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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

STATEMENT OF REVENUE, DISBURSEMENTS AND FEES  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and  
1994 and three months ending December 31, 1994

# ELGEE, REHFELD & FUNK

Certified Public Accountants

## INDEPENDENT ACCOUNTANTS' REPORT

To The Trustees  
Exxon Valdez Oil Spill Trustee Council

At your request, we have applied the procedures enumerated below with respect to the accounting records of the Exxon Valdez Oil Spill Trustee Council for the fiscal years ending September 30, 1992, 1993 and 1994 and three months ending December 31, 1994. It is understood that this report is solely for your information and is not to be referred to for any purpose or distributed to anyone who is not familiar with the activities of the Exxon Valdez Oil Spill Trustee Council. Our procedures and findings are as follows:

We prepared the attached Statement of Revenue, Disbursements and Fees, and Changes in Joint Trust Account Balance (the "Statement") and accompanying notes thereto for the Council from the accounting and other records provided by your office. This statement summarizes all transactions executed by the Exxon Valdez Oil Spill Trustee Council in accordance with the Memorandum and Consent Decree entered into by the United States of America and the State of Alaska for the period from October 8, 1991 through December 31, 1994.

The accounting and other records provided by your office for the procedures performed included the following. These documents were used to prepare the Statement referred to above.

1. Memorandum of Agreement and Consent Decree made and entered into between the United States of America and the State of Alaska.
2. Agreement and Consent Decree made and entered into between the United States of America, the State of Alaska, Exxon Corporation and Exxon Shipping Company, and Exxon Pipeline Company.
3. Court Registry and Investment System ("CRIS") cumulative financial reports.
4. All "Instructions For Payments Under The Agreement And Consent Decree" executed by the U.S. Department of Justice and the Attorney General of the State of Alaska.
5. All "Joint Applications For Disbursements From Settlement Account" executed by the U.S. Department of Justice and the Attorney General of the State of Alaska.
6. All "Resolutions Of The Exxon Valdez Oil Spill Trustee Council" pertaining to the approval of the disbursements of funds for approved State and Federal projects.

Because the procedures noted above do not constitute an audit made in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to above. In connection with the procedures referred to above, no matters came to our attention that caused us to believe that the Statement should be adjusted. Had we performed additional procedures or had we made an audit of the financial statements in accordance with generally accepted auditing standards, matters might have come to our attention that would have been reported to you. This report relates only to the statement specified above and does not extend to any financial statements of the Exxon Valdez Oil Spill Trustee Council taken as a whole.

*Elgee, Rehfeld & Funk*

February 7, 1995

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
three months ending December 31, 1994

	Federal Fiscal Years Ending September 30,			Three Months Ending December 31,	
	1992	1993	1994	1994	Total
REVENUE:					
Contributions:					
Contributions received from Exxon Corporation (Note 2)	\$ 90,000,000	\$ 250,000,000	\$ 70,000,000	\$ -	\$ 410,000,000
Less: Credit to Exxon Corporation for clean-up costs incurred (Note 2)	-	(39,914,000)	-	-	(39,914,000)
Total contributions	90,000,000	210,086,000	70,000,000	-	370,086,000
Interest Income:					
Interest earned on Exxon Corporation escrow account (Note 2)	831,000	-	-	-	831,000
Interest earned on Joint Trust Fund account with Court Registry Investment System ("CRIS") (Note 3)	596,000	1,378,000	3,736,000	1,583,000	7,293,000
Total interest income	1,427,000	1,378,000	3,736,000	1,583,000	8,124,000
Total revenue	91,427,000	211,464,000	73,736,000	1,583,000	378,210,000
DISBURSEMENTS:					
Reimbursements of Past Costs: (Note 4)					
Reimbursements to the State of Alaska	29,268,000	29,000,000	25,000,000	-	83,268,000
Reimbursements to the United States Government	24,726,000	24,500,000	17,889,000	-	67,115,000
Total reimbursements	53,994,000	53,500,000	42,889,000	-	150,383,000
Disbursements from Joint Trust Account for Trustee-Approved Projects (Note 5)					
Disbursements to the State of Alaska	6,559,000	18,529,000	44,547,000	10,199,000	79,834,000
Disbursements to the United States Government	6,321,000	9,106,000	6,008,000	3,576,000	25,011,000
Total disbursements	12,880,000	27,635,000	50,555,000	13,775,000	104,845,000
FEES:					
U.S. District Court Fees (Note 3)	23,000	154,000	364,000	180,000	721,000
Total Disbursements and Fees	66,897,000	81,289,000	93,808,000	13,955,000	255,949,000
Increase (decrease) in Joint Trust Balance	24,530,000	130,175,000	(20,072,000)	(12,372,000)	122,261,000
Joint Trust Account Balance, beginning of period	-	24,530,000	154,705,000	134,633,000	-
Joint Trust Account Balance, end of period	24,530,000	154,705,000	134,633,000	122,261,000	122,261,000
Commitments for Property Acquisitions (Note 6)	-	-	(9,062,000)	(7,283,000)	(7,283,000)
Uncommitted Joint Trust Account Balance	\$ 24,530,000	\$ 154,705,000	\$ 125,571,000	\$ 114,978,000	\$ 114,978,000

