Exxon Valdez Oil Spill Trustee Council

February 26, 2010

Teleconference

Meeting: 800.315.6338, code: 8205

Retreat: 800.315.6338, code: 8209

Womac, Cherri G (EVOSTC)

From: Sent:	Womac, Cherri G (EVOSTC) Wednesday, February 24, 2010 2:41 PM
To:	Craig O'Connor (Craig.R.O'Connor@noaa.gov); Daniel Sullivan (daniel.sullivan@alaska.gov); Denby S. Lloyd (denby.lloyd@alaska.gov); Jim Balsiger (jim.balsiger@noaa.gov); Joe Meade (jmeade@fs.fed.us); Kim Elton (kim_elton@ios.doi.gov); Larry Hartig (larry.hartig@alaska.gov); 'Craig Tillery (craig.tillery@alaska.gov)'; Pat Pourchot
	(Pat_Pourchot@ios.doi.gov); 'Steve Zemke (szemke@fs.fed.us)'; 'Tom Brookover (tom.brookover@alaska.gov)'; Craig Tillery (craig.tillery@alaska.gov); Dawn Germain (down germein@ges.usde.gov); Elias M. Heich (cline baish@alaska.gov); Cine Bolt
	(regina.belt@usdoj.gov); Jennifer Schorr (jennifer.schorr_evostc@alaska.gov); Michael Zevenbergen (Michael Zevenbergen@usdoj.gov); Rich Myers (richard myers@sol.doj.gov);
	Ronald McClain (Ronald.McClain@usda.gov); Schorr, Jennifer L (LAW); Jenifer Kohout (Jenifer Kohout@fws.gov); Carol Fries (carol fries@alaska.gov); Dede Bohn
	(Dede_Bohn@usgs.gov); Marit Carlson-VanDort (Marit.Carlson-Van.Dort@alaska.gov); Peter Hagen (Peter.Hagen@Noaa.gov); Tom Brookover (tom.brookover@alaska.gov)
Cc:	'Carol Schirmer (Carol Schirmer@NOAA.gov)'; 'Claire Fishwick-Leonard
	(claire.fishwick@alaska.gov)'; Lesia Monson (Lesia_Monson@ios.doi.gov); 'Mary Schlosser (mary.schlosser@alaska.gov)'; 'Nancy Korting (nancy.korting@alaska.gov)'; 'Pat Kennedy ';
	Tauline Davis (Tauline_Davis@ios.doi.gov); Carrie Holba (carrie.holba@alaska.gov); Carrie Holba (carrie@arlis.org); Catherine Boerner (catherine.boerner@alaska.gov); Cherri Womac (cherri.womac@alaska.gov); Linda Kilbourne (linda.kilbourne@alaska.gov); Michael Schlei (michael schlei@alaska.gov); Benee, James (renee james@alaska.gov)
Subject:	Revised Feb 26 TC mtg agenda and new resolution
Attachments:	Draft TC Agenda 022610 draft revsd.pdf; Draft Resolution 10-05 additional remodel costs.pdf

Please replace the previously sent agenda with the attached revised agenda. The revision is the removal of new PJ 10100708 from the action items. PJ 10100708 has been withdrawn.

Also attached is a resolution requesting reauthorization of previously disbursed funds toward the EVOS office remodel.

Please contact me if you have any questions.

Cherri

Womac, Cherri G (EVOSTC)

From: Sent: To:	Womac, Cherri G (EVOSTC) Thursday, February 18, 2010 4:40 PM Craig O'Connor (Craig.R.O'Connor@noaa.gov); Daniel Sullivan (daniel.sullivan@alaska.gov); Denby S. Lloyd (denby.lloyd@alaska.gov); Jim Balsiger (jim.balsiger@noaa.gov); Joe Meade (jmeade@fs.fed.us); Kim Elton (kim_elton@ios.doi.gov); Larry Hartig (larry.hartig@alaska.gov); 'Craig Tillery (craig.tillery@alaska.gov)'; Pat Pourchot (Pat_Pourchot@ios.doi.gov); 'Steve Zemke (szemke@fs.fed.us)'; 'Tom Brookover (tom.brookover@alaska.gov); Craig Tillery (craig.tillery@alaska.gov); Dawn Germain (dawn.germain@ogc.usda.gov); Elise M. Hsieh (elise.hsieh@alaska.gov); Diana Belt (regina.belt@usdoj.gov); Jennifer Schorr (jennifer.schorr_evostc@alaska.gov); Michael Zevenbergen (Michael.Zevenbergen@usdoj.gov); Rich Myers (richard.myers@sol.doi.gov); Ronald McClain (Ronald.McClain@usda.gov); Schorr, Jennifer L (LAW); Jenifer Kohout (Jenifer_Kohout@fws.gov); Carol Fries (carol.fries@alaska.gov); Dede Bohn (Dede_Bohn@usgs.gov); Marit Carlson-VanDort (Marit.Carlson-Van.Dort@alaska.gov); Peter Hagen (Peter.Hagen@Noaa.gov); Tom Brookover (tom.brookover@alaska.gov)
Cc:	'Carol Schirmer (Carol.Schirmer@NOAA.gov)'; 'Claire Fishwick-Leonard (claire.fishwick@alaska.gov)'; Lesia Monson (Lesia_Monson@ios.doi.gov); 'Mary Schlosser (mary.schlosser@alaska.gov)'; 'Nancy Korting (nancy.korting@alaska.gov)'; 'Pat Kennedy '; Tauline Davis (Tauline_Davis@ios.doi.gov)
Subject:	February 26 meeting materials
Allaciments:	To mig materials resultary 20.21p

Hello Trustees, Liaisons and Counselors,

We have a teleconferenced Trustee Council meeting scheduled for Friday, Feb. 26 at 10:00 a.m. *Teleconference number:* 800.315.6338, code: 8205. Hopefully, we will move through the agenda items fairly quickly and have time for a brief retreat discussion from around 11:30 – noon.

By June 1, the Council will have to approve a draft PAC charter, regardless of whether revisions are made. In order to accommodate that requirement, I anticipate we will be scheduling another TC meeting by late May.

