

JOHN J. BURNS
ATTORNEY GENERAL

JENNIFER L. SCHORR
Assistant Attorney General
State of Alaska
Department of Law
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Attorneys for the State of Alaska

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

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

The United States and the State of Alaska ("the Governments") jointly provide this notice of their expenditure of \$162,300 from the Research Sub-Account of the Exxon Valdez Oil Spill Investment Fund ("Investment Fund") and \$175,000 from the Habitat Sub-Account of the 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 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.^{1/}

^{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. 1-3.

The Governments provide notice of this forty-fourth expenditure for the following: (1) the expenditure of \$42,400 from the Research Sub-Account to authorizing additional funds for Project 10100839-A by Hollmen;^{2/} (2) the expenditure of \$87,200 for information technology support services;³ (3) the expenditure of \$32,700 authorizing support for Trustee Council Science Panel members;⁴ and (4) the expenditure of \$175,000 from the Habitat Sub-Account for purchase of the Mutch and Jacobs small parcels at the mouth of the Anchor River on the Kenai Peninsula.⁵ Of the \$337,300 that is the subject of this Notice, \$42,400 will be provided to the United States and \$294,900 will be provided to the State of Alaska.

The Trustee Council has met once since the Governments' filing on March 7, 2011 of their Forty-Third Joint Notice of Expenditures. The Governments will submit the meeting notes for the April 19, 2011 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's February 11, 2011 meeting are appended to this Notice at Attachment B.

^{2/} The Trustee Council unanimously authorized these funds at its April 19, 2011 meeting as reflected in Resolution 11-06 appended to this Notice at Attachment A, pp. 4-6.

³ The Trustee Council unanimously authorized these funds at its April 19, 2011 meeting as reflected in Resolution 11-07 appended to this Notice at Attachment A, pp. 7-9.

⁴ The Trustee Council unanimously authorized these funds at its April 19, 2001 meeting as reflected in Resolution 11-09 appended to this Notice at Attachment A, pp. 10-16.

⁵ The Trustee Council unanimously authorized these funds at its November 3, 2010 meeting as reflected in Resolution 11-01 appended to this Notice at Attachment A, pp. 17-18. Resolution 11-01 was not included in an earlier Notice because the funds were not previously required for the transaction. These funds were originally unanimously authorized by the Trustee Council on August 10, 2005 in Resolution 01-04 and reauthorized in Resolution 08-03. Resolutions 01-04 and 08-03 are appended to this Notice at Attachment A, pp. 19-37. Please note that Resolution 11-01, in sections 1 and 2, erroneously states that one of the conditions of Resolution 08-03 was that a purchase agreement had to be executed by June 30, 2009; the actual date in Resolution 08-03 was December 31, 2009. This error does not impact the expenditure of funds.

RESPECTFULLY SUBMITTED this 17th day of May, 2011 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

JOHN J. BURNS
ATTORNEY GENERAL

By: s/JENNIFER L. SCHORR
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: Jennifer.Schorr@alaska.gov
Alaska Bar #0811082

FOR THE UNITED STATES

s/ERIKA M. ZIMMERMAN (consent)
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
c/o NOAA/Damage Assessment
7600 Sandy Point Way, NE
Seattle, Washington 98115
Telephone: (206) 526-6608
Facsimile: (907) 526-6665
Email: Erika.Zimmerman@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of May, 2011, a copy of the foregoing FORTY-FOURTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND, together with attachments A and B thereto, was served by U.S. mail, first class, postage paid, on the following:

James F. Neal Neal & Harwell 2000 One Nashville Place 150 Forth Avenue North Nashville TN 37219	Douglas J. Serdahely Patton Boggs LLP 601 W. 5 th Avenue, Suite 700 Anchorage, AK 99501	Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071
Christine O'Sullivan AK Dept. of Fish & Game PO Box 115526 Juneau, AK 99811-5526	John F. Clough III Clough & Associates PO Box 211187 Auke Bay, AK 99821-1187	Cherri Womac AK Dept. of Fish & Game Exxon Valdez Oil Spill Trustee Council Office 441 W. 5 th Ave., Suite 500 Anchorage, AK 99501
Erika M. Zimmerman U.S. Department of Justice c/o NOAA/Damage Assessment 7600 Sand Point Way NE Seattle, WA 98115		

s/Samantha Christenson

SEAN PARNELL, GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

Environmental
1031 WEST 4th AVENUE,
SUITE 200
ANCHORAGE, ALASKA

May 10, 2011

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 \$337,300 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). This expenditure consists of \$162,300 from the Research Investment Sub-Account and \$175,000 from the Habitat 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: \$175,000 from the Habitat Sub-Account; \$119,900 from the Research Sub-Account
Beneficiary: State of Alaska
Account: GeFONSI 33070, Account 22177
Name: Exxon Valdez Settlement Account

