

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

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**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

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

The United States and the State of Alaska (“the Governments”) jointly provide this notice of their expenditure of \$140,684.38 from the Exxon Valdez Oil Spill Investment Fund (“Investment Fund”). This entire expenditure is from the Koniag 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

The Governments provide notice of this fifty-fifth expenditure of \$140,684.38 from the Koniag Sub-Account previously approved by Resolution 14-01, which authorizes the final payment upon termination of the Master Agreement with Koniag,

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.

Inc.² The entire amount that is the subject of this Notice will be provided to the United States.

The Trustee Council has met once since the Governments' filing on December 19, 2013 of their Fifty-Fourth Joint Notice of Expenditures. The Governments will submit the meeting notes for the January 27, 2014 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's October 28, 2013 meeting are appended to this Notice at Attachment B.

RESPECTFULLY SUBMITTED this 31st day of January, 2014 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: /s/ JENNIFER L. SCHORR
Assistant Attorney General
State of Alaska
Department of Law
1031 West Fourth Avenue, Suite 200
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Alaska Bar #0811082

² The Trustee Council unanimously authorized these funds at its January 27, 2014 meeting in Resolution 14-01. Resolution 14-01 is appended to this Notice as Attachment A, pp. 3-8.

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 Sand 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 31st day of January, 2014, a copy of the foregoing FIFTY-FIFTH 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 Fourth Avenue North Nashville, TN 37219	Douglas J. Serdahely Patton Boggs LLP 601 W. 5th Avenue, Suite 700 Anchorage, AK 99501	Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071
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 4210 University Drive Anchorage, AK 99508- 4650
Erika M. Zimmerman U.S. Department of Justice c/o NOAA/Damage Assessment 7600 Sand Point Way NE Seattle, WA 98115		

/s/Jennifer L. Schorr, AAG



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Law

CIVIL DIVISION

1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Main: 907.269.5100
Fax: 907.276.3697

January 29, 2014

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 \$140,684.38 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 entire expenditure is from the Koniag Sub-Account of the Investment Fund. 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: \$140,684.38 from the Koniag 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

Mr. Gary Bader
Treasury Division, Department of Revenue

Page 2
January 29, 2014

Beneficiary Bank

account: 021030004
name: Treasury, NYC

OBI Text

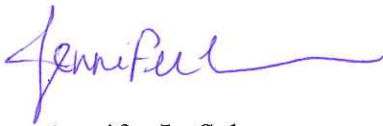
Natural Resource Damage Assessment Restoration Fund 14X5198
EVOS Exxon Valdez, Civil Settlement, FY06 Joint Funds

Beneficiary Reference

A91-082Civil

This transfer should take place when most financially advantageous, preferably on or before February 5, 2014. If you have any questions, please email Elise Hsieh at elise.hsieh@alaska.gov.

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*
Christine O'Sullivan, Alaska Department of Fish and Game, *via email*
Barbara Mason, Alaska Department of Fish and Game, *via email*
Carol Petraborg, 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 Nesslage, 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 14-01 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING TERMINATION OF AND FINAL PAYMENT
UNDER THE MASTER AGREEMENT WITH KONIAG INC.
AND RECORDATION OF RELEASE OF INTERESTS**

WHEREAS in 2001 the Exxon Valdez Oil Spill Trustee Council (Council) resolved to provide funds for the United States and the State of Alaska to enter into a long-term agreement with Koniag, Inc. (Koniag) for the protection, through various easement instruments, of approximately 57,000 acres of Koniag-held lands on Kodiak Island within the Kodiak National Wildlife Refuge;

WHEREAS pursuant to a Master Agreement For Protection Of Certain Lands And Resources Between Koniag, Inc., The United States Of America, And The State Of Alaska (Master Agreement) that became effective the following year, \$29,800,000 was set aside in a special account from which yearly payments were to be made to Koniag in October of each year, beginning in 2003, for a Conservation Easement and a Camp Island Limited Development Easement (Easements) covering the aforementioned lands and, potentially, the sale of the fee interest in those lands to the United States;

WHEREAS the initial term of the Easements covered by the Master Agreement was ten years, and Koniag was to notify the United States no later than April 14, 2012 (as to the Camp Island Limited Development Easement) and no later than July 15, 2012 (as to the Conservation Easement) whether it would convey these lands, extend the individual easements (and the yearly payments) for an additional ten-year period, or allow the Easements to expire on October 14, 2012;

WHEREAS the Master Agreement was amended twice in 2012, initially extending the notification date to October 1, 2012 and subsequently to a date thirty calendar days after the Council's first regularly scheduled meeting in 2013 and, at the same time, the parties agreed that that the Master Agreement and the Easements would expire thirty days after receipt of the notice by Koniag of its election to terminate and that the Year 11 payment would be reduced on a pro-rata basis, to be paid no later than ninety days after the required notice;¹

WHEREAS at its first regularly scheduled meeting in 2013, the Council authorized the extension of Koniag's opportunity to elect termination of the Master Agreement and Easements to thirty calendar days after its next regularly scheduled meeting;

WHEREAS the Council's next regularly scheduled meeting was held on October 28, 2013;

¹ Year 11 of the Easements ran from October 15, 2012 through October 14, 2013.

