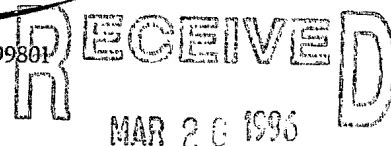




# ELGEE, REHFELD & FUNK

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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

## INDEPENDENT AUDITORS' REPORT

Members, *Exxon Valdez* Oil Spill Trustee Council,  
Anchorage, Alaska:

We have audited the financial statements of the *Exxon Valdez* Oil Spill Trustee Council, Trust Funds as of and for the year ended September 30, 1995, as listed in the accompanying table of contents. These financial statements are the responsibility of the *Exxon Valdez* Oil Spill Trustee Council's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 2, the financial presentation for the Court Registry Investment System (CRIS), *Exxon Valdez* Oil Spill Settlement Account (Joint Trust Account) is of this account only and is not intended to present the financial position of CRIS or the United States District Court for the Southern District of Texas and the results of their operations, in conformity with generally accepted accounting principles.

As discussed in Note 2, the financial presentation for the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund (NRDA&R) is of the amounts related to the *Exxon Valdez* Oil Spill Trustee Council only and is not intended to present the financial position of NRDA&R or the U.S. Department of Interior Fish and Wildlife Service and the results of their operations, in conformity with generally accepted accounting principles.

As discussed in Note 2, the financial presentation for the State of Alaska, *Exxon Valdez* Oil Spill Settlement Trust (Settlement Trust) is of the Settlement Trust only and is not intended to present the financial position of the State of Alaska or any of its component units and the results of their operations.

As discussed in Note 2, the financial statements for the Joint Trust Account and NRDA&R are prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the cash balances of the Joint Trust Account and NRDA&R and the financial position of the Settlement Trust as of and for the year ended September 30, 1995, and the results of their operations for the year then ended on the basis of accounting described in Note 2 for the Joint Trust Account and NRDA&R, and in conformity with generally accepted accounting principles for the Settlement Trust.

In accordance with *Government Auditing Standards*, we have also issued reports dated January 26, 1996 on our consideration of the *Exxon Valdez* Oil Spill Trustee Council, Trust Funds' internal control structure and a report dated January 26, 1996 on their compliance with laws and regulations, as listed in the table of contents.

*Elgee, Rehfeld & Funk*

January 26, 1996

**Exxon Valdez Oil Spill Trustee Council**  
**UNITED STATE DISTRICT COURT - FIFTH CIRCUIT**  
**COURT REGISTRY INVESTMENT SYSTEM**  
**EXXON VALDEZ OIL SPILL SETTLEMENT ACCOUNT**  
**STATEMENT OF ASSETS, LIABILITIES AND JOINT TRUST ACCOUNT**  
**BALANCE ARISING FROM CASH TRANSACTIONS**  
**September 30, 1995**

**ASSETS:**

Cash and Investments	\$ 117,067,523
Total Assets	<u>\$ 117,067,523</u>

**LIABILITIES AND JOINT TRUST ACCOUNT BALANCE:**

Liabilities	\$ -
Joint Trust Account Balance	<u>117,067,523</u>
Total Liabilities and Joint Trust Account Balance	<u>\$ 117,067,523</u>

**STATEMENT OF RECEIPTS, DISBURSEMENTS AND**  
**CHANGES IN JOINT TRUST ACCOUNT BALANCE**  
**For the Fiscal Year Ended September 30, 1995**

**Receipts:**

Receipts	\$ 67,303,000
Investment Income	<u>5,483,088</u>
Total Receipts	<u>72,786,088</u>

**Disbursements:**

State of Alaska, *Exxon Valdez* Settlement Trust:

Fiscal 1995 Natural Resource Damage Assessment and Restoration Projects	(16,494,749)
Fiscal 1995 Land Acquisitions	(3,111,204)
Fiscal 1996 Natural Resource Damage Assessment and Restoration Projects	(9,863,716)
Fiscal 1996 Research Infrastructure Improvements	<u>(12,500,000)</u>
Total Disbursements to State of Alaska	<u>(41,969,669)</u>

U.S. Department of Interior, Natural Resources Damage  
Assesment and Restoration Fund:

