RESOLUTION 21-02 OF THE *EXXON VALDEZ* OIL SPILL TRUSTEE COUNCIL TO AMEND THE RESTORATION PLAN AND RELATED POLICIES TO SHIFT THE TRUSTEE COUNCIL PUBLIC MEETING AND FUNDING REVIEW OF MULTI-YEAR PROPOSALS FROM AN ANNUAL TO A FIVE-YEAR CYCLE

The *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council" or "Council") approved a Restoration Plan in 1994 that sets forth a process for the Council to consider and approve proposed expenditures of the *Exxon Valdez* Oil Spill joint trust funds ("joint trust funds") to restore, replace, enhance, rehabilitate, or acquire the equivalent of natural resources and natural resource services lost or injured as a result of the oil spill. The Restoration Plan was adopted, in part, to implement the requirements of the Consent Decree entered in 1991 resolving the governments' civil claims related to the oil spill ("Consent Decree") and the Memorandum of Agreement (MOA) and Consent Decree entered in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991, which include, among other things, requirements for meaningful public participation in the restoration process.

The Restoration Plan describes a funding process through which the Council invites proposals from the public for restoration projects that meet the requirements of the Consent Decree and MOA and are consistent with the policies and objectives identified in the Restoration Plan. The Council approves projects at annual Trustee Council meetings; the projects are then included in Trustee Council work plans for implementing the restoration program.

Currently, the Council reviews multi-year proposals but only approves funding for the next EVOSTC fiscal year at their annual meetings. See EVOSTC Financial Procedures, § II.B.(2). In order to oversee the progress of such multi-year projects, the Council requires an annual project report to be submitted each year until the project is completed, at which time a final report is to be submitted. See EVOSTC Procedures for the Preparation and Distribution of Reports, § III.A.(2). The Restoration Plan also notes the Council will provide timely access to restoration information to the public and scientific community and provide periodic status reports to the public describing the restoration program and the current condition of injured resources and services.

The Trustees may change the Restoration Plan if the Trustees determine that the plan is no longer responsive to restoration needs. Many, but not all, of the resources and services injured by the spill have now recovered. Given the status of remaining injured resources and services and the nature of anticipated restoration needs, the Council, after having sought public comment on a draft of this Resolution and having considered all public comments received, the Council has determined it is not necessary to approve funding annually for multi-year projects and has determined a change is needed to the Restoration Plan to shift the annual public meeting and funding process to a five-year cycle. The five-year cycle will maintain annual reporting for all projects, and also a biennial review of projects by entities including the Council's staff, Science

Panel and Public Advisory Committee. These reviews will be included in biennial restoration project status reports prepared by Council staff and forwarded to the Trustees. The shift from an annual meeting to a five-year cycle and addition of a biennial review of project status will allow the Council to focus on overseeing a multi-year plan of approved projects and reduce the administrative burden and expenses for the Council.

The Council has issued a ten-year Invitation for Proposals that includes a long-term research and monitoring program, mariculture projects, and education and outreach for fiscal years 2022 – 2031. The Council is also issuing a five-year Invitation for General Restoration Project Proposals. Project proposals will be considered at a Council public meeting in 2021. The Council will maintain oversight of the projects and expenditures during their implementation through annual reports and biennial project reviews as described above. The Council anticipates providing these reports to the public through the EVOSTC and associated websites. The Council will conduct meetings at least every five years and as the Council determines necessary and as restoration program status reports indicate that a decision is required by the Council to address any issues. The Council will also schedule a public meeting at any time the Council believes necessary or desirable to address changes to the restoration program or additional restoration needs.

The District Court for the District of Alaska maintains oversight of the implementation of the Consent Decree. Pursuant to order of the Court, the governments have regularly reported to the Court regarding the Trustee Council's approved annual work plans and all expenditures. The governments will continue to provide the same notice to the Court of any approved multi-year work plan or expenditures.

THEREFORE, BE IT RESOLVED THAT the Council, after having sought public comment on a draft of this Resolution and having considered all public comments received, unanimously agrees to amend the Restoration Plan to change the requirements for an annual Council public meeting and funding process to a five-year cycle, and to revise as needed Council documents and policies as appropriate to facilitate the Council's review of multi-year projects as set forth herein.

BE IT FURTHER RESOLVED THAT the Executive Director shall amend the Restoration Plan and any other Council documents to make them consistent with this Resolution.

Approved by the Council at its meeting of January 19, 2021 held in Anchorage, Alaska, as affirmed by our signatures affixed below.

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DOUGLAS VINCENT-LANG

Commissioner

Alaska Department of Fish and Game

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Alternate for Attorney General

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JASON BRUNE

Commissioner

Alaska Department of Environmental

Conservation

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SARA TAYLOR

Policy Advisor (Alaska)

Office of the Secretary

U.S. Department of the Interior