Friday, Feb. 26th teleconferenced TC meeting, 10:00 a.m. - noon

The draft agenda for the TC meeting for Feb. 26th is attached and includes:

- 1. Authorization to increase lease remodel costs, if needed.
- 2. Brief summary of first set of NEPA meetings (Feb. 16-Homer, Feb. 17-Anchorage, Feb. 18-Cordova). A NEPA process planning calendar is also attached.
- 3. Any habitat matters that are ripe for moving along.
- 4. As recommended by the NOAA Lingering Oil report, two proposed project amendments have been submitted for consideration; the full amendments and an abstract for each are attached.

A. Amendment to project 10100808, Nearshore Synthesis: Sea otters and sea ducks by Brenda Ballachey. Request for approx. \$15,900.

This amendment requests funding to re-run and update the sea otter population models with four additional years of data (2006 thru 2009). The modeling results at this point are complete through 2005, and show continued depression of sea otter survival rate. The PIs now have four more years of data, and have also noted during field work an increase in sea otter abundance since 2007 at northern Knight Island. The PIs are proposing to update the models with the 2006-2009 data, to determine if sea otter survival rates are returning to pre-spill patterns, and to find out the factors (related to the source and sink populations) that underlie the recent increase in otter numbers.

B. Amendment to project 10100750-A, Evaluation of Recovery and Restoration of Injured Nearshore Resources by Jim Bodkin and Tom Dean. Request for \$20,710.

This amendment is to perform replicate surveys at northern Knight Island, in addition to the already funded single-survey of

sea otter population abundance in PWS. The replicate surveys would specifically track the process of recovery of sea otters at heavily-oiled northern Knight Island, where spill-related effects and delayed recovery of sea otters has been most evident.

Friday, Feb. 26th teleconferenced retreat discussion, if time permits:

Preparing for EVOSTC next steps- a quick check-in regarding the rough concept for the final Invitation, to be issued October 2010:

While the public process and coming months will likely require some refinement and revision, in order to be prepared in October for the conclusion of the NEPA process, we will be working with the liaisons, PAC and Science Panel to draft an invitation for release at that time. The invitation will request proposals tailored to the Council's five focus areas.

The burden will be on the proposers to come up with developed, highly-detailed proposals. The Invitation will not be highly prescriptive, which would unnecessarily restrict the proposers and make the process impracticable for the handful of entities in Alaska that are capable of responding to such an invitation. We anticipate that after proposals are received, the Trustees will make a decision as to which proposals they would like to pursue, followed by a period during which the staff can work with those proposers to accomplish any directives or questions posed by the Trustees.

Alternative proposals will also be accepted (i.e., "menu" of options for Trustees to choose among, i.e., differing percentages for new infrastructure and/or staff and elaboration on how to implement Trustees' goals, initial staging of funds and varying percentages used for admin vs. science). Elements to consider for requirement or preference in the Invitation include:

Proposal that meets Council objectives compatible organizational objectives

start-up costs: existing and proposed staffing existing and proposed infrastructure

independent science panel review independent peer review process public process third-party audit

matching funds percentage used for administration proven past performance

spill-area location

Elise

Agenda

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DRAFT 2/24/10

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 February 26, 2010, 10:00 a.m. – 12:00 p.m. Anchorage, Alaska

Trustee Council Members:

DANIEL S. SULLIVAN Attorney General Alaska Department of Law

LARRY HARTIG Commissioner Alaska Department of Environmental Conservation

DENBY S. LLOYD Commissioner Alaska Department of Fish and Game CRAIG O'CONNOR Special Counsel National Oceanic & Atmospheric Administration U.S. Department of Commerce

KIM ELTON Senior Advisor to the Secretary for Alaska Affairs Office of the Secretary U.S. Department of the Interior

STEVE ZEMKE Trustee Alternate Chugach National Forest U.S. Department of Agriculture

Meeting in Anchorage, Trustee Council Office 441 West 5th Avenue, Suite 500 Teleconference number: 800.315.6338. Code: 8205 Federal Chair:

1. Call to Order – 10:00 a.m.



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



DRAFT 2/24/10

- 2. Consent Agenda
 - Approval of Agenda*
 - Approval of Meeting Notes* January 13, 2009
- 3. Public comment 10:10 p.m. (3 minutes per person)
- Executive Director's Report
- Authorization to increase lease remodel costs if necessary*

Elise Hsieh, Executive Director

Elise Hsieh

6. Brief Summary of February NEPA meetings

Craig O'Connor NOAA General Counsel

7. Project Amendments*

Dede Bohn, USGS

- Project 10100750-A, Monitoring for Evaluation of Recovery and Restoration of Injured Nearshore Resources
- Project 10100808, Nearshore Synthesis: Sea Otters and Sea Ducks
- 8. Habitat*

Carol Fries, ADNR

9. Executive Session, as needed

Adjourn – by 12:00 p.m.

* Indicates action items

Motions

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Motions for February 26, 2010 Trustee Council teleconference

Agenda Item 2, February 26 Agenda and January 13, 2010 Meeting Notes

I move to approve the January 13, 2010 agenda as prepared.

I move to approve the January 13, 2010 Trustee Council Meeting Notes .

Agenda Item 5, lease/remodel costs

I move to approve the lease/remodel costs as presented.

Agenda Item 7, Project Amendments

I move to approve additional funding for Project 10100750-A in the amount of \$20,710 which includes appropriate GA.

I move to approve additional funding for Project 10100808 in the amount of \$15,900 which includes appropriate GA.

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DRAFT 2/16/10

Exxon Valdez Oil Spill Trustee Council

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



TRUSTEE COUNCIL MEETING NOTES Anchorage, Alaska January 13, 2010

Chaired by: Larry Hartig Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS * Kim Elton, US DOI Craig O'Connor, NOAA ** Craig Tillery, ADOL *** Denby Lloyd, ADF&G • Larry Hartig, ADEC

- Chair
- * Steve Zemke alternate for Joe Meade
- ** Craig O'Connor alternate for James Balsiger
- *** Craig Tillery alternate for Daniel Sullivan

The meeting convened at 1:04 p.m., January 13, 2010 in Anchorage at the EVOS Conference Room.