Attachment A
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Mr. Gary Bader
Treasury Division, Department of Revenue

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May 10, 2011

United States

Amount: \$42,400 from the Research Sub-Account

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

Beneficiary Bank

account: 021030004

name: Treasury, NYC

OBI Text

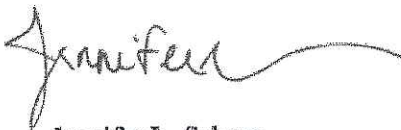
Natural Resource Damage Assessment Restoration Fund 14X5198
EVOS Exxon Valdez, Civil Settlement, FY06 Joint Funds

Beneficiary Reference

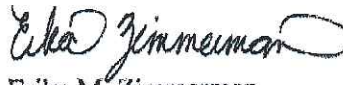
A91-082Civil

The transfer should take place when most financially advantageous, preferably on or before May 27, 2011, or as soon thereafter as possible. If you have any questions, please call Elise Hsieh at (907) 265-9330.

Sincerely,



Jennifer L. Schorr
Assistant Attorney General
State of Alaska



Erika M. Zimmerman
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*

Mr. Gary Bader
Treasury Division, Department of Revenue

Page 3
May 10, 2011

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*
Alexander Sadighi, Alaska Department of Revenue, *via email*
Bruce Nessler, Department of the Interior, *via email*
Cherri Womac, Exxon Valdez Oil Spill Trustee Council Restoration Office, *via email*
Linda Kilbourne, Exxon Valdez Oil Spill Trustee Council Restoration Office, *via email*

**RESOLUTION 11-06 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING AUTHORIZATION FOR ADDITIONAL FUNDS
FOR PROJECT 10100839-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 in the amount of \$38,900 plus applicable General Administration (GA) for federal fiscal year 2011 for additional analysis of the project data. The monies are to be distributed according to the following schedule:

U.S Geological Survey (includes 9% GA)	\$42,400
TOTAL TO UNITED STATES OF AMERICA	\$42,400
TOTAL APPROVED	\$42,400


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 Hollmen Project 10100839, Evaluating Injury to Harlequin Ducks from the appropriate account designated by the Executive Director.

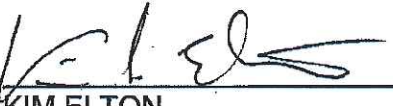
//// // ////


Attachment A
Page 4 of 37


Approved by the Council at its meeting of April 19, 2011 held in Anchorage, Alaska as affirmed by our signatures affixed below.

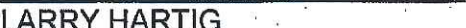

STEVE ZEMKE
Alternate Trustee
Chugach Nation Forest
U.S. Department of Agriculture


JOHN J. BURNS
Attorney General
Alaska Department of Law


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


JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce


CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game


LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
Page 5 of 37

Approved by the Council at its meeting of April 19, 2011 held in Anchorage, Alaska as affirmed by our signatures affixed below.


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

JOHN J. BURNS
Attorney General
Alaska Department of Law

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

JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce

CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game


~~LARRY HARTIG~~
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
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**RESOLUTION 11-07 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
AUTHORIZING A RSA FOR INFORMATION TECHNOLOGY SUPPORT SERVICES
WITH THE ALASKA DEPARTMENT OF FISH AND GAME**

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 \$80,000 for the remainder of the federal fiscal year 2011, to commence on July 1, 2011, through federal fiscal year 2012 ending on September 30, 2012, plus applicable General Administration (GA), for information technology support services with Alaska Department of Fish and Game. Project management fees are not applicable to information technology support services. Tasks include desktop support, server maintenance and web site management. The monies are to be distributed according to the following schedule:

Alaska Department of Fish and Game (includes 9% GA)	\$87,200
TOTAL TO STATE OF ALASKA – FFY11-12	\$87,200
TOTAL APPROVED	\$87,200


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 funds for the Information Technology Support Services from the appropriate account designated by the Executive Director.