See accompanying notes and accountants' report.

NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
Three Months Ending December 31, 1994

**1. ENTITY**

Formation

The United States of America (United States) and the State of Alaska (State) entered into a Memorandum of Agreement and Consent Decree (MOA) on August 28, 1991. The MOA was made to maximize the funds available for restoration of natural resources and to resolve their claims against one another relating to the T/V Exxon Valdez Oil Spill (Oil Spill), which occurred on the night of March 23-24, 1989 in Prince William Sound, Alaska. Upon entering into the MOA, the United States and the State believed that the terms of the MOA were in the public interest and would best enable them to fulfill their duties as trustees to assess injuries and to restore, replace, rehabilitate, enhance, or acquire the equivalent of the natural resources injured, lost, or destroyed as a result of the Oil Spill.

Pursuant to the MOA and federal laws the United States and State act as co-trustees in the collection and joint use of all natural resource damage recoveries for the benefit of natural resources injured, lost or destroyed as a result of the Oil Spill. To manage the co-trustee relationship, the Exxon Valdez Oil Spill Trustee Council (Council) was formed.

Termination

The MOA shall terminate when the United States and the State certify to the Court, or when the Court determines on application by either government, that all activities contemplated under the MOA have been completed.

Council Structure

The Council consists of six trustees, three trustees represent the United States and three trustees represent the State. The United States' trustees are the Secretaries of the United States Departments of Interior and Agriculture and the Administrator of the National Oceanic and Atmospheric Administration (a bureau of the United States Department of Commerce). The State's trustees consist of the Commissioners of the State Departments of Environmental Conservation and Fish and Game and the Attorney General of the State of Alaska. The MOA allows the President of the United States or the Governor of the State of Alaska to transfer trustee status from one official to another official of their respective governments.

All decisions of the Council must be made by the unanimous agreement of the trustees. The decisions of the United States' trustees must be made in consultation with the United States Environmental Protection Agency. If the trustees cannot reach unanimous consent, either the United States or the State may resort to litigation in the United States District Court for the District of Alaska.

Significant Accounting Policies

Contributions under the terms of the Agreement are recorded when received. Interest income is recorded as earned. Disbursements, reimbursements and district court fees are recorded when paid.

Total Columns

The total column on the Statement of Revenue, Disbursements and Fees, and Changes in Joint Trust Account Balance include cumulative amounts for the three fiscal years ending September 30, 1992, 1993 and 1994 and the three months ending December 31, 1994. The total column is presented only to facilitate analysis of the cumulative activity of the Council since inception.

NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
Three Months Ending December 31, 1994

## 2. CONTRIBUTIONS BY EXXON CORPORATION

### Agreement and Consent Decree

On October 8, 1991, the United States, the State, Exxon Corporation (Exxon) and Exxon Shipping Company, and Exxon Pipeline Company entered into an Agreement and Consent Decree (Agreement). The Agreement principally stipulates that Exxon make certain payments pursuant to the Agreement (discussed below), and that all parties release and covenant not to sue or to file any administrative claim against the other parties or specifically identified third parties.

### Payment Terms

Pursuant to the Agreement Exxon is to pay the United States and the State a total of \$900 million as follows:

<u>Date Payment Due</u>	<u>Amount</u>
Ten days after the Agreement became effective	\$ 90,000,000
December 1, 1992	150,000,000
September 1, 1993	100,000,000
September 1, 1994	70,000,000
September 1, 1995	70,000,000
September 1, 1996	70,000,000
September 1, 1997	70,000,000
September 1, 1998	70,000,000
September 1, 1999	70,000,000
September 1, 2000	70,000,000
September 1, 2001	<u>70,000,000</u>
	<u>\$ 900,000,000</u>

### Credit to Exxon Corporation for Clean-up Costs

The Agreement stipulates that Exxon continue clean-up work relating to the Oil Spill as directed by the Federal and State On-Scene Coordinators, and receive a credit for Exxon's expenditures related to performing this work subsequent to January 1, 1991. Allowable expenditures include without limitation, costs and obligations incurred for salary, wages, benefits, and expenses of Exxon employees, for equipment purchase and rental, for office and warehouse space, and for insurance, accounting, and other professional services. This work was concluded by Exxon and it received a credit of approximately \$39,914,000 towards the \$150 million payment due and paid on December 1, 1992 in accordance with the Agreement.

### Interest Earnings on Exxon Corporation Escrow Account

Under the terms of the Agreement, Exxon was to deposit the amount of any payment due under the Agreement into an interest-bearing escrow account pending final approval of the agreement if final approval occurred after the date the first payment was due. Since final approval occurred after the date of the first payment, Exxon deposited the first \$90 million payment into the escrow account. The escrow account earned interest which was calculated in accordance with the Agreement for the period from the date the payment was due through the date of final approval. The amount of interest earned was \$831,000. Upon final approval, the escrow agent paid the United States and the State the payment due plus the interest earned by the escrow account.

NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCEFederal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
Three Months Ending December 31, 1994**2. CONTRIBUTIONS BY EXXON CORPORATION (Continued)**Reopener for Unknown Injury

In addition to the payment terms discussed above, the Agreement also has a reopener provision that allows the governments to claim an additional \$100 million from Exxon between September 1, 2002, and September 1, 2006, as required for the performance of restoration projects in Prince William Sound and other areas affected by the Oil Spill to restore one or more populations, habitats, or species which, as a result of the Oil Spill, suffered substantial loss or substantial decline in the areas affected by the Oil Spill.

The cost of the restoration projects must not be grossly disproportionate to the magnitude of the benefits obtained, and the reopener is available only for any losses or declines that could not reasonably have been known or anticipated from information available at the time of the Agreement.

**3. INTEREST EARNED ON JOINT TRUST FUND ACCOUNT AND FEES PAID**

As discussed further in Note 4, certain amounts paid by Exxon are paid directly to the United States and the State for reimbursement of certain costs incurred by them in connection with the Oil Spill. In accordance with the MOA, money that is not directly paid to the United States and the State is deposited into the Council's Joint Trust Fund with the United States District Court - Court Registry Investment System (CRIS). CRIS is a cash management system developed by the United States District Court. All deposits with CRIS are maintained in United States government treasury securities (treasuries) with maturities of 100 days or less. The net deposits earn interest based on the current rates paid on treasuries. CRIS charges a fee for the cash management services provided to participants.

