

*DRAFT – SUBJECT TO CONSIDERATION OF PUBLIC COMMENT BY THE EVOS  
TRUSTEE COUNCIL*

**RESOLUTION 20-\_\_ OF THE EXXON VALDEZ OIL SPILL TRUSTEE  
COUNCIL REGARDING THE RE-COMBINATION AND MANAGEMENT OF  
THE JOINT TRUST FUNDS IN ONE ACCOUNT**

The *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council" or "Council") is responsible for the management and investment of the *Exxon Valdez* Oil Spill joint trust funds ("joint trust funds"). The joint trust funds are used by the governments for purposes of restoring, replacing, enhancing, rehabilitating, or acquiring the equivalent of natural resources and services lost or injured as a result of the oil spill, as required by the Consent Decree entered in 1991 resolving the governments' civil claims related to the oil spill ("Consent Decree"), the Memorandum of Agreement and Consent Decree entered in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991 ("Memorandum of Agreement"), the Restoration Plan adopted by the Council, and governing statutes.

The joint trust funds were originally placed in the Court Registry of the United States District Court in Anchorage, Alaska and were invested through the Court Registry Investment System.

By Resolution dated March 1, 1999, the Trustee Council requested the Executive Director to work with the Alaska Congressional delegation and appropriate State and federal agencies to obtain federal statutory authority to transfer the remaining joint trust funds to an alternative investment fund. The Council made this decision for the purpose of increasing the earnings on the joint trust funds to allow the Council to conduct an effective restoration program that maintains its value over time. EVOSTC Resolution 99-03-01. The Council also decided in the March 1, 1999 Resolution to allocate and manage the remaining joint trust funds in two sub-accounts as follows: (1) \$55 million of the remaining funds on October 1, 2002 to be managed as a long-term funding source for small parcel habitat protection, including habitat acquisitions; and (2) the remaining balance of funds on October 1, 2002 to be managed to fund annual work plans that include a combination of research, monitoring, and general restoration.

In November 1999, Congress enacted Public Law 106-113 (1999), App. C., Section 350, which allowed deposit of the joint trust funds in (A) the Natural Resource Damage Assessment and Restoration Fund ("NRDAR Fund") established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (authorized by independent federal statutory authority under Public Law 102-154; 43 U.S.C. 1474b), (B) accounts outside the United States Treasury ("outside accounts") that meet criteria specified in the law, or (C) both upon issuance of an appropriate order by the United States District Court for the District of Alaska. Subsection (5) of P.L. No. 106-113 conditions the investment authority on continued management and allocation of the funds in a manner consistent with the March 1, 1999 Trustee Council Resolution.

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By Resolution dated July 5, 2000 (Resolution 00-07-05-A), the Council unanimously agreed to transfer the joint trust funds to an outside account administered by the Alaska Department of Revenue, Division of Treasury. On September 29, 2000, upon the joint application of the governments at the Council's request, the United States District Court for the District of Alaska approved the transfer of the joint trust funds to the Alaska Department of Revenue, Division of Treasury. Consistent with Public Law No. 106-113, and Trustee Council Resolution 99-03-01, the Alaska Department of Revenue, Division of Treasury has managed the joint trust funds in two separate sub-accounts: the Habitat Sub-Account; and the Research Sub-Account.

The Trustee Council has now determined, after having sought public comment on a draft of this resolution and having considered all public comments received, that it would be beneficial to combine funds from the two sub-accounts into a single account to allow the Council flexibility to use any of the remaining joint trust funds for purposes consistent with the Consent Decree, the Memorandum of Agreement, the Restoration Plan, and the governing statutes.

The Trustee Council may: (1) obtain new or amended investment authority to allow the Council to combine the joint trust funds currently remaining in the Habitat Sub-Account and Research Sub-Account into a single account, administered by the Alaska Department of Revenue, Division of Treasury; or (2) transfer the funds from the Alaska Department of Revenue, Division of Treasury sub-accounts into a single account within the Department of the Interior NRDAR Fund, as authorized by 43 U.S.C. 1474b.

If the Trustees decide to transfer the joint trust funds from the Alaska Department of Revenue, Division of Treasury to the NRDAR Fund, the governments will be required to make a joint application to the United States District Court for the District of Alaska to approve that transfer, in accordance with the orders of the Court approving the original transfer of funds from the Court Registry to the Alaska Department of Revenue, Division of Treasury.

**THEREFORE, BE IT RESOLVED THAT** the Council unanimously agrees to rescind the Council's decision in the March 1, 1999 Trustee Council Resolution (Resolution 99-03-01) to allocate and manage the joint trust funds in separate sub-accounts and allow for the management of all remaining joint trust funds in a single account, to be used by the Council for purposes consistent with the Consent Decree, the Memorandum of Agreement, the Restoration Plan, and the governing statutes.

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BE IT FURTHER RESOLVED THAT the Trustees shall either: (1) direct the Executive Director to work with the Alaska Congressional delegation and appropriate State and federal agencies to request new investment authority, or an amendment of Public Law No. 106-113, to allow the Council to combine the Research Sub-account and Habitat Sub-account funds into a single account administered by the Alaska Department of Revenue, Division of Treasury; or (2) request the governments make a joint application to the United States District Court for the District of Alaska approving the transfer of funds from the Alaska Department of Revenue, Division of Treasury into a single account within the NRDAR Fund, as authorized by 43 U.S.C. 1474b.

Approved by the Council at its meeting \_\_\_\_\_.

[signature/date blocks]