/// /// ///


**Attachment A
Page 7 of 37**

Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.



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


JOHN J. BURNS
Attorney General
Alaska Department of Law


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


JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce


CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game


LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
Page 8 of 37

Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.

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

JOHN J. BURNS
Attorney General
Alaska Department of Law

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

JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce

CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

Don Easton
x LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

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**RESOLUTION 11-09 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
AUTHORIZING SUPPORT FOR SCIENCE PANEL MEMBERS**

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 to EVOSTC to support development of a data plan for the long-term Herring and Long-Term Monitoring Programs proposed in response to the FFY 2012 Invitation. To support this effort, the Council hereby approves \$30,000 plus applicable General Administration (GA) to EVOSTC to support peer review and for sole source contracts up to \$5000 for Science Panel members Marilyn Sigman, Gary Cherr, Ron O'Dor, Robert Spies, Douglas Hay and Charles Peterson. Project management fees are not applicable to these activities. The monies are to be distributed according to the following schedule:

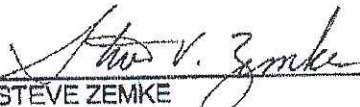
Alaska Department of Fish and Game (includes 9% GA)	\$32,700
TOTAL TO STATE OF ALASKA – FFY11	\$32,700
TOTAL APPROVED	\$32,700

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 funds for travel and consulting services for a long-term management plan analysis from the appropriate account designated by the Executive Director.

/// /// ///

**Attachment A
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Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.


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

JOHN J. BURNS
Attorney General
Alaska Department of Law

KIM ELTON
Senior Advisor to the Secretary
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JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries
U.S. Department of Commerce

CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
Page 11 of 37

Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.

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



JOHN J. BURNS
Attorney General
Alaska Department of Law

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

JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries
U.S. Department of Commerce


CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
Page 12 of 37

Approved by the Trustee Council at its meeting of April 19, 2011 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

CORA CAMPBELL
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Alaska Department of Fish and Game

JOHN J. BURNS
Attorney General
Alaska Department of Law

JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries
U.S. Department of Commerce

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation


Attachment A
Page 13 of 37

Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.

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

JOHN J. BURNS
Attorney General
Alaska Department of Law

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



JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries
U.S. Department of Commerce

CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

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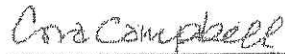
Approved by the Trustee Council at its meeting of April 19, 2011 held in Anchorage,
Alaska as affirmed by our signatures affixed below.

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

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

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U.S. Department of the Interior

JIM BALSIGER
Administrator, Alaska Region
National Marine Fisheries
U.S. Department of Commerce

CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

for Don Easton
LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A
Page 16 of 37

**RESOLUTION 11-01 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING THE
JACOBS AND MUTCH ANCHOR RIVER SMALL PARCELS**

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

1. On March 17, 2008, the Trustee Council resolved through Resolution 08-03 to provide funds for the State of Alaska to contribute matching funds in the amount of \$175,000 toward the purchase of the Seller's rights and interests in the Jacobs and Mutch Anchor River small parcels, consisting of a total of 84 acres, subject to certain conditions. One of the conditions was that a purchase agreement had to be executed by June 30, 2009. The Seller is The Nature Conservancy.

2. Although The Nature Conservancy agreed to convey the land to the State for the matching funds authorized in the Trustee Council's resolution of March 17, 2008 (\$175,000) and the State expected to complete the acquisition, a purchase agreement was not executed prior to June 30, 2009 as required by the Trustee Council's March 17, 2008 resolution.

3. On August 31, 2009, the Trustee Council reauthorized the funds through Resolution 09-12 and set June 30, 2010 as the deadline for execution of the purchase agreement. That deadline passed without an executed purchase agreement. The closing documents are currently under review by the Seller and then will be reviewed by the Bureau of Land Management.

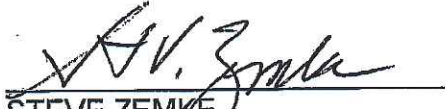
4. For all of the reasons detailed in the Trustee Council's resolution of March 17, 2008, the Trustee Council continues to find that the purchase of the Jacobs and Mutch small parcels is an appropriate means to restore a portion of the injured resources and services in the spill area. The Nature Conservancy has agreed that the requested matching funds from the Trustee Council remain at \$175,000.