During the fiscal years Ending September 30, 1992, 1993 and 1994 and the three months ending December 31, 1994 the Joint Trust fund earned the following interest and paid the following fees:

	<u>Fiscal Years Ending September 30,</u>			<u>Three Months Ending December 31,</u>	
	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1994</u>	<u>Total</u>
Interest Earned	\$ 596,000	\$1,378,000	\$3,736,000	\$1,583,000	\$7,293,000
Court Fees Paid	<u>23,000</u>	<u>154,000</u>	<u>364,000</u>	<u>180,000</u>	<u>721,000</u>
Net Earnings of					
Joint Trust Fund	<u>\$ 573,000</u>	<u>\$1,224,000</u>	<u>\$3,372,000</u>	<u>\$1,403,000</u>	<u>\$6,572,000</u>

**4. REIMBURSEMENTS TO THE UNITED STATES AND THE STATE**

Under the terms of the Agreement, certain amounts paid by Exxon are to be made directly to the United States and the State. These payments are to be used solely to reimburse them for the following purposes:

1. Response and clean-up costs incurred by either of them on or before December 31, 1990 in connection with the Oil Spill;

NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
Three Months Ending December 31, 1994

**4. REIMBURSEMENTS TO THE UNITED STATES AND THE STATE (Continued)**

2. Natural resource damages assessment costs incurred by either of them on or before March 12, 1991 in connection with the Oil Spill;
3. (State only) Attorneys fees, experts' fees, and other costs incurred by the State on or before March 12, 1991 in connection with litigation arising from the Oil Spill;
4. Response and clean-up costs incurred by either of them after December 31, 1990 in connection with the Oil Spill;
5. To assess injury resulting from the Oil Spill and to plan, implement, and monitor the restoration, rehabilitation, or replacement of natural resources, natural resource services, or archaeological sites and artifacts injured, lost or destroyed as a result of the Oil Spill, or the acquisition of equivalent resources or services after March 12, 1991; and
6. (State only) Reasonable litigation costs incurred by the State after March 12, 1991.

The agreement states that the amounts to be reimbursed to the United States for items one and two above are not to exceed \$67 million. The amounts to be reimbursed to the State for items one, two and three above are not to exceed \$75 million. The agreement does not place a cap on items four and five. The amounts paid to the State for item six above are not to exceed \$1million per month.

The amount reimbursed, including both the pre-capped and post-capped amounts, were \$67,115,000 to the United States, and \$83,268,000 to the State through December 31, 1994. These are reflected on the Statement and were based on requests submitted to Exxon by the United States Department of Justice and the Attorney General of the State of Alaska in accordance with the Agreement.

**5. DISBURSEMENTS FROM JOINT TRUST ACCOUNT**

Approved Payment Uses

Under the terms of the MOA, amounts paid by Exxon, excluding the reimbursements discussed in Note 4, are deposited into the Council's Joint Trust Fund with CRIS. These payments are to be used solely for the following purposes:

1. To assess injury resulting from the Oil Spill and to plan, implement, and monitor the restoration, rehabilitation, or replacement of natural resources, natural resource services, or archaeological sites and artifacts injured, lost or destroyed as a result of the Oil Spill, or the acquisition of equivalent resources or services.

Project Approval

The Council has developed a solicitation and review process for projects to address the purposes stated above. The outcome of the process is the development of a fiscal year Work Plan which approves the funding for all projects to be conducted during the fiscal year. For the fiscal year ending September 30, 1995, the following project solicitation and review process was used by the Council:

1. In May 1994, the Council published an *Invitation to Submit Restoration Projects for Fiscal Year 1995*.
2. The Council's Chief Scientist coordinated a preliminary scientific and technical review of the projects. The projects were also reviewed by the Council's Executive Director, Federal and State agency staff, and representatives of the Public Advisory Group (the Public Advisory Group consists of members of the public and concerned groups and was appointed by the Council in accordance with the MOA to help provide meaningful public participation in the injury assessment and restoration process).



NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
Three Months Ending December 31, 1994

**5. DISBURSEMENTS FROM JOINT TRUST ACCOUNT (Continued)**

Project Approval (Continued)

3. In late August, all proposals and the results of the reviews were published in the *Draft Fiscal Year 1995 Work Plan*. The public comment period on the draft ran from late August until October 3, 1994.
4. Projects that were in process from the fiscal year ended September 30, 1994, and that were ongoing and required immediate funding, were funded by the Council on August 23, 1994.
5. During the public review period, the Council's Chief Scientist, peer reviewers, the Public Advisory Group, and others attended additional review sessions of the various proposed projects to assess the merits of each project.
6. In November and December 1994, the Council made final project approval. The approved projects were published in the *Fiscal Year 1995 Work Plan*.
7. The staff of the respective Federal and State agencies are developing detailed project descriptions which will be reviewed by the Council's Executive Director and Chief Scientist.

Project Funding

Under the terms of the Agreement, the United States and the State are required to deposit the amounts disbursed for approved projects into segregated funds. These funds earn interest on the balance of money not yet disbursed for approved projects. The governments are to report to the Council the amount of interest earned on this money. This interest reduces the amounts disbursed from the Joint Trust Fund for future projects. Through December 31, 1994, the United States and the State have reported a total of \$189,000 and \$765,000 of such interest earnings, respectively. Of the interest reported, \$38,000 and \$175,000 for the United States and the State, respectively, will be recovered through reduced project disbursements subsequent to December 31, 1994.

Actual project costs are frequently less than the original project budgets. When this occurs, the United States and the State retain the unspent or unobligated balances. The Council then recovers these balances by reducing the disbursements for new projects. Through December 31, 1994, the United States and the State reported total unobligated balances of \$6,769,000. Of this amount, United States and the State reported \$3,107,000 and \$3,662,000, respectively. These unobligated funds were recovered through reduced project disbursements during the fiscal year ending September 30, 1994.

Through December 31, 1994, \$220,535,000 has been deposited in the Joint Trust Fund and the Council has disbursed \$104,845,000 for the project disbursements as follows:

	<u>Amount</u>
Projects authorized by the Council through December 31, 1994	\$ 124,898,000
Less: Projects disbursed in January 1995	(12,543,000)
Unobligated balances on projects due to favorable project variances	(6,769,000)
Interest earnings on payments not yet disbursed by the United State and State	<u>(741,000)</u>
Net project disbursements	<u>\$ 104,845,000</u>

NOTES TO STATEMENT OF REVENUE, DISBURSEMENTS AND FEES,  
AND CHANGES IN JOINT TRUST ACCOUNT BALANCE

Federal Fiscal Years Ending September 30, 1992, 1993 and 1994 and  
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**6. REAL PROPERTY ACQUISITIONS OBLIGATIONS OUTSTANDING**

Seal Bay, Alaska

On August 23, 1993, the Council approved the purchase by the State of Alaska of 41,549 acres of land in the vicinity Seal Bay, Alaska as part of habitat protection activities consistent with its fiscal year 1993 Work Plan. The property, which was owned by a Corporation formed under the Alaska Native Claims Settlement Act, was purchased for \$38,700,000 with \$29,950,000 paid at closing on November 10, 1993. The balance due is to be paid in three equal annual installments of \$2,917,000 with interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate, adjusted and compounded annually.

The first annual installment was paid on November 9, 1994. Interest paid on that date was \$312,000. The remaining unpaid balance due of \$5,833,000 plus interest will be paid from Joint Trust Account balances at the scheduled installment dates.

Orca Narrows, Alaska

On May 3, 1994, the Council approved the purchase by the United States of the commercial timber rights on 2,052 acres in the vicinity of Orca Narrows, Alaska to provide for habitat protection in the vicinity of the Oil Spill. The timber rights, which were owned by a Corporation formed under the Alaska Native Claims Settlement Act, were purchased subject to the conditions and terms identified in the May 3, 1994 resolution. On December 31, 1994 the sellers accepted the final appraisal and purchase price in the amount of \$3,450,000. The Council approved an initial disbursement to the United States of \$2,000,000 in the May 3, 1994 resolution. On January 5, 1995, the Council approved the disbursement of \$1,450,000 to fund the balance of the purchase price. The total purchase amount was disbursed by the United States to the sellers at closing which occurred during January 1995.