



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ECOSYSTEMS, TRIBAL AND  
PUBLIC AFFAIRS

June 10, 2010

Laurel Jennings  
Exxon Valdez Oil Spill Trustee Council  
441 West 5<sup>th</sup> Avenue, Suite 500  
Anchorage, Alaska 99501

Re: EPA comments on the Exxon Valdez Oil Spill (EVOS) Trustee Council DSEIS for the  
*Exxon Valdez* Oil Spill Restoration Plan, EPA Project # 94-031-NOA

Dear Ms. Jennings:

We have reviewed the draft supplemental environmental impact statement (DSEIS) for the ***Exxon Valdez Oil Spill Restoration Plan*** (CEQ #20100203) in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309, independent of NEPA, specifically directs EPA to review and comment in writing on the environmental impacts associated with all major federal actions and the document's adequacy in meeting NEPA requirements. For further explanation of our EIS review responsibility, please refer to *EPA's Section 309 Review: The Clean Air Act and NEPA*, which is attached.

In general we support the Exxon Valdez Oil Spill Trustee Council's (Council) efforts to narrow and refine the scope of its restoration efforts and to develop a more efficient funding mechanism for the distribution of restoration funds. In particular, we believe the effort to concentrate on the five focus areas (herring, lingering oil, long-term monitoring, lessons learned, and habitat acquisition/protection) is prudent and reasonable given the current status of impacted resources. Based on our review, we do not have any substantial concerns with the proposed action (Alternative 2) and have assigned it a rating of LO (Lack of Objections). A copy of EPA's rating criteria is attached.

We offer several recommendations that we believe will improve the quality of the analysis in the final supplemental programmatic environmental impact statement (SPEIS). First, we recommend that the applicable laws and regulations to which the Council and this analysis are subject be described in the final document. For instance, the Executive Order (EO) 12898 is discussed briefly, but no other EOs (Tribal Consultation, Children's Health, Wetlands, etc.) are mentioned. It is unclear if the Council is subject to the various presidential EOs and other requirements that typically must be considered for major federal actions. Second, although a link to the scoping comments is provided in the document, it would be helpful to have a brief summary of the major issues that were identified by agencies and the public in the document. In the Environmental Consequences section, there is a qualitative description of the impacts associated with the various resources discussed but no explanation of the criteria used to evaluate

these impacts. We suggest that these criteria be defined. Also, there is no discussion of the impacts associated with Alternative 1, the No Action Alternative. We recommend that the impacts associated with the No Action alternative be disclosed to fully inform the public and decisionmaker. Finally, there are numerous references to studies and data throughout the document, but no references or citations are provided. We recommend that this information be provided in the final document.

Thank you for the opportunity to provide comments on the DSEIS. If you would like to discuss these comments, please contact Jennifer Curtis of my staff in Anchorage at (907) 271-6324 or by electronic mail at [curtis.jennifer@epa.gov](mailto:curtis.jennifer@epa.gov).

Sincerely,



Christine B. Reichgott, Manager  
Environmental Review and Sediments Management Unit

Enclosures

**U.S. Environmental Protection Agency Rating System for  
Draft Environmental Impact Statements  
Definitions and Follow-Up Action\***

**Environmental Impact of the Action**

**LO – Lack of Objections**

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

**EC – Environmental Concerns**

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

**EO – Environmental Objections**

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

**EU – Environmentally Unsatisfactory**

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

**Adequacy of the Impact Statement**

**Category 1 – Adequate**

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**Category 2 – Insufficient Information**

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

**Category 3 – Inadequate**

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.