1. Approval of the Agenda

APPROVED MOTION: Motion to approve the January 13, 2010 agenda

Motion by Lloyd, second by O'Connor

2. Approval of November 18, 2009 meeting notes

APPROVED MOTION:

Motion to approve the November 18, 2009 meeting notes

Motion by O'Connor, second by Zemke

There were no public comments offered.

3. NOI/EIS/NEPA

APPROVED MOTION: Motion to approve NOAA moving forward with the Notice of Intent to the public regarding the reassessment of the 1994 Environmental Impact Statement

Motion by Lloyd, second by Elton

4. Habitat

APPROVED MOTION: Motion to approve the use of existing funds for following through on appraisals and other due diligence activities on two Coal Creek parcels, lots 4 and 5

Motion by Tillery, second by Elton

APPROVED MOTION: Motion to approve the use of existing funds for due diligence, which may include appraisal work, on lands currently owned by Ouzinkie that the Council has already acquired in the Perenosa Bay area

Motion by O'Connor, second by Lloyd

6. Adjourn Motion to adjourn by O'Connor, second by Tillery

Off the record 2:08 p.m.

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Meeting Summary DRAFT

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

B. DATE/TIME: January 13, 2010

C. LOCATION: Anchorage, Alaska

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

Principal Interest
Marine Transportation
Aquaculture/Mariculture
Conservation/Environmental
Regional Monitoring
Commercial Tourism
Recreation Users
Science/Technical
Native Landowners
Subsistence
Sport Hunting/Fishing
Tribal Government
Commercial Fishing
Public-at-Large

E. NOT PRESENT:

<u>Name</u>	Principal Interest
Jason Brune	Public-at-Large
Vacant	Local Government

F. TRUSTEE COUNCIL:

Name	Agency
Craig O'Connor	National Oceanic and Atmospheric Administration (NOAA)
Kim Elton	U.S. Department of the Interior (DOI)
Steve Zemke	U.S. Forest Service (USFS)
Larry Hartig	Alaska Department of Environmental Conservation (ADEC)
Craig Tillery	Alaska Department of Law (ADOL)
Denby Lloyd	Alaska Department of Fish and Game (ADF&G)

G. OTHER PARTICIPANTS:

Name	Organization
Elise Hsieh	Executive Director, Trustee Council
Doug Mutter	Designated Federal Official, DOI
Cherri Womac	Trustee Council Staff
Catherine Boerner	Trustee Council Staff

Linda Kilbourne Trustee Council Staff Michael Schlei Trustee Council Staff Trustee Council Staff Carrie Holba Renee James Trustee Council Staff Barat LaPorte Patton Boggs **Carol Fries** Alaska Department of Natural Resources (ADNR) Laurel Jennings NOAA Jennifer Kohout U.S. Fish and Wildlife Service (FWS) David Wigglesworth FWS Tom Brookover ADF&G Tim Richardson American Land Conservancy Ron Marcoux Rocky Mountain Elk Foundation Alicia Reft Karluk IRA Tribal Council Marit Carlson-VanDort ADEC Nancy Bird (T) Prince William Sound Science Center (PWSSC) RJ Kopchak (T) PWSSC Dede Bohn (T) U.S. Geological Survey

H. SUMMARY:

At 9:30 a.m. Stacy Studebaker, PAC Chair, opened the session with a welcome and introductions by all in attendance. She thanked PAC and Trustee Council members for attending the joint dinner on January 12, 2010. Doug Mutter took roll and confirmed that a quorum was present. The August 26, 2009, PAC meeting summary was approved.

Elise Hsieh gave the Executive Director's report. She stated that the Notice of Intent (NOI) document (discussed below) shows the long-term direction that the Trustee Council is heading with the restoration program. Oil spill restoration efforts are not designed to continue indefinitely. Centralized administration and staff are planned to be eliminated by the end of 2013. There are five major areas of continued restoration work proposed in the NOI: herring, lingering oil, long-term monitoring of marine conditions, harbor protection and marine restoration, and habitat acquisition and protection. The Trustee Council would meet only annually to review the status of restoration work. The National Environmental Policy Act (NEPA) documentation update of the restoration program is needed, and it offered an opportune time to present a phase-out strategy. Craig O'Connor noted that no firm decisions had yet been made and that these ideas are open for public input. John French encouraged the Trustee Council to not just listen at public sessions, but be open to the discussion of ideas. O'Connor replied that they would do that.

Studebaker opened the meeting for public comments. (1) Ron Marcoux, thanked the Trustee Council and staff for their work in moving forward on the Afognak Island land purchases and easements, and he pointed to the excellent professional staff work done by Carol Fries and Jen Schorr. (2) Tim Richardson concurred with Ron and stated that many in the U.S. are aware of the good work being done by the EVOS group. (3) Alicia Reft requested that the Trustee Council do a legal opinion on the ownership issues surrounding the Karluk property, where a dispute between the tribe and regional Native corporation was holding up land acquisition work. She said they were going to submit a small parcel nomination within the next month. O'Connor stated that the tribal/corporation issues were not within the purview of the Trustee Council. (4) RJ Kopchak said it was good for the Trustee Council and the PAC to share the table; and he stated he was pleasantly surprised at the proposed close-out approach of the Trustee Council, but that the devil was in the

details, and he will submit written comments.

Mutter reviewed the charter renewal process and proposed revisions to the PAC Charter. He explained that the PAC was established under the purview of the Federal Advisory Committee Act (FACA), which requires that committees sunset every 2 years. The time to renew the PAC charter is October 2010; however it takes some time to get through the DOI approval process and be signed by the Secretary of the Interior, so the Charter needs to be ready for submission by June. Some reformatting has been done to conform to new General Services Administration FACA committee charter guidelines, which included adding a section on record-keeping. The proposed change in the make-up of the PAC membership was explained. The membership is proposed to be reduced from 15 to 8 to cut costs and make the PAC more efficient. The balance of interests affected by the oil spill would still be retained. Hsieh noted that over the long-term, the use of a PAC, and/or its size and make-up may change, depending on the final program direction—there are five proposed funded work areas, as opposed to over 90 funded projects in the past. She is looking at cutting all program costs.