THEREFORE, we resolve to provide matching funds for the State of Alaska to acquire all of the seller's rights and interests in the Jacobs and Mutch small parcels pursuant to the conditions outlined in the Trustee Council's Resolution 08-03, except that the authorization for funding for any acquisition described in Resolution 08-03 shall terminate if a purchase agreement is not executed by October 30, 2011.

/// /// ///

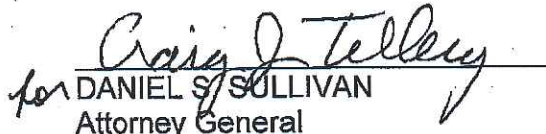
**Attachment A
Page 17 of 37**

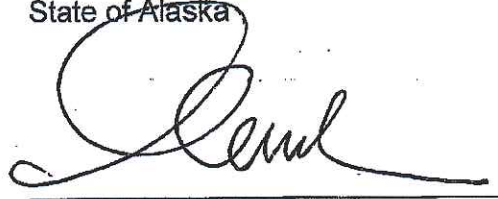
Approved by the Trustee Council at its meeting of November 3, 2010, held in Anchorage, Alaska, as affirmed by our signatures affixed below:


STEVE ZEMKE
Trustee Alternate
Chugach National 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
State of Alaska


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


LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

**RESOLUTION 08-03 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING THE
JACOBS AND MUTCH ANCHOR RIVER SMALL PARCELS**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), after review and consideration of relevant information regarding restoration of resources injured by the Exxon Valdez Oil Spill ("EVOS") find as follows:

1. The owners of Lots 7 and 8 in Section 33, Township 4 south, Range 15 West, Seward Meridian, Homer Recording District (the Jacobs parcel) and the owners of Tract A, according to the plat of HMS Resolution Ridge, filed under Plat Number 2002-23, Records of the Homer Recording District, Third Judicial District, State of Alaska (the Mutch parcel), approached the Council and The Nature Conservancy, indicating an interest in selling these parcels, consisting of 38 acres (Jacobs) and 46 acres (Mutch), to the State of Alaska as part of the Council's program for restoration of natural resources and services that were injured or diminished as a result of the *Exxon Valdez* oil spill.

2. An appraisal approved by state and federal review appraisers estimates the fee simple fair market value of the Jacobs parcel to be \$215,000 and the Mutch property to be \$235,000. The total cost to purchase these parcels, including due diligence activities involving quiet title, is \$540,000, of which \$365,000 will be funded by an approved federal National Coastal Wetland Conservation Act grant and private donations.

3. Trustee Council Resolution 06-02 authorized funds in the amount of eighty thousand dollars (\$80,000.00) for the acquisition of the Jacobs small parcel and ninety five thousand dollars (\$95,000.00) for the acquisition of the Mutch small parcel to

be used in conjunction with the funding identified above. The resolution required that acquisition be completed by December 30, 2006.

4. The two parcels are contiguous and are located at the mouth of the Anchor River. The Anchor River is one of the most heavily fished rivers in Alaska. As set forth in Attachment A, the Jacobs and Mutch Anchor River parcels have attributes that will restore, replace, enhance, and rehabilitate injured natural resources and the services provided by those natural resources, including important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. In particular, the parcels will provide important public access for sportfishing, a service injured by the spill, and rearing habitat for injured species such as Dolly Varden. The parcels are adjacent to land already owned by the State and managed for sportfishing.

5. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the *Exxon Valdez* oil spill ("EVOS") present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

Attachment A
Page 20 of 37

Resolution 08-03

6. There has been widespread public support within Alaska as well as on a national basis for the acquisition of these lands.

7. The purchase of these parcels is an appropriate means to restore a portion of the injured resources and services in the oil spill area. Acquisition of these parcels is consistent with the Final Restoration Plan.