Fiscal 1995 Natural Resource Damage Assessment and Restoration Projects	(8,282,612)
Fiscal 1995 Land Acquisitions	(33,900,000)
Fiscal 1996 Natural Resource Damage Assessment and Restoration Projects	<u>(5,837,316)</u>
Total Disbursements to United States	<u>(48,019,928)</u>

Court Registry Fees	<u>(542,728)</u>
Total Disbursements	<u>(90,532,325)</u>

Deficiency of Receipts Over Disbursements	(17,746,237)
Joint Trust Account Balance, Beginning of Year	<u>134,813,760</u>
Joint Trust Account Balance, End of Year	<u>\$ 117,067,523</u>

The accompanying notes to trust fund financial statements are an integral part of this statement.

**Exxon Valdez Oil Spill Trustee Council**  
**UNITED STATE DEPARTMENT OF THE INTERIOR,**  
**FISH AND WILDLIFE SERVICE**  
**NATURAL RESOURCES DAMAGE ASSESSMENT**  
**AND RESTORATION FUND**  
**STATEMENT OF ASSETS, LIABILITIES AND TRUST FUND**  
**BALANCE ARISING FROM CASH TRANSACTIONS**  
**September 30, 1995**

**ASSETS:**

Cash and Investments	\$ 7,231,428
Total Assets	<u>\$ 7,231,428</u>

**LIABILITIES AND FUND BALANCE:**

Liabilities	\$ -
Trust Fund Balance	7,231,428
Total Liabilities and Trust Fund Balance	<u>\$ 7,231,428</u>

**STATEMENT OF RECEIPTS, DISBURSEMENTS AND**  
**CHANGES IN TRUST FUND BALANCE**  
**For the Fiscal Year Ended September 30, 1995**

**Receipts:**

Contributions - Court Registry Investment System, Joint Trust Account	<u>\$ 48,019,928</u>
Unobligated Balances Returned to NRDA&R:	
U.S. Department of Interior:	
Fish and Wildlife Service	204,484
National Park Service	304,075
Minerals Management Service	56,301
Office of the Secretary	12,115
U.S. Department of Commerce, National Oceanic and Atmospheric Administration	<u>80,700</u>
	657,675
Investment Income	<u>115,751</u>
Total Receipts	<u>48,793,354</u>

**Disbursements:**

U.S. Department of Interior:	
Fish and Wildlife Service	(33,887,200)
National Biological Service	(663,615)
National Park Service	(63,100)
Minerals Management Service	(17,400)
Office of the Secretary	(58,900)
U.S. Department of Agriculture, United States Forest Service	(4,047,000)
U.S. Department of Commerce, National Oceanic and Atmospheric Administration	<u>(2,893,100)</u>
Total Disbursements	<u>(41,630,315)</u>
Excess of Receipts Over Disbursements	7,163,039
Trust Fund Balance, Beginning of Year	<u>68,389</u>
Trust Fund Balance, End of Year	<u>\$ 7,231,428</u>

The accompanying notes to trust fund financial statements are an integral part of this statement.

*Exxon Valdez* Oil Spill Trustee Council  
**STATE OF ALASKA - EXXON VALDEZ OIL SPILL SETTLEMENT TRUST**  
**BALANCE SHEET**  
**September 30, 1995**

**ASSETS:**

Cash and Investments	\$ 21,823,265
Contributions Receivable	12,500,000
	<hr/>
Total Assets	\$ 34,323,265
	<hr/> <hr/>

**LIABILITIES AND FUND BALANCES:**

<b>Liabilities:</b>	
Accounts Payable	\$ 2,356,928
Deferred Revenues	22,363,716
	<hr/>
Total Liabilities	24,720,644
	<hr/>
<b>Fund Balances:</b>	
Reserved for Encumbrances	2,691,943
Unreserved	6,910,678
	<hr/>
Total Fund Balances	9,602,621
	<hr/>
Total Liabilities and Fund Balances	\$ 34,323,265
	<hr/> <hr/>

**STATEMENT OF REVENUES , EXPENDITURES AND  
CHANGES IN FUND BALANCES**

**For the Fiscal Year Ended September 30, 1995**

**Revenues:**

Contributions - Court Registry Investment System, Joint Trust Account	\$ 19,605,953
Interest and Investment Income	943,577
	<hr/>
Total Revenues	20,549,530
	<hr/>

