiger
- \*\*\* Craig Tillery alternate for Daniel Sullivan
- \*\*\*\* Tom Brookover alternate for Denby Lloyd
- \*\*\*\*\* Pat Pourchot alternate for Kim Elton

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The meeting convened at 10:04 p.m., February 26, 2010 in Anchorage at the EVOS Conference Room.

#### 1. Approval of the Agenda

APPROVED MOTION: Motion to approve the February 26, 2010 agenda

Motion by Hartig, no second

#### 2. Approval of January 13, 2010 meeting notes

APPROVED MOTION: Motion to approve the January 13, 2010 meeting notes

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

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

Motion by Tillery, second by Brookover

Public comment opened at 10:08 a.m.

**One public comment was offered.**

3. EVOS Trustee Council remodel/move

APPROVED MOTION: Motion to approve reauthorization of previously disbursed funds of \$30,000 and additional \$3,000 for remodel costs and move

Motion by Tillery, second by Hartig

4. Project 10100750-A and 10100808 Amendments

APPROVED MOTION: Motion to approve to additional funds for projects 10100750-A and 10100808 in the amount of \$20,710 and \$15,914 respectfully, totaling \$36,624

Motion by Tillery, second by Zemke

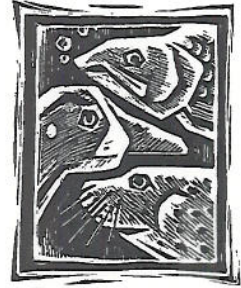
5. Adjourn

Motion to adjourn by Hartig, second by Tillery

Off the record 10:43 a.m.

## Exxon Valdez Oil Spill Trustee Council

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



### TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

April 30, 2010

Chaired by: Larry Hartig  
Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS \*  
Kim Elton, US DOI  
Craig O'Connor, NOAA \*\*

Craig Tillery, ADOL \*\*\*  
Denby Lloyd, ADF&G  
• Larry Hartig, ADEC

- Chair
- \* Steve Zemke alternate for USFS
- \*\* Craig O'Connor alternate for James Balsiger
- \*\*\* Craig Tillery alternate for Daniel Sullivan

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The meeting convened at 10:05 p.m., April 30, 2010 in Anchorage at the EVOS Conference Room.

#### 1. Approval of the Agenda

APPROVED MOTION: Motion to approve the April 30, 2010 agenda as amended, executive director report, summary of NEPA meetings, approval of April 30, 2010 agenda and February 26, 2010 meeting notes, then DSEIS discussion

Motion by Zemke, second by Tillery

#### 2. Approval of February 26, 2010 meeting notes

APPROVED MOTION: Motion to approve the February 26, 2010 meeting notes

Motion by O'Connor, second by Tillery

**Public Advisory Committee (PAC) comments: Stacy Studebaker, PAC Chair**

Public comment opened at 10:16 a.m.

**One public comment was offered.**

Public comment closed at 10:20 a.m.

Off the record (teleconference difficulties) 10:22 a.m.

On the record (teleconference re-established) 10:40 a.m.

**3. Draft Supplemental Environmental Impact Statement (DSEIS)**

APPROVED MOTION: Motion to approve NOAA going forward with publishing the DSEIS with the five focal points as articulated in the preferred alternatives including amendments to Section 2.4.2. Lingering Oil and Section 2.4.3 Long-term monitoring of marine conditions. In Section 2.4.2, paragraph 2, line 1, change "Passive and subsistence uses" to "Recreational, tourist, subsistence, commercial fisheries and passive uses". In Section 2.4.2, paragraph 2, line 3, change "passive and subsistence uses" to "human uses". In Section 2.4.3 change title to Long-term monitoring of marine conditions and injured resources. In paragraph 3, last sentence, add "as well as injured resources".

Motion by O'Connor, second by Lloyd

**5. Adjourn**

Motion to adjourn by Zemke, second by Tillery

Off the record 11:20 a.m.