WHEREAS the Year 11 payment was transferred to Koniag on October 25, 2013;

WHEREAS on November 22, 2013, Koniag provided notice to the Council, the State of Alaska and the United States of its election to terminate the Master Agreement, including the Conservation Agreement and the Camp Island Limited Development Easement; and

WHEREAS pursuant to Section 13 of the Master Agreement, Koniag may request that the United States and the State of Alaska execute a Release of Interests or other documentation suitable for recording that acknowledges the termination of the Master Agreement and any easements granted thereunder and the release of any Koniag lands from the terms of those easements;

The Council now finds, after review and consideration of public comment, that:


1. As a result of the actions outlined above, the Master Agreement terminated on December 22, 2013 and that the appropriate pro-rata payment to be made to Koniag for the 69-day period of Year 12 of the Easements, *i.e.*, from October 15, 2013 to December 22, 2013, is \$140,684.38; and
2. If requested by Koniag, a release of the federal and state interests in the lands covered by the Easements or other similar documentation, as described in Section 13 of the Master Agreement, would be appropriate.


THEREFORE, by unanimous consent, we request that the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice and the Alaska Department of Law take such steps as are necessary for the Council to provide \$140,684.38 in joint settlement funds from the Koniag Sub Account of the Investment Fund to Koniag by February 20, 2014, and we further request that the appropriate agencies of the United States and the State of Alaska, upon the request of Koniag, execute and record in the Kodiak Recording District appropriate documentation acknowledging the termination of the Master Agreement, the Conservation Easement and the Camp Island Limited Development Easement and the release from their terms of the Koniag lands that were the subject of those agreements.


//////


Approved by the Council at its meeting of January 27, 2014 held in Anchorage, Alaska,
as affirmed by our signatures affixed below.



TERRI MARCERON
Forest Supervisor
Chugach National Forest
U.S. Department of Agriculture


MICHAEL C. GERAGHTY
Attorney General
Alaska Department of Law


PAT POURCHOT
Special Assistant to the Secretary of the
Interior for Alaska Affairs
Office of the Secretary
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

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Conservation

Exxon Valdez Oil Spill Trustee Council

4210 University Drive • Anchorage, AK 99508-4626 • 907 278 8012 • fax 907 276 7178



TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

October 28, 2013

Chaired by: Larry Hartig

Trustee Council Member

Trustee Council Members Present:

Terri Marceron, USFS

Pat Pourchot, USDOJ

Jim Balsiger, NOAA *

Jennifer Schorr, ADOL ***

Tom Brookover, ADF&G **

• Larry Hartig, ADEC

• Chair

* Peter Hagen alternate for Jim Balsiger 9:30 to 10:15 a.m.

** Tom Brookover alternate for Cora Campbell

*** Jennifer Schorr alternate for Michael Geraghty

The meeting convened at 9:40 a.m., October 28, 2013 in Anchorage at the Dr. Glenn Olds Hall Conference Room, 4210 University Drive.

1. Approval of the Agenda

APPROVED MOTION:

Motion to approve the October 28, 2013 agenda as presented.

Motion by Brookover, second by Marceron

2. Approval of February 21, 2013 meeting notes

APPROVED MOTION:

Motion to approve the February 21, 2013 meeting notes.

Motion by Pourchot, second by Brookover

Federal Trustees

U.S. Department of the Interior

U.S. Department of Agriculture

National Oceanic and Atmospheric Administration

State Trustees

Alaska Department of Fish and Game

Alaska Department of Environmental Conservation

Alaska Department of Law

Public Comment: **Two comments received (Torie Baker and Ivy Patton).**

3. Reporting Policy

APPROVED MOTION: Motion to approve the revised Reporting Policy, dated August 29, 2013.

Motion by Marceron, second by Schorr

4. Financial Policy

APPROVED MOTION: Motion to approve the revised Financial Policy, dated October 25, 2013

Motion by Brookover, second by Marceron

5. Investment Fund Asset Allocation

APPROVED MOTION: Motion to approve the following Asset Allocation for FY 14: Domestic Equities 47% +/- 7%, International Equities 23% +/- 7%, and Domestic Bonds 30% +/- 5%.

Motion by Brookover, second by Schorr

6. Annual Program Development and Implementation (APDI) Budget

APPROVED MOTION: Motion to approve \$1,756,475, which includes GA, for FY14 funding of the Annual Program Development and Implementation Budget Project 14120100, revised as of October 24, 2013.

Motion by Schorr, second by Marceron

7. Appraisal Instructions

APPROVED MOTION: Motion to approve the updated Appraisal Instructions, drafted for Council review on October 28, 2013.