**Expenditures:**

<b>Current Operating:</b>	
Natural Resources Damage Assessment and Restoration Projects	
Department of Fish and Game	12,679,279
Department of Environmental Conservation	1,472,568
Department of Natural Resources	1,252,755
	<hr/>
Total Current Operating	15,404,602
	<hr/>

**Capital Outlay:**

Land Acquisitions - Alaska Department of Fish and Game	3,229,042
	<hr/>

Total Expenditures	18,633,644
	<hr/>

Excess of Revenues Over Expenditures	1,915,886
Fund Balances, Beginning of Year	7,686,735
	<hr/>
Fund Balances, End of Year	\$ 9,602,621
	<hr/> <hr/>

The accompanying notes to trust fund financial statements are an integral part of this statement.

**Exxon Valdez Oil Spill Trustee Council**  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**1. EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**

Formation of the Exxon Valdez Oil Spill Trustee Council

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 the governments' 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.

Exxon Valdez Oil Spill Trustee 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 (Court).

Restoration Office

The Council has established a Restoration Office which is responsible for the coordination and supervision of the activities of the Council. The Restoration Office is managed by an Executive Director who reports directly to the Council. Since the Council exists through the MOA, it and the Restoration Office operate within the framework of the Trustee Agencies. During fiscal 1995, all activities of the Restoration Office were conducted through the Alaska State Departments of Fish and Game and Environmental Conservation. In addition, the Alaska Department of Natural Resources and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration administered certain parts of the Restoration Office's activities.

The Restoration Office develops an annual budget which, upon approval by the Council, sets forth the anticipated expenditures of the Restoration Office. The Council makes an annual contribution to the State agencies equal to the budget for the Restoration Office. The contributions are made using the disbursements procedures discussed in Note 6.

Termination of the Exxon Valdez Oil Spill Trustee Council

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.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Joint Trust Account - Court Registry Investment System

As further discussed in Note 5, amounts paid by Exxon Corporation are made 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 and as ordered by the presiding Court, money that is not directly paid to the United States and the State is 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. In addition, an account entitled "Exxon Valdez Oil Spill Settlement Account" (Joint Trust Account) was established in CRIS specifically for the Exxon settlement proceeds.

**Exxon Valdez Oil Spill Trustee Council**  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

CRIS is a cash management system developed by the United States District Court for the Southern District of Texas. All amounts placed with CRIS are maintained in United States government treasury securities with maturities of 100 days or less, and are held in the name of Clerk, U.S. District Court, Southern District of Texas at the Federal Reserve Bank. The financial presentation for the Joint Trust Account is of the Joint Trust Account only and is not intended to present the financial position of CRIS or the United States District Court for the Southern District of Texas and the results of their operations.

Upon unanimous approval of the Trustee Council, funds are disbursed to the United States and the State to be expended by the Trustee Agencies in accordance with the Council's wishes. The accompanying financial statements for the Joint Trust Account reflect the intent of the disbursements as to natural resource damage assessment and restoration, or the acquisition of land or research infrastructure improvements to further protect the natural resources. The financial statements also reflect the fiscal year which the disbursements are to be expended by the Trustee Agencies.

As allowed under 28 USC 1913, 1914 (b) and 1930(b), the Clerk of the Court for the United States Courts is allowed to charge a registry fee for administering investment holdings of funds held in their registry accounts. During the year ended December 31, 1995, the registry fee charged to the Joint Trust Account was 10 percent of investment income. In addition, CRIS has entered into a contract with a Houston, Texas based financial institution to provide investment advisory information, securities trading services, and accounting services at a fee of .025 percent added to the cost of securities purchased by CRIS.

U.S. Department of the Interior, Natural Resources Damage Assessment and Restoration Fund

Disbursements which are made from the Joint Trust Account to the United States are deposited in the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund (NRDA&R). NRDA&R was established pursuant to Public Law 102-154, and is administered by the U.S. Department of Interior, Fish and Wildlife Service. It is a trust fund which was established to hold natural resources damage assessment and restoration settlement proceeds of the United States Government. Public Law 120-229 requires that federal proceeds from the Agreement and Consent Decree (see additional discussion in Note 4) be deposited in NRDA&R, and that all interest earned on these proceeds be available to the Federal Trustees for necessary expenses for assessment and restoration of areas affected by the Oil Spill. Public Law 120-229 also calls for amounts in NRDA&R to be invested by the U.S. Secretary of the Treasury in interest bearing obligations of the United States.

