

11.17.03

Exxon Valdez Oil Spill
Trustee Council Meeting

March 29, 2006

AGENDA

Exxon Valdez Oil Spill Trustee Council

441 W. 5th Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



AGENDA
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
Teleconference
March 29, 2006 10:00 a.m.
Anchorage, Alaska

DRAFT 3/17/06

DRAFT

Trustee Council Members:

DAVID W. MÁRQUEZ
Attorney General
Alaska Department of Law

JAMES BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service

KURT FREDRIKSSON
Commissioner
Alaska Department of
Environmental Conservation

DRUE PEARCE
Senior Advisor to the Secretary
for Alaskan Affairs
U.S. Department of the Interior

McKIE CAMPBELL
Commissioner
Alaska Department of Fish
and Game

JOE MEADE
Forest Supervisor
U.S. Department of Agriculture
Forest Service

Teleconference meeting in Anchorage, Trustee Council Office, 441 West 5th Avenue, Suite 500

Teleconference number: 800.315.6338

_____ State Chair

1. Call to Order – 10:00 a.m.
2. Consent Agenda
- Approval of Agenda*

Federal Trustees
U.S. Department of the Interior
U.S. Department of Agriculture
National Oceanic and Atmospheric Administration

State Trustees
Alaska Department of Fish and Game
Alaska Department of Environmental Conservation
Alaska Department of Law

- Approval of Trustee Council meeting notes*
Feb 8, 2006

3. Public Advisory Committee comments
 4. Public comment (no reopener comments accepted) – 10:10 a.m.
 5. Executive Director's Report
 - New Science Director and Administrative Manager
 - Weekly liaison/staff meetings
 - Project Cleanup Working Group
 6. Project Amendments*
proposed amendments for FY 07:
 - Batten-040624—Acquisition and Application of CPR data in the Gulf of Alaska
 - Cokelet-040699—Biophysical Observation Aboard Alaska Marine Highway Systems Ferries
 - Okkonen-040614—A Monitoring Program for Near-Surface Temp, Salinity, and Fluorescence Fields in the northeast Pacific Ocean: Transition to an Operational Program
 - Weingartner-040340—Toward Long-Term Oceanographic Monitoring of the Gulf of Alaska Ecosystem
 7. Herring Workshop in Cordova (late April)*
- Executive Session if necessary
8. Adjourn

* Indicates action items

TC MTG NOTES

Exxon Valdez Oil Spill Trustee Council

441 W. 5th Ave., Suite 500 • Anchorage, Alaska 99501-2340 • 907/278-8012 • fax 907/276-7178



TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

Feb 8, 2006

DRAFT - 2/22/06

DRAFT

Chaired by: Drue Pearce
Trustee Council Member

Trustee Council Members Present:

Maria Lisowski, USFS **
• Drue Pearce, DOI
Craig O'Connor, NMFS *

McKie Campbell, ADF&G***
Kurt Fredriksson, ADEC
David Márquez, ADOL

- Chair
- * Craig O'Connor alternate for James Balsiger
- ** Maria Lisowski alternate for Joe Meade
- *** Heather Brandon alternate for McKie Campbell after 12:00 p.m.

The teleconferenced meeting convened at 10:10 a.m., February 8, 2006 in Anchorage at the EVOS Conference Room.

1. Approval of the Agenda

APPROVED MOTION: Approval of the February 8, 2006 agenda
Motion by Márquez, second by O'Connor

2. Approval of December 5, 2005 meeting notes

APPROVED MOTION: Approval of December 5, 2005 meeting notes
Motion by Márquez, second by Lisowski

Public Advisory Committee (PAC) comments: Dr. John Gerster, Chairman, reported on the January 26, 2006 PAC meeting. Additional comments were offered by: Stacy Studebaker, Co-chairman, Pat Lavin and Mead Treadwell

Public comment period began at 10:20 a.m.

Eleven individuals offered public comment.

Public comment period closed at 11:45 a.m.

Off the record: 11:45 a.m.

On the record: 11:50 a.m.

Commissioner McKie Campbell left the meeting at 12:00 p.m. Heather Brandon, Ocean Policy Coordinator, State of Alaska was verbally designated by Commissioner Campbell as his Alternate and sat in as Alternate for the rest of the meeting.

3. Amendments for FY 07 Projects

APPROVED MOTION: Motion to defer until the next Trustee Council meeting the proposed one-year extension amendments funding four FY 07 projects: Batton-040624, Cokelet-040699, Okkonen-040614, and Weingartner-040340. Deferring the projects allows the Trustees to identify their concerns and issues to the Interim Executive Director so they may be addressed prior to the meeting. The next Trustee Council meeting is to be scheduled within 45-60 days.

Motion by Fredriksson, second by Márquez

4. Amendment to Ballachey and Bodkin Project 040620-2

APPROVED MOTION: Motion to approve a \$6,000 increase in the FY 06 funding for Project 040620-2, Lingering Oil and Sea Otters-pathways of exposure and recovery status

Motion by Márquez, second by O'Connor

5. FY 2006 Annual Program Development and Implementation Budget

APPROVED MOTION: Motion to appoint Michael Baffrey as Interim Executive Director for the first quarter of calendar year 2006

Motion by Pearce, second by O'Connor

APPROVED MOTION: Motion to adopt Resolution 06-08 of the Exxon Valdez Oil Spill Trustee Council regarding the FY 06 Work Plan-Project 060100 FY 06 Annual Program Development and Implementation

Budget from March 1, 2006 through September 30, 2006 in the amount of \$1,045.070

Motion by O'Connor, second by Márquez

PRESENTATION: Carol Fries, Alaska Department of Natural Resources and Dede Bohn, US Geological Survey, were presented with Letters of Recognition signed by the Trustee Council for their tireless efforts in preparing the FY 2006 Annual Program and Implementation Budget.

APPROVED MOTION: Motion to repeal the December 15, 2005 motion that removed all hiring and termination authority and changes to the FY 2006 budget categories and subcategories from the past Executive Director to the current Interim Executive Director with the exception of classification authority. The Interim Executive Director will not fill the Science Director position without Trustee Council approval.