THEREFORE, we resolve to provide funds for the State of Alaska to acquire all the seller's rights and interests in the Jacobs and Mutch Anchor River parcels pursuant to the following conditions:

(a) the amount of funds to be provided by the Trustee Council to the State of Alaska shall be eighty thousand dollars (\$80,000) for the Jacobs small parcel and ninety five thousand dollars (\$95,000) for the Mutch small parcel;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 31, 2009;

(c) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the State of Alaska Department of Natural Resources;

(d) a title search satisfactory to the State of Alaska and the United States is completed, and the seller is willing and able to convey fee simple title by warranty deed;

Attachment A
Page 21 of 37

Resolution 08-03

(e) no timber harvesting, road development or any alteration of the land will be initiated on the land without the express agreement of the State of Alaska and the United States prior to purchase of these parcels;

(f) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;

(g) compliance with the National Environmental Policy Act; and

(h) a conservation easement on the Jacobs and Mutch parcels shall be conveyed to the United States which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law.

It is the intent of the Trustee Council that the above-referenced conservation easement will provide that any facilities or other development on the foregoing parcels shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except 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 services, 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 as approved by the Trustee Council.

By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director of the Trustee Council ("Executive Director:") that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural

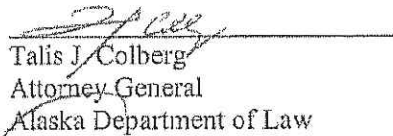
Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Price for the above-referenced parcels from the appropriate account designated by the Executive Director.

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

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



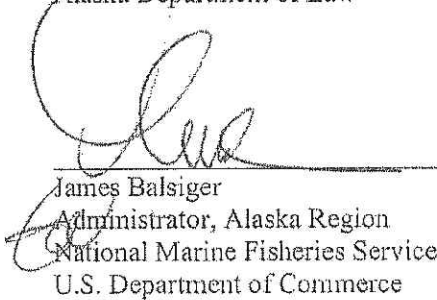
Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture



Talis J. Colberg
Attorney General
Alaska Department of Law

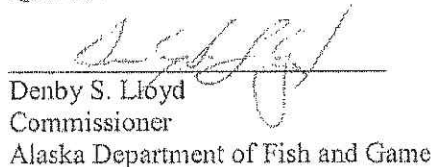


Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior



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

HANS NEIDIG For
Randall Luthi



Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game



Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

Attachment A – Resolution 06-02 with attachments including Benefits Report

Attachment A
Page 23 of 37
Resolution 08-03

**ATTACHMENT A
RESOLUTION 06-02 WITH ATTACHMENTS
including
BENEFITS REPORT AND MAP**

**Attachment A
Page 24 of 37**

Resolution 08-03

**RESOLUTION 06-02 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING THE
JACOBS AND MUTCH ANCHOR RIVER SMALL PARCELS**

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

1. The owners of Lots 7 and 8 in Section 33, Township 4 South, Range 15 West, Seward Meridian, Homer Recording District (the Jacobs parcel) and the owners of Tract A, according to the plat of HMS Resolution Ridge, filed under Plat Number 2002-23, Records of the Homer Recording District, Third Judicial District, State of Alaska (the Mutch parcel), have indicated an interest in selling these parcels, consisting of 38.45 acres (Jacobs) and 46.24 acres (Mutch), to the State of Alaska as part of the Council's program for restoration of natural resources and services that were injured or diminished as a result of the Exxon Valdez oil spill (EVOS).

2. An appraisal approved by the state and federal review appraisers estimates the fee simple fair market value of the Jacobs parcel to be \$215,000.00 and the Mutch property to be \$235,000.00. The total cost to purchase these parcels is \$540,000, of which \$365,000 will be funded by an approved federal Coastal Wetlands Act grant and private donations.

3. The two parcels are contiguous and are located at the mouth of the Anchor River. The Anchor River is one of the most heavily fished rivers in Alaska. As set forth in Attachment A (Appraisal Summary Review), the Jacobs and Mutch Anchor River parcels have attributes that will restore, replace, enhance, and rehabilitate injured natural resources and the services provided by those natural resources, including important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. In particular, the parcels

Resolution 06-02

will provide important public access for sportfishing, a service injured by the spill and rearing habitat for injured species such as Dolly Varden. The parcels are adjacent to land already owned by the state and managed for sportfishing.

4. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on the recovery of injured resources and lost or diminished services provided by these resources.

5. There is widespread public support for the acquisition of these parcels.

6. The purchase of these parcels is an appropriate means to restore a portion of the injured resources and services in the spill area. Acquisition of these parcels is consistent with the Final Restoration Plan.