Disbursements from NRDA&R are made pursuant to the directions of the Council and as approved by the Court. At the beginning of each fiscal year, the Department of Interior, Fish and Wildlife Service communicates with each of the United States Trustee Agencies to determine the timing of disbursements from NRDA&R to each Federal Trustee Agency. Investments are purchased in order to earn interest on available balances within NRDA&R, and with scheduled maturity dates coincident with the scheduled date of disbursement.

The financial presentation for NRDA&R is of the amounts related to the Council only and is not intended to present the financial position of NRDA&R or the Department of Interior Fish and Wildlife Service and the results of their operations.

State of Alaska, Exxon Valdez Oil Spill Settlement Trust

Disbursements which are made from the Joint Trust Account to the State are deposited in the State of Alaska, Exxon Valdez Oil Spill Settlement Trust (Settlement Trust). The Settlement Trust is established pursuant to AS 37.14.400. Pursuant to State law a state agency may not expend money from the Settlement Trust unless the expenditure is in accordance with an appropriation made by law. Expenditures of funds are made upon properly approved requests for payment. The total of expenditures and encumbrances (obligations) may not exceed the appropriations to which they pertain.

The Settlement Trust is an expendable trust fund of the State. Expendable trust funds account for assets held by the State in a trustee capacity where the principal and income may be expended in the course of the fund's designated operations.

Upon approval by the Council, the Court, and the State of Alaska, Trustee Agencies make expenditures directly against the Settlement Trust.

The financial presentation for the Settlement Trust is of the Settlement Trust only and is not intended to present the financial position of the State of Alaska or any of its component units and the results of their operations.

**Exxon Valdez Oil Spill Trustee Council**  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Basis of Accounting

Basis of accounting refers to when revenues, expenditures and the related assets and liabilities are recorded in the accounts and financial statements. Specifically, it relates to the timing of the financial measurements made, regardless of the measurement focus applied.

The basis of accounting used by the Joint Trust Account, NRDA&R and the Settlement Trust are as follows:

Joint Trust Account - The financial statements of the Joint Trust Account are prepared on a cash basis of accounting. As such, revenues are recognized when received, and disbursements are recognized when paid.

NRDA&R - The financial statements of NRDA&R are prepared on a cash basis of accounting. As such, revenues are recognized when received, and disbursements are recognized when paid.

Settlement Trust - The financial statements of the Settlement Fund are accounted for using a current financial resources measurement focus on the modified accrual basis. The Settlement Fund recognizes revenues when the source is measurable and available, and intended for the fiscal year. Available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Assets are recorded when measurable and due.

Expenditures are recorded when the related liability is incurred. Encumbrance accounting, under which purchase orders and contracts for the expenditure of moneys are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of the formal budgetary integration of the Settlement Trust. Encumbrances outstanding at year-end are reported as reservations of fund balance since they do not constitute expenditures or liabilities.

Interest and investment income is allocated to the Settlement Trust as agreed to under a Memorandum of Understanding (MOU) by and between the State Departments of Revenue and Administration effective July 1, 1993. Under the MOU, interest is credited daily to the Settlement Trust by determining the Settlement Trust's daily cash balance and applying the current weekly 180 day Treasury Bill Rates based on the Treasury Bill auctions.

Statement Presentation

Separate balance sheets and statements of receipts and disbursements or revenues and expenditures are presented for each of the Joint Trust Account, NRDA&R and the Settlement Trust. This is due to the fact that ownership of the Trust Funds rests with the U.S. District Court, U.S. Department of Interior, Fish and Wildlife Service and the State of Alaska, respectively, and the different bases of accounting used by the Trust Funds.

Contributions Receivable - Settlement Trust

Contributions Receivable in the Settlement Trust financial statements include amounts disbursed from the Joint Trust Account pursuant to Council action prior to September 30, 1995, but which were received by the State subsequent to that date.

Accounts Payable and Deferred Revenue - Settlement Trust

Accounts payable in the Settlement Trust financial statements include disbursements made against the Settlement Trust subsequent to September 30, 1995, which relate to fiscal 1995 restoration activities.