Motion by Fredriksson, second by Márquez

6. Executive Session

APPROVED MOTION: Motion to move to Executive Session to discuss personnel issues

Motion by O'Connor, second by Márquez

Off the record: 1:45 p.m.

Adjourned

NOTE: The Trustees adjourned from executive session at 2:25 pm without going back on the record.

Motion by Márquez, second by Lisowski

CONTINUING PITS

Exxon Valdez Oil Spill Trustee Council

441 W. 5th Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



MEMORANDUM

To: Trustee Council

From: Michael Baffrey
Interim Executive Director

Date: March 14, 2006

Subject: Projects Requesting One-Year Extensions - more justification

At the February 8 Trustee Council meeting, you tabled further consideration of the following currently-funded projects that were requesting early '07 funding approval for one-year extensions:

- Okkonen-040614-Monitoring Program in the NE Pacific Ocean
- Batten-040624-A CPR-Based Plankton Survey
- Cokelet-040699-AK Marine Highway System Ferries
- Weingartner-040340-Alaska Coastal Current

Subsequently, you requested in addition to the project-specific summary information provided on February 8, the PIs provide additional information that addressed the critical data loss that would occur if these projected were subject to the delayed '07 Invitation. Below is a brief summary of each project amendment with additional justification addressing critical data loss if not receiving early notice:

Okkonen-040614-Monitoring Program in the NE Pacific Ocean

Monitoring Program for Near-surface Temperature, Salinity, and Fluorescence Fields in the North Pacific Ocean

Steve Okkonen

Agency: UAF through ADF&G

Previous Funding – FY04-FY06: \$27.3, \$30.4, \$31.5, respectively

Funding Requested for FY07 (including 9% G&A): \$34,880

Abstract: This study maintains and operates the thermosalinograph (TSG) that was installed on the tanker vessel *Polar Alaska* in July 2002 and analyzes of the collected data. The TSG has been measuring near-surface temperature and salinity along the shipping corridor between Valdez and west coast (California and Washington) refineries since October 2002. The data improves the understanding of the spatial and temporal (seasonal and year-to-year) variability of freshwater influences on frontal features and circulation in the Gulf of Alaska and Prince William Sound. The data are also a record of changes in the physical oceanic environment that provides a context for investigating and interpreting changes in the biotic environment of the Sound. Injured resources and their recovery rates can only be fully understood in the context of how they also respond to changing environmental conditions. A relevant application for the data is to provide observational data against which the performance of numerical circulation models (e.g. oil spill trajectory models) can be compared.

Additional Justification: The *T/V Polar Alaska* will be taken out of service in the next few months and the TSG will need to be removed. It can, however, be moved to the same vessel, the *Horizon Kodiak*, that carries Sonia Batten's continuous plankton recorder (CPR) referenced in Project 040624 below. The data sets are complementary--the TSG will provide coincident near-surface hydrography along with the CPR samples providing a physical context for interpreting changes in the biology. Early notification would allow the PI to move the TSG to the *Horizon Kodiak* so as to minimize the time period during which the TSG is not operating. Without early notification there would be no certainty that the TSG, if installed on the *Horizon Kodiak*, would be able to collect data beyond this September. Without the certainty of continued funding it is not likely that the *Horizon Kodiak* would permit the deployment of the TSG for only a few months.

Batten-040624-CPR-Based Plankton Survey

Acquisition and Application of Continuous Plankton Recorder data in the Gulf of Alaska

Sonia Batten

Agency: NOAA

Previous Funding – FY04-06: \$135.2 annually

Funding Requested for FY07 (including 9% G&A): \$139,912

Abstract: Plankton is a critical link in the marine food chain that responds rapidly to climate change and forms the link between the atmosphere and upper trophic levels. Many important marine resources in the Gulf of Alaska are strongly influenced by changes in ocean climate. This project collects biological data from ships-of-opportunity on transect from Cook Inlet across the Gulf of Alaska to Puget Sound. The continuous plankton recorder (CPR) has been deployed from ships-of-opportunity in the North Pacific on a routine basis since March 2000. Originally implemented to fulfill the requirements of the North Pacific Marine Science Organization (PICES) to collect seasonal plankton data from the North Pacific, this project has received Trustee Council funding annually from FY02-FY06. Funding was also obtained from the North Pacific Research Board to fund collection of data on a complementary transect that crosses the Gulf of Alaska--data analysis often combines data from the two projects to address wider scale issues.

Additional Justification: The additional justification referenced in Project 040614 above, also applies to this project. Co-locating the TSG and the CPR add value to both projects—especially in interpreting the biology using simultaneous physical data. Eddies, which are abundant along the southern Alaskan coast, are important to marine resources with effects on mixing shelf and offshore water, concentrating plankton, and dispersing crab larvae from Sitka to the Aleutians. Without early notification the CPR instrumentation will be shipped back to the UK in September with the risk of losing it and the associated technicians to another project that is definite. The PI has a good working relationship with the volunteer ship and with Prince William Sound Community College who do the servicing and instrument set-up. This project has collected 7 years of data covering a time when ocean conditions have changed at least once with noticeable changes in the productivity. This year the North Pacific is likely to experience La Nina conditions and this project will help assess impacts on higher trophic levels. A break in a time series adds further uncertainty. To stress direct relevance to Prince William Sound herring, it is believed the herring leave PWS and follow the Alaska Coastal Current westwards, crossing the CPR transect as it leaves Cook Inlet. Herring feed on the plankton that the CPR catches (as do numerous other important species of fish and seabirds). Eddies have concentrated plankton which has demonstrated higher numbers of euphausiids. Knowing the location, abundance, and variability of food supply on their migration route could provide an explanation for herring success/failure.

