

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

WILLIAM D. BRIGHTON
Assistant Section Chief
Environmental Enforcement Section

ERIKA M. ZIMMERMAN
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
c/o NOAA/Damage Assessment
7600 Sand Point Way, NE
Seattle, WA 98115
Telephone: (206) 526-6608
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ATTORNEYS FOR THE UNITED STATES

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	No. 3:91–CV-0082 Civil (HRH)
)	
v.)	FORTY-SEVENTH
)	JOINT NOTICE OF
EXXON CORPORATION, EXXON SHIPPING)	EXPENDITURES FROM THE
COMPANY, and EXXON PIPELINE COMPANY,)	INVESTMENT FUND
<u>et al., in personam</u> , and the T/V EXXON VALDEZ,)	
<u>in rem</u> ,)	
)	
Defendants.)	
_____)	

The United States and the State of Alaska (“the Governments”) jointly provide this notice of their expenditure of \$1,199,218 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”).

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

The Governments provide notice of this forty-seventh expenditure of \$1,199,218 from the Research Sub-Account to authorize additional funds for Project 11100836-B, Pilot Studies of Bioremediation of the Exxon Valdez Oil in Prince William Sound Beaches.² The entire \$1,199,218 that is the subject of this Notice will be provided to the United States.

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

² The Trustee Council unanimously authorized these funds at its February 1, 2012 meeting as reflected in Resolution 12-01 appended to this Notice at Attachment A, pp. 3-6.

The Trustee Council has met once since the Governments' filing on October 28, 2011 of their Forty-Sixth Joint Notice of Expenditures.³ The Governments will submit the meeting notes for the February 1, 2012 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's September 15, 2011 meeting are appended to this Notice at Attachment B.

RESPECTFULLY SUBMITTED this 13th day of February, 2012.

FOR THE UNITED STATES

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

s/ Erika M. Zimmerman
Trial Attorney, Oregon No. 055004
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
c/o NOAA/Damage Assessment
7600 Sand Point Way, NE
Seattle, WA 98115
Telephone: (206) 526-6608
Facsimile: (206) 526-6665
Email: erika.zimmerman@usdoj.gov

GARY M. GUARINO
Assistant United States Attorney
U.S. Attorney's Office, District of Alaska
Federal Bldg U.S. Cthse.
222 W 7th Ave. 9 Rm 253
Anchorage, Alaska 99513

³ The Forty-Sixth Joint Notice of Expenditures, at Footnote 2, identified that the Trustee Council unanimously authorized funds of \$61,700 for Irvine Project, 11100112-A, Lingering Oil on Boulder-Armoured Beaches in the Gulf of Alaska, 22 Years After the *Exxon Valdez* Oil Spill, at its September 15, 2011 meeting, reflected in Resolution 11-12. On February 1, 2012, the Trustee Council amended Resolution 11-12 to identify that the funds for the Irvine Project were authorized as part of Resolution 11-14. Amended Resolution 11-12 is appended to this Notice as Attachment A, pp. 7-10.

FOR THE STATE OF ALASKA

JOHN J. BURNS
ATTORNEY GENERAL

By: s/JENNIFER L. SCHORR (consent)
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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of February, 2012 a copy of the foregoing, FORTY-SEVENTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND, was served by the Court's CM/ECF system upon all persons registered to receive filings in this matter and by United States mail, first class, postage paid, upon the following:

Jennifer Schorr
Assistant 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
P.O. Box 211187
Auke Bay, AK 99821-1187

Matt vanSteenwyk
AK Dept. of Fish & Game
PO Box 115526
Juneau, AK 99811-5526

s/ Erika M. Zimmerman

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

SEAN PARNELL, GOVERNOR

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

February 8, 2012

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 \$1,199,218 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 is entirely from the Research 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:

United States

Amount: \$1,199,218 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

Mr. Gary Bader
Treasury Division, Department of Revenue

Page 2
February 8, 2012

account: 021030004
name: Treasury, NYC

OBI Text

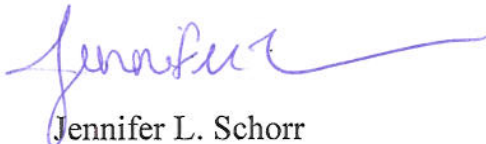
Natural Resource Damage Assessment Restoration Fund 14X5198
EVOS Exxon Valdez, Civil Settlement, FY06 Joint Funds