THEREFORE, we resolve to provide funds for the State of Alaska to acquire all of the sellers' rights and interests in the Jacobs and Mutch Anchor River property, pursuant to the following conditions:

(a) the amount of funds to be provided by the Trustee Council to the State of Alaska shall be eighty thousand dollars (\$80,000.00) for the Jacobs small parcel and ninety five thousand dollars (\$95,000.00) for the Mutch small parcel;

(b) authorization for funding for the acquisitions described in the foregoing paragraph shall terminate if purchase of the property is not completed by December 30, 2006;

(c) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and, if necessary, with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury and transfer of the necessary monies from the appropriate account designated by the Executive Director of the Trustee Council (Executive Director);

(d) completion of the following to the satisfaction of the State of Alaska and the United States for each parcel:

(i) title search;

(ii) a determination that the seller is willing and able to convey title in a form satisfactory to the State of Alaska and the Office of the Solicitor of the United States Department of the Interior;

(iii) an executed purchase or option agreement and conveyance documents that are ready for execution;

(iv) hazardous materials survey;

(v) statement of compliance with the National Environmental Policy Act; and

(vi) approval of the appraisals by the review appraiser(s);

(f) conservation easements on the Jacobs and Mutch parcels, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed by the sellers to the United States;

(g) no timber harvesting, road development or any alteration of the land will be initiated on the land without the express agreement of the State of Alaska and the United States;

(h) receipt by the State of Alaska of such other monies as are described in this resolution and necessary for completion of the purchases; and

(i) a determination that the State of Alaska has the legal authority to expend such monies as are required to complete these purchases.

It is the intent of the Council that the conservation easements referenced above will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be neither commercial timber harvest nor any other commercial use of the small parcel excepting 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 Final Restoration Plan as approved by the Trustee Council.

By unanimous consent, following written notice from the Executive Director that the terms and conditions set forth herein and in 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 amounts described above to be paid from joint settlement

funds for the above-referenced parcels from the appropriate account designated by the Executive Director.

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

Approved by the Council at its meeting of August 10, 2005 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



JOE MEADE
Forest Supervisor
Chugach National Forest
USDA Forest Service

SCOTT NORDSTRAND
Deputy Attorney General
State of Alaska

JAMES BALSIGER
Director, Alaska Region
National Marine Fisheries Service

McKIE CAMPBELL
Commissioner
Alaska Department of Fish and Game

DRUE PEARCE
Senior Advisor to the Secretary
for Alaska Affairs
Department of Interior

KURT FREDRIKSSON
Commissioner
Alaska Department of Environmental
Conservation

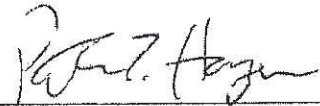
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Chugach National Forest
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SCOTT NORDSTRAND
Deputy Attorney General
State of Alaska

for 

JAMES BALSIGER
Director, Alaska Region
National Marine Fisheries Service

McKIE CAMPBELL
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Alaska Department of Fish and Game

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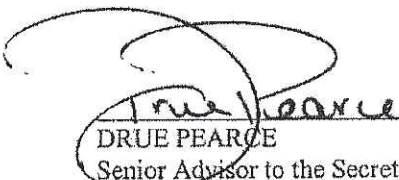
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Chugach National Forest
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Department of Interior

KURT FREDRIKSSON
Commissioner
Alaska Department of Environmental
Conservation

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funds for the above-referenced parcels from the appropriate account designated by the Executive Director.

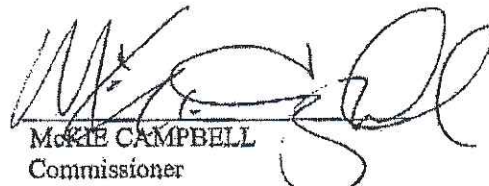
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Forest Supervisor
Chugach National Forest
USDA Forest Service

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Deputy Attorney General
State of Alaska

JAMES BALSIGER
Director, Alaska Region
National Marine Fisheries Service



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Department of Interior

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Alaska Department of Environmental
Conservation

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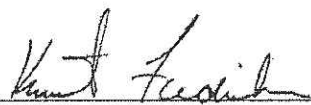
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for Alaska Affairs
Department of Interior