Cokelet-040699-Alaska Marine Highway System Ferries

Biophysical Observation Abroad Alaska Marine Highway Systems Ferries

Ned Cokelet

Agency: NOAA

Federal Trustees

U.S. Department of the Interior

U.S. Department of Agriculture

National Oceanic and Atmospheric Administration

State Trustees

Alaska Department of Fish and Game

Alaska Department of Environmental Conservation

Alaska Department of Law

Previous Funding – FY04-FY06: \$171.5, \$185.9, \$145.9, respectively

Funding Requested for FY07 (including 9% G&A): \$156,306

Abstract: The Alaska Coastal Current (ACC) flows counterclockwise along the edge of the Gulf of Alaska carrying the river runoff, nutrients and plankton that fuel the productive coastal-marine ecosystem. As seen in satellite images, a strong "chlorophyll front" develops in summer between the nutrient-poor region to seaward and a productive region around Kodiak Island that extends northward to the Kenai Peninsula. Conventional wisdom predicts that the Gulf ecosystem should not be productive because the average wind pattern favors downwelling oceanic conditions that fail to restore nutrients to the sunlit upper layers. The chlorophyll front is a natural study area over which low- and high-productivity regions lie in close proximity. The Alaska Marine Highway System ferry *M/V Tustumena* crosses this front over 280 times each year. This study provided sampling instrumentation to the *Tustumena* for measuring physical and biological oceanographic parameters across the ACC and in Prince William Sound. As a result the instruments measure: water temperature; salinity (an indicator of the ACC's location and a measure of density stratification); dissolved nitrate (an essential nutrient for phytoplankton); chlorophyll fluorescence (an indicator of phytoplankton concentration); colored dissolved organic matter fluorescence (an indicator of terrestrial runoff); and, optical beam transmittance (an indicator of the total suspended particle concentration). This oceanographic monitoring study continues the understanding of nutrient replenishment and ecosystem trends.

Additional Justification: The measurements have continued since September 2004. The two primary advantages of this project are the *Tustumena* crosses the ACC over 200 times each year sailing with varying frequency between Homer, Kodiak, Seward, Prince William Sound and Dutch Harbor; and, the ship time is free to the project. A loss or delay in funding would cause several problems. Scientifically, the time series measurements would be interrupted affecting the ability to draw inferences from the monitoring data set. These measurements supplement and leverage other GLOBEC, FOCI and KBRR programs in the Gulf of Alaska. The partial salaries of two Principal Investigators, three scientific staff, a web specialist, and an oceanographic technician are paid by this grant. Timely funding is required to provide job continuity and prevent the loss of valuable expertise. Without FY07 funding, critical staff will lose their jobs or move to other projects. It would be very hard to reassemble the research team. Restarting the measurements at a later time would incur update, travel, shipping and shipyard start-up costs. Without FY07 funding, there would not be travel, shipping, and salary funds to dismantle and remove the equipment from the *Tustumena*. Funding from other sources is being sought, but no opportunities are available at this time to take over the measurements in FY07.

Weingartner-040340-Alaska Coastal Current

Toward Long-Term Oceanographic Monitoring of the Gulf of Alaska Ecosystem

Thomas Weingartner

Previous Funding – FY04-FY06: \$80.4, \$81.7, \$65.0, respectively

Funding Requested for FY07 (including 9% G&A): \$75,210

Abstract: This monitoring study is a continuation of an effort begun in 1970 to monitor temperatures, salinities, and spring bloom characteristics on the northern Gulf of Alaska shelf at hydrographic station GAK 1. GAK 1 is the only station in the Gulf of Alaska that measures salinity and it is the *only* station measuring these variables throughout the water column. GAK 1 is located at the mouth of Resurrection Bay in the Alaska Coastal Current (ACC). The ACC is an important ocean pathway by which climate signals, dissolved and suspended materials, contaminants, and organisms are carried along coastal Alaska. The ACC was the principal pathway by which oil spilled from *T/V Exxon Valdez* was transported from Prince William Sound along the south coast of Alaska and into Cook Inlet and Shelikof Strait. The Trustee Council has supported the GAK 1 monitoring since 1997 when it recognized that variability in the marine environment must be quantified and understood to comprehend and predict the response of the Gulf of Alaska marine ecosystem to

Federal Trustees

U.S. Department of the Interior
U.S. Department of Agriculture
National Oceanic and Atmospheric Administration

State Trustees

Alaska Department of Fish and Game
Alaska Department of Environmental Conservation
Alaska Department of Law

natural or human related causes. GAK 1 is the only long term oceanographic data set in the spill area. Logistics costs are shared with the NSF-NOAA funded GLOBEC program.

Additional Justification: This time series data collected from the project is the only one on the Gulf of Alaska shelf that monitors temperature and salinity throughout the water column and has done so since 1970--other stations only monitor surface temperature. This station provides an inexpensive index of the strength of the ACC, which no other station/measuring system can do. Alaskan waters are undergoing a period of rapid change, including the Bering Sea and the Chukchi/Beaufort seas, and these changes are bringing about recognizable changes in the marine biota that have implications for commercial and subsistence fisheries. The Alaska Ocean Observing System (AOOS) is contributing \$30,000 worth of new nitrate-measuring equipment to this monitoring effort--a key nutrient for phytoplankton and zooplankton development. If this project does not receive an early notification of funding through FY07, the nitrate-measuring equipment will be returned to AOOS with no guarantee that it will be provided in the future. In the event there is another spill in PWS, this station will predict how far the spill will move along Alaska's south coast. If there is another spill, the findings from this project will help delineate potential man-made impacts from naturally occurring changes--GAK 1 helps place the physical conditions of the Gulf of Alaska into a historical context.

Initially, I was not in support of allowing selected PIs access to '07 funding outside of the Invitation process. Because the '07 Invitation is delayed until a May release date, I requested the liaisons and the STAC members query the PIs of currently funded projects to assess the effects. The four projects above were determined most at risk if they did not receive early '07 notification and all received STAC and PAC support for funding. I was opposed to issuing a two-phased invitation and instead I chose to pursue your concurrence on one-year extensions for these projects. They will compete through the normal invitation process for '08 funding.