The PAC members discussed the proposed changes in PAC make-up. John French stated that independent oversight of delegated programs was essential. Jennifer Gibbins said that, while good to look at the long-term, continued public participation is important and the PAC should not be reduced in size. The PAC allows for public engagement and offers various perspectives. Restoration is about public resources. Torie Baker noted that the PAC has been successful and has not been driven by the need for consensus. She asked about to role of the agency liaisons. Hsieh said that liaison roles will also be examined. David Totemoff questioned what would become of the past work if things are downsized. Hsieh stated that the Trustee Council is based only on spill settlement funds and was never planned to continue forever.

Studebaker distributed a handout indicating her suggestion for reducing the PAC to nine positions, which included a regional monitoring seat. Baker, French, and Amanda Bauer all supported this suggestion. She continued, stating that the PAC should continue to have at least two meetings per year, a field trip every other year, and have the PAC chair attend Trustee Council meetings. Gary Fandrei asked if the role of the PAC was changing. Hsieh answered that after the next two year period, things would probably be different. O'Connor said that we don't know the answer to the role question for a PAC after the structural changes are made, but for now, the Trustee Council does not want to lose the intellectual input from the PAC, but does want to get the PAC to a manageable level.

Mutter explained how he determined that the eight remaining PAC seats proposed provided a balanced view for the restoration program, based on injured resources and services. Lori Polasek asked about the interaction of the science panel and the PAC. Hsieh said there would be a science panel as needed. Kurt Eilo said his concern was that the PAC continues to provide a vital function for the restoration program, rather than focus on PAC size. He believes it is good for the Trustee Council to have a PAC as an advisor and that during a transition period public outreach should be expanded not reduced. Patience Andersen Faulkner noted that PAC members are volunteers representing the public and that it seems premature to reduce public input at this time. Bill Rosetti stated that the PAC was a small investment, given the large amount of funding involved. French said the more public representation, the better, given the wide variety of interests affected by the spill. He also feels that the science seat on the PAC provides a public oversight is required when paring down a program.

O'Connor reiterated that public input was critical to the Trustee Council and that a structured mechanism has been needed. He wondered if the PAC was a surrogate to the public. Studebaker said that as issues become controversial, she hears from the public. Mutter noted that the Trustee Council clarified several years ago that the PAC was but one facet of the Council's public outreach and input process.

O'Connor summarized recent reports on lingering oil in Prince William Sound (previously sent out). More fresh, toxic oil has been found in beach sediments in the spill area than anyone predicted. While this has been addressed in the governments' reopener with Exxon, it remains unresolved. The Trustee Council recognized the need to determine the extent of the problem and how it might be affecting restoration of injured resources. Studies were undertaken to determine where the oil was, how much was there, and why. As a result, a modeling tool was developed. The conclusion is that 52 sites around Prince William Sound (an area of 2.5 to 3 kilometers) contained pockets of oil. The next phase of the effort was to answer the "so what" question. What is the impact? By measuring an enzyme in tissues, the reaction of organisms can be determined. The impacts to the population of a species and to individual organisms (even sub-lethal affects) need to be examined. It appears that there are no negative population-level impacts still occurring. Sea ducks and sea otters appear to have effects from oiling, however. The final question is "what do we do about the oil?" The lingering oil is below the surface in sediments where no sea water or oxygen can penetrate to help the oil biodegrade. Oxygen is the limiting factor. Work is still needed to determine how best to solve the problem without doing more harm than good.

Larry Hartig stated that it was not the legal duty of the Trustee Council to clean-up the sound, and that the lingering oil could be a violation of State water quality standards, creating an impaired water body. The State is working with the Trustee Council to avoid duplication and inconsistencies in approaches to dealing with the issue.

Laurel Jennings gave a status report on the update of NEPA documentation for the restoration program. An NOI to prepare a Supplemental Environmental Impact Statement (SEIS) has been drafted and, after Trustee Council approval, will be published in the *Federal Register*. This will initiate a public comment period lasting until April 1, 2010. Six community visits are planned and correspondence to local and Tribal governments will be sent, inviting input. Afterward, a Draft SEIS will be prepared and given public review. Comments will be considered and addressed, and a Final SEIS will be prepared for a last public review before a decision is made and Record of Decision issued. A press release will be issued two weeks before public meetings are scheduled. Studebaker suggested that an informational press release be issued so that local people will have enough information to make a decision about attending. Larry Evanoff agreed that it was often difficult to get people to attend a meeting without giving them the context of the discussions. John French advised to reach out in as many ways as possible.

Fries reported on the latest developments with several habitat protection efforts (sent out previously). A small parcel on Coal Creek (Kenai Peninsula) is moving forward with due diligence work. Fandrei noted that the parcel had some historical artifacts and that a nearby parcel had issues with fish passage—he is glad the parcel will be protected. A larger, Ouzinkie-owned parcel on Afognak Island is ready for due diligence work. Additional parcels in the area may be considered in a phased approach to completing habitat protection for northern Afognak Island. Work on habitat protection for this area began in 1993, with other purchases coming later. Part of the area is in State Park and part in the Kodiak National Wildlife Refuge. A group of several

partners have participated with the Trustee Council in the effort. A parcel on Tustemena Lake proposed for FWS management is also being worked on. Studebaker thanked Fries for all her hard work over the years on habitat protection efforts.

Studebaker asked for closing PAC member comments: John Renner said that he represented a 350-member fishing industry organization, and that they felt disenfranchised and that their issues of concern were being under addressed. Jennifer Gibbins said she would like to know more about the role of the PAC in where the Trustee Council was going. David Totemoff noted that he wore many hats: oil field worker, village resident, subsistence user, Native landowner, and Tribal government leader. John French said he would be making technical comments on the lingering oil research. Patience Andersen Faulkner stated that PAC members should pass along the information they get from these meetings to community members.