Deferred Revenues in the Settlement Trust financial statements include amounts received or receivable at September 30, 1995, which are to be expended by the State in fiscal 1996.

Unobligated Balances Returned to Fund - NRDA&R

Unobligated Balances Returned to Fund in the NRDA&R financial statements represent unobligated amounts from *Exxon Valdez* oil spill restoration activities of prior fiscal years that the United States Trustee Agencies have transferred back to NRDA&R during fiscal 1995.



**Exxon Valdez Oil Spill Trustee Council**  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**3. CASH AND INVESTMENTS**

Cash and investments for the Joint Trust Account, NRDA&R and the Settlement Trust are as follows:

Joint Trust Account - All deposits and investments of the Joint Trust Account are held in the name of Clerk, U.S. District Court, Southern District of Texas at the Federal Reserve Bank. At September 30, 1995, substantially all balances are held in U.S. Treasury Bills with maturities less than 100 days. A nominal amount of cash is also included in the balance. There are no uninsured or unregistered deposits or investments. This places all of CRIS's investments and deposits in GASB credit risk category 1 \*.

NRDA&R - All cash and investments of NRDA&R are held in the name of the U.S. Department of the Interior, Fish and Wildlife Service, Natural Resources Damage Assessment and Restoration Fund at the U.S. Department of the Treasury. At September 30, 1995, substantially all balances are held in U.S. Treasury Bills with maturities ranging from 30 to 300 days. A nominal amount of cash is also included in the balance. There are no uninsured or unregistered deposits or investments. This places all of NRDA&R's investments and deposits in GASB credit risk category 1 \*.

Settlement Trust - Cash and Investments of the Settlement Trust represent cash on deposit in banks, and cash invested in various investments as a part of the State's short-term cash management pools. By law, all deposits and investments relating to the Settlement Trust are under the control of the Commissioner of the State Department of Revenue. The State's cash is invested pursuant to State laws which mandate that investments shall be made with the judgment and care exercised by an institutional investor of ordinary professional prudence, discretion and intelligence. All deposits are insured or collateralized with securities held by the State or by its custodian in its name. All investments are insured or registered in the State's name and are held by the State or its custodian. This places all of the State's General Investment Funds deposits and investments, of which the Settlement Trust cash and investments are a part, in GASB credit risk category 1 \*.

- \* GASB Statement No. 3 requires deposits and investments to be categorized to indicate the level of risk assumed by an entity. For investments, category 1 consists of investments that are insured or registered for which the securities are held by the entity or its custodian in the entity's name, category 2 consists of uninsured and unregistered investments for which the securities are held by the broker's or dealer's trust department or agent in the entity's name, and category 3 includes uninsured and unregistered investments for which the securities are held by the broker's or dealer's trust department or agent not in the entity's name.

**4. 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, 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. 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	70,000,000
	<u>\$ 900,000,000</u>

**Exxon Valdez Oil Spill Trustee Council**  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**4. CONTRIBUTIONS BY EXXON CORPORATION (Continued)**

During fiscal 1995, Exxon Corporation made the contribution to the Joint Trust Account as required by the Agreement. As further discussed in Note 5, \$2,697,000 of the \$70,000,000 contribution was paid directly to the U.S. Department of Agriculture, United States Forest Service. The balance of \$67,303,000 was placed with the Joint Trust Account.

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.

**5. 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;
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 \$1 million per month. During fiscal 1995, \$2,697,000 was paid to the United States Department of Agriculture as a reimbursement pursuant to the Agreement. There were no other reimbursements made to the United States or the State during fiscal 1995 under the Agreement.

**6. DISBURSEMENTS FROM JOINT TRUST ACCOUNT**

Approved Payment Uses

Under the terms of the MOA, amounts paid by Exxon, excluding the reimbursements discussed in the preceding Note, are deposited into the Joint Trust Account. These payments are to be used solely 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:

*Exxon Valdez Oil Spill Trustee Council*  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

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

1. In May 1994, the Council published an *Invitation to Submit Restoration Projects for Fiscal Year 1995*. 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).
2. 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.
3. Projects that were in process from the fiscal year ended September 30, 1994, and that were ongoing and required immediate funding, received interim funding from the Council on August 23, 1994.
4. 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.
5. In November and December 1994, the Council made final project approval. The approved projects were published in the *Fiscal Year 1995 Work Plan*.
6. The staff of the respective Federal and State agencies developed detailed project descriptions which were reviewed by the Council's Executive Director and Chief Scientist.