Total funding for these one-year extensions is \$406,308. There is approximately \$2 million for the '07 Invitation. Funding these extensions would leave approximately \$1.6 million for projects approved through the '07 Invitation.

I recommend these one-year extensions be approved at the March 29 Trustees' meeting.

HEKking

Exxon Valdez Oil Spill Trustee Council

441 W. 5th Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



MEMORANDUM

To: Trustee Council

From: Michael Baffrey *Michael Baffrey*
Interim Executive Director

Date: March 17, 2006

Subject: Herring Workshop

I am proposing a 2-day herring workshop in Cordova the week of April 24, 2006. This workshop would be a follow-up to Jeep Rice's PWS Herring Populations: Updated Synthesis in the Causes and Lack of Recovery project (Project 050794) which has a final report due April 15. The findings of Jeep's synthesis project would help focus discussion on the gaps in knowledge and what type of herring projects should be sought in the '07 Invitation.

The primary participants would be the spill-area herring fishermen, research scientists (EVOS Trustee Council funded PIs), agency scientists, and the Trustee Council liaisons.

I would use NOS Grant funding and the total estimated cost would be \$17,000. This would include 2-days travel and 3-nights lodging for 10 non-agency scientists and facilitator services provided by the Growth Company.

These meetings would be open to the public and facilitation is necessary to keep the participants on task ensuring tangible results. The meetings would fall at a time when fishermen are in Cordova and the commercial fishery is not underway. The Reluctant Fisherman hotel has offered special room rates of \$85 per night. The hotel also has conference room availability.

Herring has been intensely studied through Trustee Council funding. The obvious question is what new information, proposed research, or restoration projects will result from a workshop in Cordova? The workshop provides an open process to vet both science and anecdotal information. Hopefully the result would be both an objective and subjective look at the status of herring and the research.

The workshop would be a prototype for subsequent workshops on other resources and services. It is important to have this workshop in a location that maximizes participation from the fishing community. It would take place in an affected community with participants from an affected industry. It shows the public the Trustees are open to public input, especially within the spill-affected area.

Federal Trustees

U.S. Department of the Interior
U.S. Department of Agriculture
National Oceanic and Atmospheric Administration

State Trustees

Alaska Department of Fish and Game
Alaska Department of Environmental Conservation
Alaska Department of Law

PAC mtg
summary

Meeting Summary

A. GROUP: *Exxon Valdez Oil Spill (EVOS) Public Advisory Committee (PAC)*

B. DATE/TIME: March 6, 2006

C. LOCATION: Anchorage, Alaska

D. MEMBERS IN ATTENDANCE: (T = via teleconference)

<u>Name</u>	<u>Principal Interest</u>
Torie Baker (T)	Commercial Fishing
Jason Brune	Public-at-Large
Gary Fandrei (T)	Aquaculture/Mariculture
Randy Hagenstein	Recreation Users
Lisa Ka'aihue	Regional Monitoring
Pat Lavin (T)	Conservation/Environmental
Vern McCorkle	Public-at-Large
Brenda Norcross (T)	Science/Technical and STAC
Martin Robards (T)	Conservation/Environmental
Mead Treadwell	Science/Technical
Andrew Teuber (T)	Subsistence
Stacy Studebaker (T)	Recreation Users
Ed Zeine (T)	Local Government

E. NOT REPRESENTED:

<u>Name</u>	<u>Principal Interest</u>
Kurt Eilo	Sport Hunting/Fishing
Larry Evanoff	Native Landowners
John Gerster	Science/Technical
RJ Kopchak	Commercial Fishing
Pat Norman	Tribal Government
Ed Page	Marine Transportation
Ron Peck	Commercial Tourism

F. OTHER PARTICIPANTS:

<u>Name</u>	<u>Organization</u>
Doug Mutter	Designated Federal Officer, Dept. of the Interior
Michael Baffrey	Interim Executive Director, Trustee Council
Cherri Womac	Trustee Council Staff
Carolyn Rosner	Trustee Council Staff
Rob Bochenek	Trustee Council Staff
Jenifer Kohout (T)	U.S. Fish and Wildlife Service
Barat LaPorte	Patton Boggs
Linda Robinson	PWS Regional Citizens' Advisory Council
Ken Adams (T)	Cordova, PWSFRAP

Carol Fries (T)
Dede Bohn (T)
Ross Mullins (T)
Diann Hursh (T)
Lori Townsend

Alaska Department of Natural Resources
U.S. Geological Survey
Cordova, PWSFRAP
Valdez
Alaska Public Radio Network

G. SUMMARY:

Doug Mutter, Designated Federal Official for the PAC, opened the meeting at 10:10 a.m. Roll was taken and attendees introduced themselves. A quorum was present. Mutter noted that he was chairing the meeting at the request of the Interim Executive Director. The summary of the January 26, 2006, PAC meeting was approved.

The meeting was opened for public comment. Ken Adams commented on the herring synthesis proposal and report, noting his interest since herring in Prince William Sound were still not recovering. Diann Hursh commented on the chemicals used in response to the oil spill and their potential link to illnesses of cleanup workers and residents of the PWS area. She noted that Corexit (a dispersant) contains these chemicals. She said to call her at 907-835-3135 for more information.

Michael Baffrey reported on the progress of the herring synthesis project. The draft Jacobs report is now on the EVOS web site for review (<http://www.evostc.state.ak.us/>). Chapter 7 of that report discusses herring. An additional herring report being prepared by Jeep Rice will be available for peer review in 2 weeks and for public review in April. He said that normally draft reports were not posted to the web site, but that time for review was short so the Trustee Council wished to make the draft report available. He noted that the herring findings were inconclusive with regard to a links between current herring health and the oil spill.