Beneficiary Reference

A91-082Civil

This transfer should take place when most financially advantageous, preferably on or before February 17, 2012. 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*
Christine O'Sullivan, Alaska Department of Fish and Game, *via email*
Barbara Mason, Alaska Department of Fish and Game, *via email*
Bronze Ickes, Alaska Department of Revenue, *via email*
Bob Mitchell, 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*

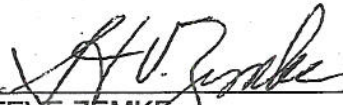
**RESOLUTION 12-01 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING AUTHORIZATION FOR ADDITIONAL FUNDS FOR PROJECT 1100836-B**

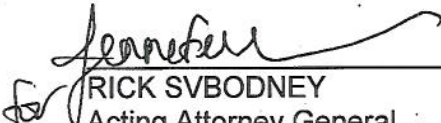
We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of *United States of America v. State of Alaska* No. A91-081 Civil, U.S. District Court for the 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 up to \$1,199,210, which includes applicable General Administration (GA) and is conditioned upon the approval of the Executive Director of a revised budget. The National Oceanic and Atmospheric Administration waives the project management fees. The monies are to be distributed according to the following schedule:

National Oceanic & Atmospheric Administration (includes 9% GA)	\$1,199,210
TOTAL TO UNITED STATES OF AMERICA	\$1,199,210
TOTAL APPROVED	\$1,199,210

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 Boufadel Project 1100836-B, Pilot Studies of Bioremediation of the *Exxon Valdez* Oil in Prince William Sound Beaches from the appropriate account designated by the Executive Director.

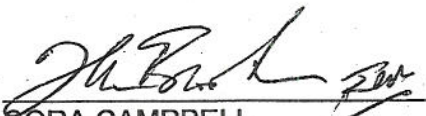
Approved by the Council at its meeting of February 1, 2012 held in Anchorage, Alaska as affirmed by our signatures affixed below.


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


RICK SVBODNEY
Acting Attorney General
Alaska Department of Law

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

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


CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

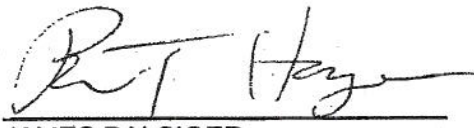

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Approved by the Council at its meeting of February 1, 2012 held in Anchorage, Alaska as affirmed by our signatures affixed below.

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

RICK SVBODNEY
Acting Attorney General
Alaska Department of Law

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

for 

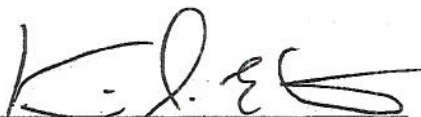
JAMES BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce

CORA CAMPBELL
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Alaska Department of Fish and Game

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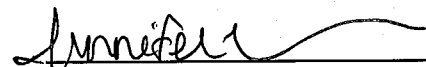
**AMENDED RESOLUTION 11-12
OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING AUTHORIZATION FOR ADDITIONAL FUNDS
FOR PROJECT 11100112-A**

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, to make available additional funds for Irvine Project 11100112-A, Lingering Oil on Boulder-Armored Beaches in the Gulf of Alaska, 22 Years After the *Exxon Valdez* Oil Spill in the amount of \$56,600 plus applicable General Administration (GA) for federal fiscal year 2012, for a total of \$61,694. These funds are necessary to complete sampling, which was aborted due to weather delays.

These funds were authorized by the Trustee Council at their September 15, 2011 meeting in Resolution 11-14 Regarding the FFY 2012 Work Plan. 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 as noted above for Irvine Project 11100112-A from the appropriate account designated by the Executive Director.

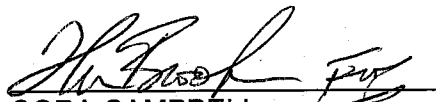
Approved by the Council at its meeting of February 1, 2012 held in Anchorage, Alaska as affirmed by our signatures affixed below.