Steve Zemke stated that the Trustee Council needed to hear about people's concerns in their comments on the NOI. Kim Elton thanked the PAC for the illuminating discussion on the PAC Charter.

The meeting was adjourned at 11:55 a.m.

I. FOLLOW-UP:

- 1. The Trustee Council will decide on PAC Charter revisions by June 2010
- 2. PAC members are invited to comment on the NOI by April 1, 2010

J. NEXT MEETINGS:

--PAC conference call, date to be determined

K. ATTACHMENTS (handed out at the meeting):

1. Studebaker proposal for PAC membership

L. CERTIFICATION:

PAC Chairperson

Date

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EVOS NEPA 2010

Tasks scheduled for: Completion of EVOS SEIS by Oct. 1st 2010

Task	Starting	Ending	Task	Starting	Ending
Scoping process/writing of chapters 1 and 3 of Draft SEIS	1.22.2010	4.1.2010	NOAA PPI internal review	7.31.2010	8.13.2010
Completion of Draft SEIS and incorporate public comments	4.2.2010	4.30.2010	Incorporation of NOAA PPI comments into Final SEIS	8.14.2010	8.20.2010
NOAA PPI internal review	5.1.2010	5.14.2010	EPA publication of Final SEIS	8.21.2010	9.3.2010
Incorporation of NOAA PPI comments into Draft SEIS	5.15.2010	5.21.2010	Cooling off period for Final SEIS	9.4.2010	10.1.2010
EPA publication of Draft SEIS	5.22.2010	5.28.2010	Date of Final SEIS release	10.1.2010	10.1.2010
Public comment period for Draft SEIS	5.29.2010	7.16.2010		[Pick The Date]	[Pick The Date]
Respond to public comments	7.17.2010	7.30.2010		[Pick The Date]	[Pick The Date]

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Report on Recent Lingering Oil Studies

I. Introduction

In the 20 years since the *Exxon Valdez* Oil Spill, the Trustee Council has commissioned numerous scientific studies to evaluate effects of the spill on the environment. At the time of the spill, most scientists believed that, within a few years, the process of weathering would either break down and decompose the oil, or would cause it to turn into a form of asphalt that would have little potential to release toxic components into the environment. Contrary to these expectations, oil persists at some sites in Prince William Sound and the Gulf of Alaska in a relatively unweathered and potentially toxic condition. Therefore, the Trustee Council has undertaken several studies to determine the impact that this lingering oil may have on the environment and the feasibility of measures to address any potential adverse effects.

This report contains summaries of recent studies to address lingering oil. These studies can be divided into three categories: (1) development of a model to identify the geological and hydrological features that are most likely to result in the persistence of unweathered oil; (2) field and laboratory studies of the species most likely to show the effects of exposure to lingering oil; and (3) field and laboratory studies to evaluate the feasibility of treating lingering oil to reduce its potential impact.

II. Extent of Lingering Oil

In 2007 the Trustee Council funded a project to develop a model for predicting the likelihood that lingering subsurface *Exxon Valdez* oil would be found within individual shoreline segments of Prince William Sound and the Gulf of Alaska. The model that was generated used oiling data from 264 shoreline segments randomly sampled in 2001, 2003, and 2007 by NOAA's Auke Bay Laboratory and Research Planning, Inc. and from six oiled sites in the Gulf of Alaska found by representatives of the United States Geological Survey conducting studies there in 1999 and 2006. The model also incorporated various geomorphological characteristics of the nearly 2,000 kilometers of shoreline in Prince William Sound and the Gulf of Alaska that were oiled, including shoreline type, topographic and bathymetric complexity, exposure to wave action, beach slope, grain size of beach materials, and subsurface hydrology. Just as a coastal geomorphologist would integrate all of the factors when evaluating a shoreline segment for the likelihood of having subsurface oil, the model simultaneously evaluates all of the variables to make a similar assessment in a rigorous, unbiased manner. The model was validated with additional field surveys in 2008.

The final model indicates that there are a significant number of unsurveyed locations in Prince William Sound and the Gulf of Alaska that likely contain lingering *Exxon Valdez* oil

below the surface. The number of such sites that the model generates differs depending on the confidence threshold and the level-of-oiling criteria. For example, using a 90% positive predictive value cutoff, the model predicts that there are 167 sites with any subsurface oil; however, there are 64 sites with moderately or heavily oiled residues, totaling 3.57 kilometers of shoreline. Using inputs of moderately or heavily oiled residues at greater than 15% frequency of oiled pits, at the 90% positive predictive value threshold, there are 52 sites totaling 2.62 kilometers of shoreline. This information can be used to prioritize beach segments in Prince William Sound and, to a lesser extent, the Gulf of Alaska, for remediation.

III. Environmental Effects

To evaluate potential effects of lingering oil on the environment, field and laboratory studies have focused on vertebrates most likely to be exposed to lingering oil in the intertidal environment, including several species of birds, sea otters, and fish.

A. Birds

Bird studies have focused primarily on harlequin ducks, although other species that feed in intertidal areas (Barrow's goldeneyes, black oystercatchers, and pigeon guillemots) have been examined. Studies have addressed both exposure to oil and its potential effects.

To consider exposure, cytochrome P4501A was measured in all four bird species. P4501A is part of vertebrates' systems for breaking down certain compounds, including those found in oil. For years after the spill, birds were exposed to oil, as shown by higher levels of P4501A in oiled areas compared to unoiled areas in all species measured. The most recent data, however, suggest declines in exposure. In the case of Barrow's goldeneye, 2009 data show little difference in average P4501A values between oiled and unoiled areas. Similarly, 2008 data from pigeon guillemots showed no difference between oiled and unoiled areas. However, black oystercatchers had slightly higher P4501A on oiled areas during 2008, and harlequin ducks in 2009 had considerably elevated P4501A on oiled areas, indicating that at least some bird species continued to be exposed to oil.

A study has been conducted recently that shows that other potential causes of P4501A expression, specifically polychlorinated biphenyls (PCBs), were not higher on oiled areas in harlequin ducks or sea otters. This finding indicates that P4501A results can be confidently interpreted as measures of exposure to lingering oil.