Baffrey reviewed the history of the EVOS investment fund. He said there were now three accounts: restoration research and monitoring, habitat, and Koniag habitat. He went on to describe the Koniag deal. About 116,000 acres of habitat in the Strugeon and Karluk Rivers area of Kodiak Island are in a conservation easement. The Trustee Council is making annual payments to the Koniag Corporation until 2012, when the corporation may decide to sell the land, continue the easement another 10 years, or withdraw from the deal. If purchased, the land would be managed by the Fish and Wildlife Service. Annual payments for the conservation easement from the Koniag account escalate about \$30,000 per year from \$372,000 to \$744,000 in 2014. If the land is sold, the purchase funds are those in the Koniag account. If the land is not sold, the funds go into the other habitat account.

Baffrey reported that some of the National Ocean Service (NOS) funds received by the Trustee Council could be moved around in the EVOS budget within object classes, or with the approval of NOAA (the funding source). Vern McCorkle encouraged him to use all the funds and Stacy Studebaker asked if a budget for these funds could be made available. Baffrey said he plans to move some funds around with NOAA's permission and will use all the NOS funds.

Baffrey discussed EVOS data management efforts. They are defining program functions and setting up data fields to track progress on projects.

Baffrey reported on the status of habitat acquisition. Four parcels (two on Kodiak and two on the Kenai) are now under consideration and are going through the process. In FY 2006, \$98,000 was budgeted for pre-sale preparation, such as contacting landowners and conducting hazmat surveys. Mead Treadwell asked if the PAC got to review parcels before they went to the Trustee Council. Baffrey said the PAC got to see parcels and could comment on them when they went to the Trustee Council. Studebaker noted that PAC members could nominate parcels (information is on the EVOS web site). Carol Fries said that responsibility for an acquired parcel depends on the agency with nearby management responsibility. Studebaker asked that the two Lesnoi parcels on Kodiak (Termination Point and Long Island) be revisited. Randy Hagenstein asked that the PAC be given an opportunity to comment on parcels as they come up. Baffrey agreed.

Treadwell asked if anything in the synthesis report leads to the need for additional habitat protection. Baffrey said he did not know, but the draft report is now available for PAC review and comment.

Baffrey discussed the Lingering Oil Committee. Eleven reports will be reviewed and two meetings held (probably in late March and in July) in Anchorage. The Executive Director appoints members to the committee. Dr. Gerster (PAC Chair) sits on the committee as a public member. The second public member declined to participate, so there is a need to appoint another person. Baffrey solicited nominations from the PAC. Studebaker nominated Pat Lavin and Justin Massey. Lavin suggested considering Rikki Ott. Baffrey noted that Massey already declined. He asked if Gary Fandrei, Torie Baker, Jason Brune, and Treadwell would also give this consideration. Baffrey will look at the level of work and time required and will contact the nominees. Treadwell said that this was an important invitation year and that he recommended using the Lingering Oil Committee. Baffrey said he would use the committee. McCorkle asked if the restoration funds now available needed to be used up this year. Baffrey said no.

Baffrey reported that the position of Science Director was about to be filled, but the deal with the leading candidate fell through. Four other candidates are being considered. He said that scientific integrity was needed at the EVOS Trustee Council and that they will have an interim Science Director for the remainder of the fiscal year (to September 30, 2006). He also mentioned that perhaps the Science Director and the Executive Director could be the same person. They are also recruiting for the Executive Director at this time. Both positions are exempt State positions.

Mutter clarified that the Trustee Council, as a body, did not have a role in the re-opener and, therefore, neither did the PAC, since the PAC advises the Trustee Council, not the separate governments. He noted that some changes needed to be made to the draft resolution about to be considered.

Lisa Ka'aihue moved (second by Hagenstein) to accept Pat Lavin's version of RJ Kopchak's resolution 2006-01.

Ka'aihue moved (second by Fandrei) to make five amendments to the resolution:

- paragraph #2: delete the rest of the sentence after "...provided for a..." and insert "...restoration fund to address injured resources and services."
- pagraph #3: delete the rest of the sentence after "...oil spill..."
- paragraph #7: delete the paragraph "Whereas the President..."
- paragraph #8: delete the word "unanticipated"

--paragraph #9: delete the word "unanticipated"

Treadwell spoke against the amendments, stating that the whereas statements were simply the facts and that it was insulting to be told not to address the settlement agreement. Studebaker agreed. Mutter stated that paragraph #7 was not a correct statement of fact. Lavin said that the word "unanticipated" was important to address injuries not already being restored. Ka'aihue and Fandrei withdrew the amendments.

Ka'aihue moved (second by Fandrei) **to amend the resolution by deleting paragraph #7 "Whereas the President..."** Treadwell called for the question. The amendment passed unanimously.

Treadwell proposed a technical fix to paragraph #8, inserting after Trustee Council "...Public Advisory Committee..." The fix was accepted.

Jason Brune said there were mixed signals on the re-opener, and he wanted to ensure a productive relationship with the Trustee Council and did not want to send forward something not relevant. Jenifer Kohout noted that the EVOS Trustee Council web site has a list of government contacts for making comments on the re-opener. Hagenstein said he believes the resolution is appropriate and is not overstepping bounds, since the PAC is advising the Trustee Council on re-directing efforts to address unanticipated injuries and about setting priorities. Treadwell agreed, stating this is about the upcoming invitation as much as anything. McCorkle supports the resolution, noting that it is a "request."

Ka'aihue moved (second by McCorkle) to modify paragraph #2 by deleting the rest of the sentence after "...provided for a..." and inserting "...restoration fund to address injured resources and services." She said the "re-opener statement" was a red flag. Treadwell stated that this was just a statement of fact and that he was worried about a lack of public process in dealing with the re-opener. Ka'aihue and McCorkle withdrew the amendment.

Ed Zeine called for the question. **The amended resolution 2006-01 (attached)** passed unanimously.

Studebaker encouraged PAC members to read the draft synthesis report on the web site. She asked how the PAC could comment. Treadwell asked if the Scientific and Technical Advisory Committee (STAC) was going to review the report and if Integral personnel would be available to answer questions. Baffrey suggested a joint STAC and PAC meeting be held in late May or early June to review and comment on the synthesis report and the 2007 invitation.