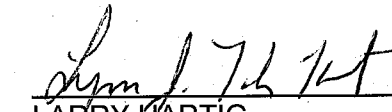

STEVE ZEMKE
Alternate Trustee
Chugach Nation Forest
U.S. Department of Agriculture


for RICK SVBODNEY
Acting Attorney General
Alaska Department of Law

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

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


CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game


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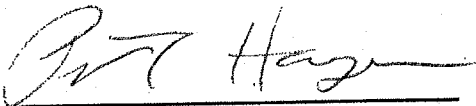
Approved by the Council at its meeting of February 1, 2012 held in Anchorage, Alaska as affirmed by our signatures affixed below.

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

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Acting Attorney General
Alaska Department of Law

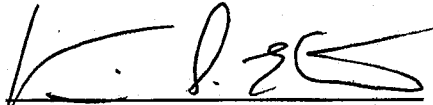
for 

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

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Approved by the Council at its meeting of February 1, 2012 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

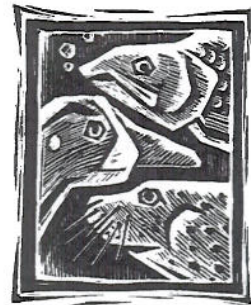
RICK SVBODNEY
Acting Attorney General
Alaska Department of Law

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

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

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

September 15, 2011

Chaired by: Steve Zemke
Trustee Council Member

Trustee Council Members Present:

• Steve Zemke, USFS *
Kim Elton, USDOl ****
Jim Balsiger, NOAA

Jennifer Schorr, ADOL ***
Tom Brookover, ADF&G **
Larry Hartig, ADEC

- Chair
- * Steve Zemke alternate for USFS
- ** Tom Brookover alternate for Cora Campbell
- *** Jennifer Schorr alternate for John J. Burns
- **** Douglas Mutter alternate for Kim Elton until 1:10 p.m.

The meeting convened at 12:30 p.m., September 15, 2011 in Anchorage at the EVOS Conference Room.

1. Approval of the Agenda

APPROVED MOTION: Motion to approve the September 15, 2011 agenda.

Motion by Schorr, second by Balsiger

2. Approval of April 19, 2011 meeting notes

APPROVED MOTION: Motion to approve the April 19, 2011 meeting notes as prepared.

Motion by Mutter, second by Brookover

Public comment opened at 12:40 p.m.

Three public comments were offered.

Public comment closed at 12:47 p.m.

Public Advisory Committee (PAC) comments: Kurt Eilo, PAC Chair

3. Asset Allocation

APPROVED MOTION: Motion to approve the following Asset Allocation for the period October 2011 through October 2012: Domestic Equities 47% +/- 7%, International Equities 23% +/- 7%, and Domestic Bonds 30% +/- 5%.

Motion by Brookover, second by Balsiger

Kim Elton arrives at the Council meeting at 1:10 p.m. relieving D. Mutter as his alternate.

4. Correction to erroneous date in Resolution 11-01

APPROVED MOTION: Motion to approve correcting the erroneous date in Resolution 11-01, changing the date from June 30, 2009 to December 31, 2009

Motion by Balsiger, second by Elton

5. Amendment to Irvine PJ 11100112-A

APPROVED MOTION: Motion to approve an amendment to the Irvine Project 11100112-A Lingering Oil on Boulder-Armored Beaches to fund an additional \$61,700, which includes 9% General Administration, and for any applicable project management costs.

Motion by Brookover, second by Elton

6. KEN 3010 Poore Small Parcel

APPROVED MOTION: Motion to approve \$1.1 million for the State of Alaska for the purchase of small parcel KEN 3010.

Motion by Elton, second by Schorr

7. FFY 2012 Workplan Continuing Projects

APPROVED MOTION Motion to approve funding for the continuing projects identified in the FFY 2012 Draft Work Plan, which includes 9% General Administration, and for any applicable project management costs; with the exception of funding for Irons Project 11100853, which may be reviewed by the Council at a future meeting after completion of the NEPA review of the project.

Motion by Schorr, second by Elton

Off the record: 1:50 p.m.

On the record: 2:00 p.m.

8. Long-Term Monitoring Program

APPROVED MOTION Motion to approve funding McCammon Project 12120114, Long-Term Monitoring of Marine Conditions and Injured Resources and Services, including General Administration fee not to exceed 9% and any applicable project management costs; the first year of this multi-year funding is authorized for October 1, 2011 – January 31, 2013, is to be reviewed annually thereafter by the Council and is to lapse on January 31, 2016.