Potential effects of oil exposure in harlequin ducks were addressed by comparing survival of female ducks over the winter in oiled versus unoiled areas. Survival of females is an important factor determining duck population trends. During the mid-1990's, survival rates were significantly reduced in areas affected by the spill. A population model showed that this difference would lead to lack of population recovery in oiled areas. A study conducted during

- 2 -

2000-03, however, indicated that female winter survival rates in oiled areas had returned to normal and the population model indicated that duck populations should be on a trajectory to recover, with full recovery about 24 years after the spill. This appears to be corroborated by the latest surveys of wintering harlequin ducks, which show slight numerical increases in oiled areas. Further data will be needed to determine whether this trend will continue.

Additional studies are being conducted to determine whether there are adverse effects from oil exposure on harlequin ducks at the cellular level. These studies are still in progress.

B. Sea Otters

Sea otters often dig pits underwater in soft sediments to find prey. Digging pits in intertidal areas places them at risk of exposure to lingering oil. Recent otter studies are intended to evaluate whether otters are being exposed and adversely affected by lingering oil.

Exposure studies are designed to determine whether otters from areas affected by the spill continue to show exposure to oil. Recent studies have relied on measures of the induction of P4501A, as well as the expression of other genes that can be caused by oil exposure. These studies are currently underway.

Another exposure study was designed to determine the degree of sea otter use of intertidal zones, through use of time and depth recorders attached to otters. This study confirmed that foraging otters use intertidal habitat for at least some of their foraging, which means that they disturb sediments at tidal heights in which lingering oil remains. Moreover, pits dug by otters during feeding were found on beaches known to contain lingering oil.

Other studies are addressing the potential for adverse physiological effects of oil exposure on otters, through examination of gene expression related to immune response, tumor suppression, cellular stress-response and reproduction. This work is still in progress.

Population models have been used to estimate effects of oil on otter population dynamics. These models used demographic data, such as the age composition of otter carcasses, to conclude that otter populations remained depressed in heavily oiled areas up to at least 2005. The most recent data, collected in 2006-09, have not been incorporated into these models, however.

Recent surveys of otter populations show increasing numbers in the most heavily oiled areas of western Prince William Sound since 2003, in contrast to stable numbers prior to that period. Although current numbers are still below the estimated pre-spill population, this is some evidence of progress towards recovery.

C. Fish

Recent field studies also have examined two species of fish that use intertidal areas: masked greenlings and crescent gunnels, which had both shown evidence of exposure to oil in previous studies. In 2008, gunnels taken from areas that were heavily oiled during the spill continued to show elevated P4501A compared to those from unoiled areas. However, greenling did not show significant differences between oiled and unoiled areas during 2008. This difference between species is probably due to gunnels' greater use of intertidal sediments. As with the birds, reductions in levels of P4501A to background levels in some species suggest that conditions have improved.

IV. Restoration

A. Can the Lingering Oil Be Further Bio-degraded?

A microcosm study was designed to address the extent to which the lingering oil in Prince William Sound (PWS) is biodegradable given varying degrees of weathering. At the 2007AMOP conference, Exxon-Mobil consultants developed and presented an oil bioremediation index (BI) based on the degree of weathering of the oil contamination. They argued that, if the degree of weathering of oil is 70% or more, then further attempts to bioremediate it would be futile and not justified. To test this conclusion, the microcosm study collected samples of beach substrate from representative sites in PWS contaminated with oil residues with BI weathering index values of 76%, 60%, and 30%.

The results of the study demonstrated that the lingering oil is still very much biodegradable, regardless of the degree of weathering. Nutrient addition significantly stimulated biodegradation compared to natural attenuation. However, substantial biodegradation occurred in the natural attenuation microcosms, even without the addition of nutrients. This is likely due to relatively high levels of natural biogenic nitrogen that was found in the sediments.

The primary conclusion was that the reason for most of the observed biodegradation was the presence of excess dissolved oxygen, which was not present in the field. Nitrogen was a limiting factor, but oxygen was the primary one. This strongly indicates two points relating to remediation of lingering oil: first, that bioremediation appears to be a promising technology able to remove the persistent oil present in some locations in PWS, and second, any effective *in-situ* bioremediation treatment needs to introduce oxygen and nutrients in a manner that will increase their contact with the oil.

B. What Factors Are Limiting Further Bio-degradation of the Lingering Oil?

Before remediation methods can be developed to treat the lingering oil, the factors that are limiting the natural degradation of the oil must be understood. Therefore, a "limiting factors study" was designed to identify and compare the hydrogeological processes on gravel beaches with and without the presence of lingering subsurface oil. The field work for the initial study was conducted in 2007 and 2008, with supplemental field work in 2009.

One of the key findings of the 2007 and 2008 studies was that the beaches consisted of two layers: an upper layer with a very high permeability and a lower layer with a very low permeability. The contrast in permeability between the layers was found to be around three orders of magnitude. The dissolved nutrient concentration in the beaches was much smaller than that needed for maximal growth of microorganisms and the subsequent consumption of oil. Modeling suggested that the concentration of dissolved oxygen in the lower layer was most likely too low to sustain aerobic biodegradation.

The 2009 field program gathered important data about groundwater flow in the lower layer of the beaches. In designing effective *in-situ* remedial techniques, it is critical to know the flow rates in the lower layer, the "area of influence" of an injection well under different injection pressures, and the maximum injection pressure that can be reliably applied while maintaining well integrity. The 2009 study determined an allowable pressure range for injection into the lower layer, and showed that the area of influence after one day of pressure injection extended to a radius of 6-feet from the injection well. On Smith Island, introduction of tracer chemicals in the lower beach layer at ambient pressures determined the extent of influence to be 6 feet seaward and 1 foot landward in one day.

The results of the 2009 field work can be used to design pilot studies of the best approaches for *in-situ* remediation. The data on flow rates and area of influence in the lower layer can be used to design injection trenches or injection wells as a means of introducing oxygen and nutrients in the beaches. The data is used to design the distance between injection trenches or wells, the injection pressure for wells, and the amounts of oxygen and nutrients to be injected, whether by well or trench injection. It can also be used to design the distance between wells or injection trenches and monitoring locations.