Brune said he appreciated the communications from Baffrey and is troubled that a new Executive Director is being sought during a period when stability is important.

Brune moved (second by Studebaker) **that the PAC encourages the Trustee Council to keep Michael Baffrey as interim Executive Director through the end of FY 2006 (September 30, 2006).** Passed unanimously.

Studebaker closed by thanking Baffrey and the staff on their work and stating that the project tracking work the Trustee Council staff is doing should be a priority.

Treadwell invited PAC members to attend the Copper River Nouveau on June 17 in Cordova.

The meeting adjourned at 12:20 p.m.

H. FOLLOW-UP:

1. Baffrey will provide the PAC with information on the proposed uses for the NOS funds.
2. Baffrey will select one more public representative from the PAC nominations to serve on the Lingering Oil Committee.
3. PAC members will review the draft synthesis report available from the EVOS web site.

I. NEXT MEETINGS:

--PAC meeting in late May

J. ATTACHMENTS: (Handouts, for those not present)

1. Resolution 2006-01, as amended and passed.

K. CERTIFICATION:

PAC Chairperson

Date

Resolution 2006-01
Exxon Valdez Oil Spill Public Advisory Committee
March 6, 2006

**A Resolution Urging The Trustee Council Agencies To Pursue All Available Means To
Identify and Restore Injured Species and Habitats**

Whereas, on March 24, 1989, Exxon Spilled at least 11 million gallons of crude oil into Prince William Sound, Alaska, killing more wildlife than any previous oil spill, oiling approximately 1,300 miles of coastline, including critical habitat areas for many species of fish, birds, and mammals, much of it publicly owned National Forest, Alaska State Parks, and Game Sanctuaries; and

Whereas, the 1991 civil settlement between the U.S. Government, the State of Alaska, and Exxon Corporation for damages from the Exxon Valdez Oil Spill to Publicly-Owned natural resources provided for a "Reopener for Unknown Injury" not anticipated at the date of the settlement; and

Whereas, scientists have documented long-term and continuing ecological damage and injuries from the *Exxon Valdez* oil spill that could not have been reasonably anticipated or known at the time of the 1991 settlement; and

Whereas, only 7 of the 30 resources or species listed by the Exxon Valdez Oil Spill Trustee Council as damaged and injured by Exxon have recovered; and

Whereas, species and resources listed by the Exxon Valdez Oil Spill Trustee Council as injured have not recovered, including common loons, harbor seals, cormorants, harlequin ducks, pigeon guillemots, clams, intertidal communities, marbled murrelets, sea otters, killer whales, mussels, pacific herring, commercial fishing and subsistence; and

Whereas, unanticipated injury continues from highly volatile lingering oil deposits that remain buried on publicly owned land where scientists estimate at least 20 more years will be required for the deposits to naturally degrade; and

Whereas, the Exxon Valdez Oil Spill Trustee Council Public Advisory Committee represents numerous individuals, communities, organizations and stakeholder groups that have been adversely affected by this unanticipated injury.

Now therefore be it resolved that the Exxon Valdez Oil Spill Trustee Council Public Advisory Committee hereby requests that the Trustee Council and its member agencies ensure that all available means are pursued to restore publicly owned wildlife, lands and ecosystems services that have suffered significant and unanticipated injury as a result of the Exxon Valdez Oil Spill.

Approved and Adopted this 6th day of March, 2006 by the Exxon Valdez Oil Spill Trustee Council Public Advisory Committee.

EVOS Trustee Council PAC

Date

REVISED PAC
CHARTER

CHARTER
EXXON VALDEZ OIL SPILL PUBLIC ADVISORY COMMITTEE

1. Official Designation: *Exxon Valdez* Oil Spill Public Advisory Committee.
2. Objectives and Scope: In accordance with and pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America, through the Department of Justice, and the State of Alaska, through the Attorney General, on August 27, 1991 and approved by the United States District Court for the District of Alaska in settlement of United States of America v. State of Alaska, Civil Action No. A91-081 CV, hereinafter referred to as the MOA, the Public Advisory Committee shall advise the Trustees (State of Alaska Department of Law, State of Alaska Department of Fish and Game, State of Alaska Department of Environmental Conservation, U.S. Department of Agriculture, the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, and the U.S. Department of the Interior) through the Trustee Council with respect to the following matters:

All decisions relating to injury assessment, restoration activities, or other use of natural resource damage recoveries obtained by the Governments, including all decisions regarding:

 - a. Planning, evaluation, and allocation of available funds;
 - b. Planning, evaluation, and conduct of injury assessments and restoration activities;
 - c. Planning, evaluation, and conduct of long-term monitoring and research activities;
 - d. Coordination of a, b, and c.
3. Period of Time Necessary for the Committee Activities: By order of the District Court for the District of Alaska, the Public Advisory Committee is to advise the Trustees, appointed to administer the fund established in settlement of United States v. Exxon Corporation, Civil Action No. A91-082, and State of Alaska v. Exxon Corporation, Civil Action No. A91-083, both in the United States District Court for the District of Alaska, in all matters described in Paragraph V.A.1 of the MOA referenced above. Final payment into the fund was September 1, 2001. The requirement for the Public Advisory Committee will continue throughout the life of the settlement.
4. Official to Whom the Public Advisory Committee Reports: The Public Advisory Committee shall report to the *Exxon Valdez* Settlement Trustee Council through the Chair of the Public Advisory Committee at Trustee Council meetings. Other members of the Committee may report with the Chair, as appropriate. The Trustee Council's regular agenda shall include a period during which the Public Advisory Committee representative(s) may report on its activities, ask questions of the Trustee Council, and be available for questioning by the Trustee Council. The U.S. Department of the Interior is the designated Federal agency to which the Public Advisory Committee reports to ensure compliance with the Federal Advisory Committee Act, including the responsibility of

ensuring the necessary support for the Public Advisory Committee. The Designated Federal Officer is the Alaska Office of Environmental Policy and Compliance's Regional Environmental Assistant, or his/her designee.