Motion by Brookover, second by Pourchot

8. Great Land Trust

APPROVED MOTION: Motion to approve funding for FY 2014 of \$270,789, which includes GA, for FY 2014 funding of The Great Land Trust Proposal, dated September 1, 2013.

Motion by Pourchot, second by Brookover

9. Stewart Small Parcel (KAP 3011)

APPROVED MOTION: Motion to approve funding of up to \$544,620 to Alaska Department of Natural Resources for due diligence costs associated with the Stewart parcel (KAP 3011) and to fund the purchase of this parcel, conditioned upon: 1.) if the fair market value established by an appraisal falls within the range of \$900,000 - \$1,200,000; 2.) due diligence reports are acceptable to the Alaska Department of Natural Resources and Alaska Department of Law; and 3.) provided that the EVOSTC Executive Director, Alaska Department of Natural Resources and Alaska Department of Law find that it is in the best interest of the Council to move forward with acquisition of the parcel.

Authorization for funding the purchase of this parcel shall terminate if a purchase agreement is not executed by October 28, 2015.

Motion by Marceron, second by Brookover

10. Beeson Small Parcel (KAP 3012)

APPROVED MOTION: Motion approve funding of up to \$36,160 to Alaska Department of Natural Resources for due diligence costs associated with the Beeson parcel (KAP 3012) and to fund the purchase of this parcel, conditioned upon: 1.) due diligence reports are acceptable to the Alaska Department of Natural Resources and Alaska Department of Law; and 2.) provided that the EVOSTC Executive Director, Alaska Department of Natural Resources and Alaska Department of Law find that it is in the best interest of the Council to move forward with acquisition of the parcel.

Authorization for funding the purchase of this parcel shall terminate if a purchase agreement is not executed by October 28, 2015.

Motion by Pourchot, second by Brookover

Off the record: 11:10 a.m.

On the record: 11:25 a.m.

11. Long-Term Herring Program

APPROVED MOTION: Motion to approve funding of \$1,429,329, which includes GA, for FY 2014 funding of the Long-Term

Herring Program 14120111 Proposal, dated August 29, 2013 and continue to work with EVOSTC staff to address data management issues at a data management workshop in 2014.

Motion by Brookover, second by Schorr

Off the record: 12:20 a.m.

On the record: 1:30 a.m.

12. Long-Term Monitoring Program (GulfWatch)

APPROVED MOTION: Motion to approve funding of \$2,994,400, which includes GA, for FY 2014 funding of the Long-Term Monitoring Program 14120114 Proposal, dated August 30, 2013 and address some of the issues raised by the Science Panel and in staff review. I also move to amend our adopted FY 2014 budget by an additional \$12,000 for travel and associated expenses for a meeting of concerned staff, Pls and Science Panel members during this fiscal year to look at data management issues.

Motion by Pourchot, second by Brookover

14. Gulf of Alaska Keeper (GoAK)

APPROVED MOTION: Motion to approve funding of \$445,919, which includes GA, for FY 2014 funding of GoAK Marine Debris Removal Proposal, Barren Island Amendment, dated September 10, 2013.

Motion by Schorr, second by Marceron

15. USFWS Pigeon Guillemot Restoration Research in PWS (PIGU) Project

APPROVED MOTION: Motion to approve funding of \$396,656, which includes GA, for FY 2014 funding of the Pigeon Guillemot Restoration Research in Prince William Sound, FY14 Amendment, dated August 29, 2013.

Motion by Marceron, second by Brookover

16. NOAA Clean Harbor Projects

Cordova Clean Harbor Program, 14120112-A

APPROVED MOTION: Motion to approve funding \$193,722 which include GA, for FY 2014 funding of Project 14120112-A, NVE Harbor Water Quality Improvement Program, dated September 3, 2013.

Motion by Balsiger, second by Brookover

Cordova Snow Management Analysis, 14120112-B

APPROVED MOTION: Motion to approve funding \$103,818, which includes GA, for FY 2014 funding of Project 14120112-B, EVOS Legacy: Reducing Cordova Snowmelt Pollution to Marine Habitat, dated September 3, 2013. The Council requests the Pls identify in their FY 2015 proposal the three Best Management Practice snow melt filtration structure sites that impact habitat of EVOS-injured species.

Motion by Balsiger, second by Marceron

PWS Harbor Cleanup Program, 14120112

APPROVED MOTION: Motion to approve funding \$6,540 which includes GA, for FY 2014 funding of Project 14120112, PWS Harbor Cleanup Program, dated September 3, 2013.

Motion by Brookover, second by Pourchot

Executive Session:

APPROVED MOTION: Motion to go into Executive Session

Motion by Schorr, second by Balsiger

The meeting was moved to executive session at 3:20 p.m. by motion. The Trustees adjourned from the executive session without action or reconvening with the public.