KURT FREDRIKSSON
Commissioner
Alaska Department of Environmental
Conservation

Anchor River - Mutch

Location: Anchor River, Kenai Peninsula

Legal Description: KEN _____ (Mutch) parcel: Tract A, according to the plat of "HMS RESOLUTION RIDGE", filed under Plat Number 2002-23, Records of the Homer Recording District, Third Judicial District, State of Alaska

Agency Sponsor: ADF&G w/ ADNR as a cooperator

Landowner: Paul Mutch

Appraised Fair Market Value: \$235,000 (per 3/31/05 appraisal)

Total Project Cost: \$280,000

Cost Breakdown: \$235,000 (Purchase price); \$20,000 (estimated direct costs including appraisal (\$11,000), due diligence (\$4000), title insurance/closing fees (\$5000); \$ 25,000 (estimated indirect costs including staff time and overhead)

Total Cost to EVOS: \$95,000 (estimated)

Estimated Closing Date: December 2005

The Mutch parcel is one of three remaining private parcels located along the Anchor River estuary on the southern Kenai Peninsula – an ecologically important salt marsh that supports a large and popular sport fishery. The Mutch parcel is located 1± mile west of Anchor Point at the north end of Anchor Point Beach Road, fronting on Cook Inlet and intersected by the Anchor River. The parcel has attributes which will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources, including important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. Acquisition of this small parcel will assure protection of approximately 46.24 acres.

The parcel consists of 13.6± acres of relatively level and elevated sandy/gravelly beach and grassy berm to the west of the Anchor River and an additional 5± acres of low elevation beach sloping to the mean high tide line of Cook Inlet. The remaining 27.5± acres are part of a larger salt marsh/estuary complex with high ecological significance. The parcel will contribute to the restoration of the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill ("EVOS"). The parcel is also important to the restoration or preservation of healthy populations of several species of salmonids (Dolly Varden, steelhead, coho salmon, king salmon).

The property is bounded to the south by existing State Park lands. The proposed acquisition will be complemented by planned purchase of the other two remaining private parcels (Jacobs and McGee, totaling 46± acres) within the Anchor River estuary. 67.6% of the total project costs for acquisition of the Mutch and Jacobs parcels is being provided by an approved federal Coastal Wetlands Act grant and private donations. The EVOS Trustee Council is being asked for the remaining 32.4%. Funding for the McGee parcel acquisition was previously approved by the EVOS Trustee Council.

Protection of these tracts supports restoration of species and services injured by the Exxon Valdez Oil Spill by protecting recreational and tourism uses and habitat for salmonids and other fish species.

Anchor River - Jacobs

Location: Anchor River, Kenai Peninsula

Legal Description: KEN ____ (Jacobs) parcel: That portion of Lots 7 and 8 in Section 33, Township 4 South, Range 15 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska, lying southwest of Anchor Bluff Estates

Agency Sponsor: ADF&G w/ ADNR as a cooperator

Landowner: Paul Jacobs

Appraised Fair Market Value: \$215,000 (per 3/31/05 appraisal and federal review)

Total Project Cost: \$260,000

Cost Breakdown: \$215,000 (Purchase price); \$20,000 (estimated direct costs including appraisal (\$11,000), due diligence (\$4000), title insurance/closing fees (\$5000); \$ 25,000 (estimated indirect costs including staff time and overhead)

Total Cost to EVOS: \$80,000 (estimated)

Estimated Closing Date: December 2005

The Jacobs parcel is one of three remaining private parcels located along the Anchor River estuary on the southern Kenai Peninsula – an ecologically important salt marsh that supports a large and popular sport fishery. The Jacobs parcel is located 1± mile west of Anchor Point to the north along the beach at the end of Anchor Point Beach Road. It fronts on Cook Inlet and is intersected by the Anchor River. The parcel has attributes which will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources, including important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. Acquisition of this small parcel will assure protection of approximately 38.45 acres.

The parcel consists of 12.9± acres of relatively level and elevated sandy/gravelly beach and grassy berm to the west of the Anchor River and an additional 8.1± acres of low elevation beach sloping to the mean high tide line of Cook Inlet. The remaining 17.5± acres are part of a larger salt marsh/estuary complex with high ecological significance. The parcel will contribute to the restoration of the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill ("EVOS"). The parcel is also important to the restoration or preservation of healthy populations of several species of salmonids (Dolly Varden, steelhead, coho salmon, king salmon).