V. Conclusions and Recommendations

The most significant remaining oil residues constitute approximately 50 beach segments that represent a total shoreline length of about 2.5 kilometers, although not all of the subsurface sediment within these segments would contain lingering oil. We can identify these 50 sites with a high degree of confidence.

The studies of the species most likely to have been affected by lingering oil present a generally consistent picture. Organisms that use the intertidal were severely affected by the spill and continued to show adverse effects from exposure to oil for many years after the spill. These effects manifested themselves in reduced survival rates and diminished populations. In recent years, however, there is evidence of improvement. The extent of oil exposure appears to be diminishing in most species, and there is evidence that the populations of some species are beginning to increase. Further monitoring will be needed to determine whether the environment is truly on a trend to complete recovery. Therefore, existing studies should be completed to

verify these conclusions and there should be continued monitoring of sea duck and otter populations to determine whether current population trends continue.

The remaining lingering oil can significantly further bio-degrade under the right conditions, no matter how weathered the oil is. The key factor is to expose the lingering oil to oxygen; lack of exposure to oxygen is the primary reason that lingering oil remains. Techniques for exposing lingering oil to oxygen *in situ* have limitations, but studies to date have shown that these techniques have promise on beaches with certain physical characteristics. Pilot studies to test *in situ* remediation techniques could determine how effective these techniques would be, and whether wider employment of these techniques on beaches with lingering oil is warranted.

Finally, to focus remediation efforts, it would be useful to identify, at a minimum, those beaches that are both highly likely to contain lingering oil and are used by the species exposed to lingering oil. To that end, additional work is recommended to determine the spatial correlations between known and modeled distribution of lingering subsurface oil and data the Trustee Council has gathered on duck and otter populations (abundance, trends, intertidal habitat use and bioindicators of health).

Project Title: FY10 amendment to EVOS project 10100750: Monitoring for evaluation of recovery and restoration of injured nearshore resources.

Project Period for the Amendment: June 1, 2010 – Sept. 30, 2010

Primary Investigators: James L Bodkin, US Geological Survey Thomas A. Dean, Coastal Resource Associates

Study Location: Western Prince William Sound

Abstract:

Under EVOS project 10100750 we will be providing an estimate of the abundance of sea otters in Western Prince William Sound that will be used to track the process of sea otter recovery. In this amendment, we are proposing to add funding to support replicate surveys of sea otters at Northern Knight Island, where recovery of sea otters has been delayed. The estimate of abundance at Knight Island will be used to track the process of recovery where spill-related effects and delayed recovery of sea otters was most evident.

FY10 EVOS funds requested, including GA: \$20,710

Lead agency: U.S. Geological Survey Note: no project management funds are being requested for this amendment.

Procedural and Scientific Methods

Objective 1. Sea otter aerial Surveys

We will continue to use previously developed aerial survey techniques that have been used in multiple EVOS projects to provide unbiased estimates of population size and density. These techniques employ standardized strip transect counts along survey lines, and intensive search units (ISU's) to estimate a correction factor for each survey (Bodkin and Udevitz 1999). We will conduct a single survey of the entire western Sound in 2010 under project 10100808. We are requesting, under this amendment, to also conduct replicate surveys (3-5 replications) of the heavily oiled northern Knight Island study site (previously sampled in the Nearshore Vertebrate Predator project (//025) and projects //423, //620, and //808). Because densities at the northern

Knight Island study area are low, replicate surveys are required to obtain precise and unbiased estimates of abundance that are comparable to prior estimates. Proportional standard errors of past surveys in PWS range from 0.09-0.18.

Estimated budget:

OAS aircraft charter 40 hours @ \$200/hr		\$8,000
Pilot salary 5d		\$3,000
Travel costs (5 d per diem)		\$1,500
Field work and analysis time 1 pp @ \$5000		\$5,000
Travel to Seattle 1 R/T air and per diem		\$1,500
	Sub total	\$19,000
GA @ 9%		\$1,710
<u>FY10</u>	Total	<u>\$20,710</u>

Measurable Project Tasks

- FY 2010, 2nd quarter (January 1, 2010 March 31, 2010) Project funding approved by the Trustee Council Field preparations underway
- FY 2010, 3rd quarter (April 1, 2010 June 30, 2010)
- FY 2010, 4th quarter (July 1, 2010 Sept. 30, 2010) Sea otter surveys performed Data analyses underway

Results will be included in the Final Report for project 10100750

Reference Cited:

Bodkin, J. L. and M.S. Udevitz. 1999. An aerial survey method to estimate sea otter abundance.
in: Garner, G.W., S.C. Amstrup, J.L. Laake, B.F.J. Manly, L.L. McDonald, and D.G.
Robertson, (eds.) Marine mammal survey and assessment methods. Balkema Press,
Netherlands pg. 13-26

Amendment to project 10100750 February 9, 2010

クリ 10100808 Ballachey Amendment

Trustee Council Use Only Project No: <u>1010080</u> Date Received: <u>2-17-10</u>	8 PROPOSAL SUMMARY PAGE
Project Title:	Nearshore Synthesis: Sea otters and sea ducks, FY10 Amendment
Project Period:	February 27, 2010 to May 30, 2010
Proposer(s):	Brenda Ballachey and Dan Monson, USGS Alaska Science Center
Study Location:	Prince William Sound, Alaska
Abstract: This is a	in amendment to project 070808-090808, Sea otter status and nearshore

synthesis, to update the sea otter population model with four years of more recent data. Population models have been utilized for sea otters to evaluate causes underlying a lack of recovery of populations in western Prince William Sound. Data for the models include ages at death (based on recovery of otter carcasses), ages of live animals (based on captured otters), and abundance estimates from aerial surveys. Initial modeling efforts used age-at-death data collected from 1976-1998; later efforts have involved more complex models and have included data sets collected through 2005. Overall, results suggest continued depression of survival rates through 2005, relative to prespill survival. We now have 4 years of more recent data, and have noted an increase in sea otter abundance at northern Knight Island since 2007. We propose to update the models with the 2006-2009 data, to determine if sea otter survival rates are returning to prespill patterns, and to elucidate the factors related to the *sink* and *source* populations that would explain the recent increase in otter numbers.