In addition to the process outlined above, the Council has also identified and acquired several tracts of land as permitted by the MOA. The land acquisition support costs are funded through the Work Plan, and all land acquisitions are separately approved by the Council.

Interest Income Recovery - NRDA&R and the Settlement Trust

The governments are to report to the Council the amount of interest earned on net available balances in NRDA&R and the Settlement Trust. The Council then recovers the interest reported by reducing subsequent disbursements from the Joint Trust Fund for future projects. During fiscal 1995, disbursements to the United States and the State were reduced by \$139,314 and \$985,423 for such interest earnings, respectively.

Unobligated Balance Recovery - NRDA&R and the Settlement Trust

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 subsequent disbursements for new projects. During fiscal 1995, the United States and the State reported total unobligated balances of \$2,597,808. Of this amount, United States and the State reported \$220,858 and \$2,376,950, respectively. These unobligated funds were recovered through reduced project disbursements during the fiscal year ending September 30, 1995.

Disbursements from the Joint Trust Account

During fiscal 1995, the Council disbursed \$89,989,597 for restoration projects and land acquisition as follows:

Restoration Projects Authorized By the Council

For 1995 and 1996:

To be conducted by the United States	\$ 14,560,800
To be conducted by the State	<u>29,603,000</u>
Total	<u>44,163,800</u>

Land Acquisitions and Research Infrastructure

Improvements Authorized By The Council

For 1995 and 1996:

To be acquired by the United States	33,900,000
To be acquired by the State	<u>15,729,042</u>
Total	<u>49,629,042</u>
	93,792,842

Less:

Unobligated balances on prior years projects	(2,597,808)
Interest earnings on payments not yet disbursed by the United State and State	(1,124,737)
Other Adjustments	<u>(80,700)</u>

Disbursements from the Joint Trust Account \$ 89,989,597

*Exxon Valdez Oil Spill Trustee Council*  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**7. CONTRIBUTIONS RECEIVABLE**

On November 2, 1994, the Council approved the disbursement of \$24,956,000 from the Joint Trust Account to the State. The money is to be expended by the State of Alaska, Department of Fish and Game to fund research infrastructure improvements affiliated with the University of Alaska, School of Fisheries and Ocean Sciences, Institute of Marine Science in Seward, Alaska. The amount is to be funded with a withdrawal of \$12,500,000 on September 15, 1995 and another withdrawal of \$12,456,000 on September 15, 1996.

On September 20, 1995, the first scheduled withdrawal was made. These amounts were disbursed from the Joint Trust Account. However, the funds were received and deposited to the Settlement Trust subsequent to September 30, 1995. For this reason, the Settlement trust has recorded a contribution receivable in the accompanying financial statements as of September 30, 1995.

**8. DEFERRED REVENUE**

Deferred revenue in the financial statements of the Settlement Trust has been recorded for two transactions:

1. The disbursement, in the amount of \$12,500,000 made from the Joint Trust Fund with CRIS to fund research infrastructure improvements affiliated with the University of Alaska, School of Fisheries and Ocean Sciences, Institute of Marine Science in Seward, Alaska as discussed in the preceding note is to be expended by the Alaska Department of Fish and Game upon final legislative approval by the State Legislature's Legislative Budget and Audit Committee. Pending this approval, the amount has been recorded as deferred revenue.
2. On August 25, 1995, the Council approved the initial funding for restoration projects to be conducted by the Trustee Agencies in fiscal 1996. The disbursement relating to this action was made from the Joint Trust Account on September 21, 1995, and the amount disbursed to the State Trustee Agencies' of \$9,863,716 has been recorded as deferred revenue.

NRDA&R also received the United States' disbursement prior to September 30 1995, relating to the initial funding for restoration projects to be conducted by the Trustee Agencies in fiscal 1996. The amount received of \$5,837,316 has been recorded as Receipts - CRIS in the NRDA&R financial statements since NRDA&R is accounted for using the cash basis of accounting, and is part of the ending Trust Fund Balance. However, this money will be made available to the Federal Trustee Agencies in fiscal 1996.