The property is bounded to the south by the Mutch parcel. The proposed acquisition will be complemented by the planned purchase of the other two remaining private parcels, the McGee and Mutch parcels (totaling 53.7± acres) within the Anchor River estuary. 67.6% of the total project costs for acquisition of the Mutch and Jacobs parcels is being provided by an approved federal Coastal Wetlands Act grant and private donations. The EVOS Trustee Council is being asked for the remaining 32.4%. Funding for the McGee parcel acquisition was previously approved by the EVOS Trustee Council.

Protection of these tracts supports restoration of species and services injured by the Exxon Valdez Oil Spill by protecting recreational and tourism uses and habitat for salmonids and other fish species.

Kachemak Bay : Mouth of the Anchor River Tracts



Map prepared by The Nature Conservancy of Alaska (v 05 07 2003)

The Nature Conservancy

SAVING THE LAST GREAT PLACES ON EARTH

Potential TNC acquisitions
Conservation Area Boundary

State of Alaska lands

0.25 0 0.25 0.5 0.75 1 1.25 Kilometers

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

February 11, 2011

Chaired by: Kim Elton
Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS *
• Kim Elton, USDO
Craig O'Connor, NOAA **

Jennifer Schorr, ADOL ***
Cora Campbell, ADF&G
Larry Hartig, ADEC

- Chair
- * Steve Zemke alternate for USFS
- ** Craig O'Connor alternate for James Balsiger
- *** Jennifer Schorr alternate for John J. Burns

The meeting convened at 10:02 a.m., February 11, 2011 in Anchorage at the EVOS Conference Room.

1. Approval of the Agenda

APPROVED MOTION: Motion to modify the February 11, 2011 agenda

Motion by Hartig, second by Zemke

2. Approval of November 3, 2010 meeting notes

APPROVED MOTION: Motion to approve the November 3, 2010 meeting notes

Motion by Hartig, second by Schorr

Public comment opened at 10:06 a.m.

One public comment was offered.

Public comment closed at 10:12 a.m.

There were no Public Advisory Committee (PAC) comments.

3. 2010 Agreed-Upon Services Contract

APPROVED MOTION: Motion to approve entering into an Agreed-Upon Procedures Contract for a 2010 audit with Elgee, Rehfeld and Mertz for an amount not to exceed \$16,187 which includes 9 percent General Administration

Motion by Zemke, second by Hartig

4. FFY 2011 Work Plan

APPROVED MOTION: Move to approve funding \$1,586,785 which includes 9 percent General Administration for Project 11100836, Boufadel – Pilot Studies of Bioremediation of *Exxon Valdez* Oil in Prince William Sound Beaches

Motion by O'Connor, second by Schorr

APPROVED MOTION: Motion to re-allocate the total amount of funds authorized in Resolution 08-10, designating \$50,000 (which includes General Administration) to fund a NOAA analysis of the 1994 EVOS Restoration Plan Environmental Impact Statement (EIS), to fund a NEPA review of Project 11100836, Boufadel – Pilot Studies of Bioremediation of *Exxon Valdez* Oil in Prince William Sound Beaches

Motion by Hartig, second by Zemke

APPROVED MOTION: Motion to approve funding \$178,200 which includes 9 percent General Administration for Project 11100112, Irvine – Lingerin Oil on Boulder-Armored Beaches

Motion by Zemke, second by Hartig

APPROVED MOTION: Motion to approve funding \$218,000 which includes 9 percent General Administration Phase I of Project 11100853, Irons – Pigeon Guillemot Restoration in Prince William Sound, expenditure of the funds is conditioned upon the Executive Director approving a letter of agreement among all parties involved in the Project defining the agency's responsibilities

Motion by O'Connor, second by Zemke

5. Habitat Small Parcels, Saltz, Silver and Poore

APPROVED MOTION: Move to authorize funding of \$43,600 which includes 9 percent General Administration for due diligence expenses consistent with State and Trustee Council requirements in support of Kenai River habitat protection efforts for three small parcels: Saltz' Island-KEN 3009, Silver Parcel-KEN 3008, and Poore-KEN 3010

Motion by Hartig, second by Schorr

6. Adjourn

Motion by Hartig, second by O'Connor

Off the record 11:35 a.m.