5. Administrative Support: Administrative support for the Public Advisory Committee shall be provided by the Trustee Council's Executive Director. The Executive Director shall prepare an annual budget for the Public Advisory Committee. The budget shall provide the Public Advisory Committee such funds as the Trustee Council deems appropriate for administrative support for the Public Advisory Committee, from the *Exxon Valdez* Oil Spill Investment Fund established as a result of the settlement of United States v. Exxon Corporation and State of Alaska v. Exxon Corporation. The estimated annual operating cost for the Public Advisory Committee is \$60,000.00, including an estimated 3 staff years.

Deleted: 71

Deleted: 5

6. Public Advisory Committee Membership, Selection, and Service: The Public Advisory Committee shall consist of 13 members, including a Chair and Vice-Chair. One member will be appointed to represent each of the interests identified below.

Deleted: 20

Deleted: At least 0

Deleted: one of

Deleted: 14

Deleted: , but no more than three members shall be appointed for any given interest

- a. Qualifications for Service - Representatives shall be chosen based on their demonstrated knowledge of the region, peoples, or principal economic and social activities of the area affected by the *Exxon Valdez* oil spill, roughly the northern Gulf of Alaska, or by demonstrated expertise in public lands and resource management or research as it relates to restoration, as applicable. Members shall be appointed to represent a balanced representation of the following interests/qualifications that are prevalent in the affected area:

(1) aquaculture and mariculture: organizations and individuals involved in these industries, including fish hatcheries and oyster/shellfish farming, etc.

(2) commercial fishing: organizations and individuals involved in commercially fishing for salmon, halibut, herring, shellfish and bottom fish; including boat captains and crews, cannery owners/operators, and fish buyers, etc.

(3) commercial tourism: organizations and individuals involved in promoting or providing commercial travel or recreational opportunities, including charter boating, guiding services, visitor associations, boat/kayak rental companies, etc.

(4) recreation users: organizations and individuals involved in the broad spectrum of recreation activities that occur within the area, including kayaking, power boating, sailing, sightseeing, etc.

(5) conservation and environmental: organizations and individuals interested in the wise use and protection of natural resources.

(6) local government: representatives of the incorporated cities and boroughs in the affected area.

(7) Native landowner: representatives of the regional or village corporations established by the Alaska Native Claims Settlement Act in the affected area.

(8) tribal government: representatives of federally-recognized tribes in the affected area.

(9) science/technology: organizations, institutions, and individuals involved in, or with expertise in, scientific and research aspects of the affected area/resources and/or the effects of the oil spill and/or the technical application of scientific information.

(10) sport hunting and fishing: organizations and individuals involved in hunting and/or fishing for pleasure.

(11) subsistence: individuals who customarily and traditionally use wild renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles; and for customary trade.

(12) regional monitoring programs: organizations and individuals involved in monitoring and reporting on environmental conditions in the affected area, including monitoring for pollution and the status of biological resources, etc.

(13) public-at-large: individuals who meet the general qualifications in paragraph 6.a, and may or may not meet additional interest qualifications.

Deleted: ¶

¶
... (12) marine transportation: organizations and individuals involved in transport of goods and services in marine waters, including piloting, tug operations, barge operations, oil tankers and pipelines, shipping companies, etc.

Deleted: 13

Deleted: 14

- b. Nomination and Selection - Nominations for membership may be submitted by any source. The Science and Technical Advisory Committee may nominate a member to represent science/technical interests. From these nominations the Trustee Council will recommend membership to the Trustees, and following selection by the Trustees, the Secretary of the Interior appoints those selected by the Trustees.

Deleted: shall

Deleted: at least one, but not more than three,

Deleted: s

- c. Minimum Term - Each member may serve two years from the date of appointment. Members are eligible for re-nomination and reappointment at the close of their terms. With consent of

the Trustees, the Secretary of the Interior may remove a member or officer of the Public Advisory Committee.

- d. Officers - The Public Advisory Committee shall have a Chair and a Vice-Chair elected by the membership.

- e. **ETHICS RESPONSIBILITIES OF MEMBERS**

No member shall participate in any matter specifically concerning a lease, license, permit, contract, claim, agreement, or related litigation in which the member has a direct financial interest.

- 7. Expenses: Travel, per diem, and administrative support shall be borne by the Trustee Council using funds from the *Exxon Valdez* Oil Spill Investment Fund established in settlement of *United States v. Exxon Corporation* and *State of Alaska v. Exxon Corporation*. While away from home or regular place of business in performance of business of the Public Advisory Committee, members shall receive travel expenses, including per diem in lieu of subsistence, at the applicable government rate. Members will not receive compensation for their time spent on Public Advisory Committee business.

- 8. Public Advisory Committee Meetings and Records: The Public Advisory Committee shall meet no less than two times per year.

- a. All Public Advisory Committee meetings will be open to the public. Any member of the public is permitted to file a written statement with the Public Advisory Committee and any member of the public may speak at a Public Advisory Committee meeting.
- b. Detailed minutes of all meetings, including the time, date and place of the meeting, names of the Public Advisory Committee members and other staff of the Trustee Council present, names of the public who presented oral or written statements, an estimate of the number of other public present, an accurate description of each matter discussed and each matter resolved, if any, by the Public Advisory Committee, shall be prepared and made available to the public through the Executive Director. The Chair shall certify to the accuracy of all minutes of the Public Advisory Committee.
- c. Meetings of the Public Advisory Committee shall be held at a reasonable time and in a place reasonably accessible to the public. Notice of meetings shall be published in accordance with AS 44.62.310(e), AS 44.62.175 and 41 CFR 102-3.150.
- d. All accounts and records of the activities and transactions of the Public Advisory Committee shall be kept and maintained by the Staff of the Executive Director and, subject to the provisions of 5

Deleted: A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's family or minor children, unless authorized by the Designated Federal Officer. Compensation from employment does not constitute a financial interest of the member so long as the matter before the Public Advisory Committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory obligations to which a member may be subject.