Motion by Balsiger, second by Elton

APPROVED MOTION

Motion to approve Carls Project 12120121, Long-Term Monitoring: Lingering Oil – Extending the Tracking of Oil Levels and Weathering (PAH composition) in PWS Through Time, and Ballachey Project 120100808, Long-Term Monitoring: Evaluating Chronic Exposure of Harlequin Ducks and Sea Otters to Lingering EVO in Western with the understanding that even though separate, they fit into the long-term monitoring program including General Administration fee not to exceed 9% and any applicable project management costs; the first year of this multi-year funding is authorized for October 1, 2011 – January 31, 2013, is to be reviewed annually thereafter by the Council and is to lapse on January 31, 2016.

Motion by Balsiger, second by Elton

9. NCEAS/AOOS Collaborative Data Management

APPROVED MOTION

Motion to approve funding, as part of the Long-Term Monitoring and Herring Programs, NCEAS/AOOS Project 12120120, Collaborative Data Management and Holistic Synthesis of Impacts and Recovery Status Associated with the Exxon Valdez Oil Spill, including General Administration fee not to exceed 9% and any applicable project management costs; the first year of this multi-year funding is authorized for October 1, 2011 – January 31, 2013, is to be reviewed annually thereafter by the Council and is to lapse on January 31, 2016.

Motion by Elton, second by Schorr

10. Long-Term Herring Program

APPROVED MOTION

Motion to approve funding the Pegau Project 12120111, PWS Herring Research and Monitoring, including General Administration fee not to exceed

9% and any applicable project management costs; the first year of this multi-year funding is authorized for October 1, 2011 – January 31, 2013, is to be reviewed annually thereafter by the Council and is to lapse on January 31, 2016.

Motion by Schorr, second by Balsiger

APPROVED MOTION

Motion to approve funding, as part of the Herring Program, the Branch Project 12120120, PWS Herring Research and Monitoring Program: Modeling the Population Dynamics of PWS Herring, including General Administration fee not to exceed 9% and any applicable project management costs; the first year of this multi-year funding is authorized for October 1, 2011 – January 31, 2013, is to be reviewed annually thereafter by the Council and is to lapse on January 31, 2016. This funding is contingent on the Executive Director's approval of a revised proposal that addresses the concerns identified in the ADF&G comments. Modification of the budget will also be considered to reduce indirect costs. The funding provided is not to exceed that proposed in the original.

Motion by Brookover, second by Balsiger

12. Harbor Protection and Marine Restoration

APPROVED MOTION

Motion to approve funding Anderson Project 12120115, Seward Marine Industrial Center Vessel Wash-down and Wastewater Recycling Facility, including 9% General Administration and any applicable project management costs; this multi-year funding is to be reviewed annually by the Council and is to lapse on September 30, 2013.

Motion by Schorr, second by Hartig

APPROVED MOTION

Motion to approve funding Jennings Project 12120112, PWS Harbor Cleanup Project, for a scoping phase not to exceed \$125,000 and conditioned upon a revised budget addressing these concerns and interests approved by the executive director; this multi-year funding is to be revised annually by the Council and is to lapse on September 30, 2013.

Motion by Elton, second by Hartig

APPROVED MOTION

Motion to approve funding Pallister Project 12120116, Marine Debris Removal [and Public Outreach Proposal(s) # 1, 2, and 3 of the Addendum], including 9% General Administration and any applicable project management costs; this multi-year funding is to be reviewed annually by the Council and is to lapse on September 30, 2014.

Motion by Balsiger, second by Hartig

13. Lingering Oil

APPROVED MOTION

Motion to approve funding, as part of the Long-Term Monitoring Program, Nixon Project 12120117, Spatial Synthesis of Lingering Oil Distribution Modeling with Population and Biomarker Data for Recovering Species, including 9% General Administration and any applicable project management costs.

Motion by Schorr, second by Hartig

14. Annual Program Development and Implementation (APDI) Budget

APPROVED MOTION

Motion to approve \$1,711,790 funding for the Annual Program Development and Implementation (APDI) Budget Project 12120100.

Motion by Brookover, second by Elton

15. Adjourn

Motion to adjourn

Motion by Hartig, second by Schorr

Off the record 4:00 p.m.