**9. REAL PROPERTY ACQUISITIONS OBLIGATIONS OUTSTANDING**

Alaska Sea Life Center

As discussed in Note 7, on November 2, 1994, the Council approved the disbursement of \$24,956,000 from the Joint Trust Account with CRIS to fund research infrastructure improvements affiliated with the University of Alaska, School of Fisheries and Ocean Sciences, Institute of Marine Science in Seward, Alaska. The first of two withdrawals to fund the project in the amount of \$12,500,000 was made on September 15, 1995. A final withdrawal of \$12,456,000 is scheduled for September 15, 1996.

Kodiak National Wildlife Refuge - AKI

On November 2, 1994, the Council approved the purchase of the surface estate in fee simple of approximately 76,700 acres of land within the boundaries of the Kodiak National Wildlife Refuge (Refuge) and conveyance of an in-perpetuity conservation easement on an additional approximately 43,200 acres of land within the Refuge. The purchase closed during year-end. The land was acquired by the United States Department of Interior, Fish and Wildlife Service. The total amount to be paid from the Joint Trust Account is \$36,000,000. The scheduled amounts paid or to be paid from the Joint Trust Account are as follows with no interest accruing on the unpaid amounts:

At initial closing (paid in fiscal 1995)	\$ 13,000,000
At subsequent closing (paid in fiscal 1995)	8,000,000
September 30, 1996	7,500,000
September 30, 1997	<u>7,500,000</u>
	<u>\$ 36,000,000</u>

*Exxon Valdez Oil Spill Trustee Council*  
**NOTES TO TRUST FUNDS FINANCIAL STATEMENTS**  
**Fiscal Year Ended September 30, 1995**

**9. REAL PROPERTY ACQUISITIONS OBLIGATIONS OUTSTANDING (Continued)**

Seal Bay, Alaska

On August 23, 1993, the Council approved the purchase of 41,549 acres of land in the vicinity Seal Bay, Alaska by the State as part of habitat protection activities consistent with its fiscal year 1993 Work Plan. The property, which was owned by a Corporation, 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 disbursed from Joint Trust Account balances at the scheduled installment dates.

**10. SUBSEQUENT EVENTS**

Fiscal 1996 Restoration Activities

On December 11, 1995, the Council approved the second disbursement related to its fiscal 1996 *Work Plan* for Restoration Projects to be conducted by the Trustee Agencies. The total amount approved was \$5,502,000. The United States and the State reported \$48,676 and \$262,202, respectively, of interest earned on available balances in NRDA&R and the Settlement Trust since the previous disbursement. As a result, \$5,191,122 was withdrawn from the Joint Trust Account for disbursement to the United States and State. In addition, on January 12, 1996, the Council approved \$150,000 in additional funding for habitat protection and acquisition support activities (project #96126).

Kodiak National Wildlife Refuge - Koniag

On December 2, 1994, the Council approved the purchase of the surface estate in fee simple of approximately 59,700 acres of land within the boundaries of the Kodiak National Wildlife Refuge (Refuge) and conveyance of a seven-year conservation easement on an additional approximately 56,000 acres of land within the Refuge. The purchase closed subsequent to year-end. The land was acquired by the United States Department of Interior, Fish and Wildlife Service. The total amount paid is to be \$28,500,000, including \$21,500,000 from the Joint Trust Account, and \$7,000,000 from separate federal funds. The amounts to be paid from the Joint Trust Account are as follows with no interest accruing on the unpaid amounts:

At closing (fiscal 1996)	\$ 8,000,000
September 30, 1996	4,500,000
September 30, 1997	4,500,000
September 30, 1998	<u>4,500,000</u>
	<u>\$ 21,500,000</u>

On November 21, 1995, the Court approved the Council's request to withdraw \$8,000,000 from the Joint Trust Account for the down payment and first installment relating to the acquisition of land at Kodiak National Wildlife Refuge as described above.

Seal Bay, Alaska Land Acquisition

On November 2, 1995, the Court approved the Council's request to withdraw \$3,294,667 from the Joint Trust Account for the second installment relating to the acquisition of land at Seal Bay, Alaska as described in Note 9. Of this amount, \$378,000 was for accrued interest, and \$2,916,667 was for principal.