U.S.C. section 552, such accounts and records shall be available for public inspection at the offices of the Executive Director.

- e. All rules and procedures governing the proceedings of the Public Advisory Committee must be approved by the Trustee Council.
9. Administrative Authority: The Public Advisory Committee functions are advisory only, and its officers shall have no administrative authority by virtue of their membership. The Trustee Council, through the Executive Director, shall procure all needed space, supplies, equipment, and support for the Public Advisory Committee.
10. Termination Date: The Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), requires that the Public Advisory Committee shall terminate two years from the date of filing of this Charter unless the Committee is renewed before that date in accordance with the requirements of that Act.
11. Authority: This Public Advisory Committee is established as mandated by Paragraph V.A.4 of the MOA and shall be located in Alaska. Additional authority for its creation is found in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. subsection 9601 et seq.

Secretary of the Interior

Date Signed: _____

Date Filed: _____

COMMENTS

My name is Jeff Short. I am a research chemist at the Auke Bay Laboratory with the National Marine Fisheries Service. I have worked within this process for a long time – since its inception, in fact. During that time, I have participated in the development of what is now a considerable body of work elucidating the toxicity of oil pollution, and the fate of the oil from the spill. It has been a real privilege to be able to work on these projects, along with such a capable group of colleagues at the Auke Bay Lab and at other agencies and institutions, and I want to thank the Council for your steadfast support, especially during those periods of controversy that sometimes ensued.

Although we always got the support we needed, there were times when funding for projects that turned out to be crucial, hung by a thread. Our most important findings resulted from studies that were the riskiest, a good example being our 2001 field study that showed much more oil was in the Sound than we thought. You might think that funding for a study like that would lie at the very heart of the Council's mission, but actually, it took years to persuade the Council to even consider funding it.

Why? Because, we thought we already knew everything we needed to know about how toxic oil was, we thought we knew that what little oil remained was on the surface of the upper intertidal where it couldn't hurt anything. We thought that if we ever did take another look at oil persistence, it would be real important to stick with the same flawed methods that led to these erroneous conclusions. Because of this, it seemed more important to understand how the ecosystem works so we can accelerate the restoration of injured species. In the end, it was by repeatedly pointing out the untested assumptions, and the anecdotal evidence from the communities suggesting otherwise, that the Council finally agreed to a scientifically rigorous assessment.

I mention all this because I am very concerned that we're in a similar situation today, but in precisely the opposite context. Just as I did not agree that studies on lingering oil were irrelevant, neither do I think that ecosystem studies are. To illustrate why, consider the case of herring. Although there are suspicious circumstances that might lead reasonable people to conclude that the oil spill contributed to the massive disease outbreak in 1992, the linkage is far from absolute. I doubt we'll ever be sure of the connection, but in any case we don't have a satisfactory scientific account for herring population dynamics since 1989, and the population remains depressed.

The fact that disease seems to be what's now keeping the population from recovering means that the herring are stressed. Disease outbreaks don't just occur at random, they're much more likely when many individuals are already weakened, for example by starvation. Being cold blooded, fish tolerate higher temperatures when there's lots of food around, and that's when they grow quickest. When there's little food around, they seek cold water to slow their metabolism and stretch out their reserves. So if we're going to make progress here, we not only need to study the diseases directly, we also need to have some idea of the temperatures and food supplies in their habitat. This is precisely the information that would be provided by the four ecosystem studies before you today.

The Batten study will give us our only look at food supplies for herring across a wide swath of their habitat in the Gulf of Alaska, where they spend much of their time feeding.

The other three studies interact to give us our only look at how the temperatures are changing, and in addition, allow us to track currents, which are crucial to figuring out whether young of the year herring may be carried to places where food is abundant, or not.

Because of the interactions between food, temperature, stress and disease, we need to track all of them if we're to have a prayer of figuring out the interactions. Focusing only on disease while discounting the environmental factors is like running a race by hopping on one foot. The reason these studies have received such strong support from the scientists, ~~myself~~ ^{including the} ~~included~~, is because no matter what studies are eventually funded to figure out why herring aren't recovering, these ecosystem studies will be crucial to their success. Basically, we think that if you're going to address herring at all, you're going to need these particular four studies, and this no matter what specific studies are funded later.

So it seems to me the issue at hand here today is whether herring restoration is going to be addressed or not. If we're going to do a serious job of attempting to accelerate restoration, we're going to need both the ecosystem studies before you today, as well as more directed studies on the diseases and on the early life history of the fish. The object shouldn't be which foot we're going to hop on, it should be to win the race.

The four studies before you have been carefully and thoroughly vetted by the Council's scientific process.

They are run by some of the most capable and respected scientists in their fields in the world,

These PIs have gone to heroic lengths to insure they are efficient in terms of the volume of useful data produced per dollar expended, and are carefully coordinated so the whole is much greater than the sum of the parts.

And the data produced by them are essential for interpreting a wide array of more focused studies on individual resources.

Because they are so broadly useful, their costs should be amortized across all these more focused studies, and it is true that other scientists and agencies will undoubtedly benefit from the data produced by them, so it makes sense to seek collaborative funding for them. But that is something that needs to be worked on over the coming months. Meanwhile, the physical infrastructure for these projects is in jeopardy right now, and all that is sought today is a commitment for one more year while these other issues are sorted out.

I applaud the renewed commitment to the core responsibilities of the Council that has been lately expressed by the various Council members, and I appreciate the difficult questions that have been raised, questions that I believe deserve sensible, cogent replies. The herring situation is an especially difficult one, not subject to silver bullets. It will take a very thoughtful and carefully integrated science plan to have any hope of making progress, and even then progress isn't assured. But what is assured is the failure of an ill-conceived plan. By supporting these four ecosystem projects, you will be enlarging the foundation of a program that has a reasonable chance of success, while foreclosing on an alternative that is almost sure to fail, and that is why I urge you to approve these projects without delay.