Funding:

EVOS Funding Requested: FY 10 \$ 15,914 (must include 9%GA)

TOTAL: \$15,914

Non-EVOS Funds to be Used: FY 10 \$

Date:

February 16, 2010

(NOT TO EXCEED ONE PAGE)

PROJECT PLAN

I. NEED FOR THE PROJECT

A. Statement of Problem

Sea otters suffered heavy losses from the direct effects of the *Exxon Valdez* oil spill (EVOS), with an estimated several thousand animals dying within a few months of the spill. Subsequently, based on various post-spill studies, the potential for long-term chronic effects on sea otters and other nearshore species became evident. For sea otters, population models have provided one approach to evaluating chronic injury.

Initially, Monson et al. (2000) used simple population models fit to the age distributions of beach cast sea otters to examine post-spill survival rates. This analysis suggested that through 1998, survival rates in the western Prince William Sound (PWS) population had generally declined since the *EVOS* and that these declines were stratified by age and time since the spill. In more recent efforts, the population models were updated by using the age distribution and survey data through 2005 in conjunction with time-varying *source-sink* population models to estimate the number of sea otters at risk and potentially lost due to chronic effects from the spill. With the *source-sink* model dynamics, a portion of the western PWS population is constrained to have a stable or declining population trajectory (the "*sink*" population, which is that part of the population with deleterious oil spill effects and declining numbers), and the remaining western PWS population is considered to be the "*source*".

In the more recent modeling work (Monson 2009), the most supportable models suggest continued depression of survival rates for the *sink* population, with numbers stable from 1990 to 2005 at approximately 350 individuals. Total chronic loss estimates include nearly 600 animals attributable to direct mortality with another 400 lost from reduced reproductive potential. However, there also were reasonably supportable models that indicate the *sink* population has declined through time with initially over 600 individuals at risk, but dropping below 100 individuals by 1995 and below 10 by 2001. Model-averaged predictions also indicate the *source* population would be growing at ~16% per year if not for loss of emigrants to the *sink* population, and the *sink* population would be declining at ~14% per year if not for the addition of immigrants from the *source*.

We now have 4 additional years of data that can be incorporated into updated models. Ages-at-death (based on recovery of otter carcasses), and ages of live animals (based on data from captured otters), are available for 2006-2008, and aerial survey data of population abundance for 2007-2009. Further, the aerial survey results from 2007-2009 indicate that sea otter abundance in the most heavily oiled areas of western PWS is now increasing, which is a distinct change from previous years. We propose to rerun the population models to determine the effects of incorporating the most recent years of data (2006-2009); to see if the sea otter survival rate is returning to a prespill pattern, and to elucidate the factors related to the *sink* and *source* populations that would explain the recent increase in otter numbers.

B. Relevance to 1994 Restoration Plan Goals and Scientific Priorities

The work being proposed in this amendment to project 070808 – 090808 will update our knowledge of the status of recovery of sea otters in Prince William Sound following the 1989 oil spill with data

collected through 2009. Recovery of the PWS ecosystem from the *Exxon Valdez* oil spill may not be considered complete until individual animals are no longer exposed to lingering oil from the spill, and when populations reach pre-spill levels of abundance.

II. PROJECT DESIGN

A. Objectives

Objective: Update population models developed by D. Monson (2009) to include the most recent sea otter data sets from 2006-2009, collected under EVOS projects 050775 and 070808 – 090808.

B. Procedural and Scientific Methods

Modeling methodologies will be similar to those described and reviewed previously, in project 070808, for sea otter population modeling efforts. Briefly, we will use time-varying, age-specific demographic models to predict changes in sea otter survival rates in, and abundance of, the *source and sink* sub-populations.

C. Data Analysis and Statistical Methods

We will fit these models by perturbing survival rates away from pre-spill values and predicting (1) the age distribution of sea otters dying in the *sink* population each year following the spill, (2) the age distribution of female sea otters living in the *sink* population each year, and (3) the yearly total size of the western PWS population (*source* + *sink* population). In order to identify the most likely ways in which the spill has influenced the demography of the spill-affected population (Doak and Morris 1999, Tinker et al. 2006), likelihood values will be calculated based on the difference between these predictions and their corresponding observed values (Burnham and Anderson 2002). Data sets collected on sea otters in western PWS through 2009 will be incorporated.

D. Description of Study Area

The study area is western PWS.

E. Coordination and Collaboration with Other Efforts

This amendment is a collaboration with and augmentation to EVOS project 070808 - 090808, Sea otter status and nearshore synthesis.

III. SCHEDULE

A. Project Milestones

• Update sea otter population model with 2006-2008 data on ages of living sea otters and ages at death, and 2006-2009 aerial survey data on sea otter population abundance in western PWS. *To be met by March 15, 2010*

• Revise draft report for EVOS project 070808 - 090808 to include updated analyses. *To be met by May 1, 2010*

B. Measurable Project Tasks

FY 10, 2nd quarter (January 1, 2010 -- March 31, 2010)

February 26: Project funding approved by Trustee Council TOMLAB software purchased and installed; input and complete data computations Analyze results for population modeling and age-at-death distributions

FY 10, 3rd quarter (March 31, 2010 -- June 30, 2010)

Amend draft Final Report (Journal manuscript) with updated data analyses May 1, 2010: Submit draft Final Report to Trustee Council

Revise Final Report within 90 days following receipt of peer review comments

IV. RESPONSIVENESS TO KEY TRUSTEE COUNCIL STRATEGIES

A. Community Involvement and Traditional Ecological Knowledge (TEK)

The work proposed is an amendment to project 070808. The community involvement section of that proposal states that the Principal Investigators will be available to interact with communities in meetings to explain and discuss ongoing restoration projects.

B. Resource Management Applications

The results of the work in this proposal will be included with the sea otter status and nearshore synthesis report of project 070808 – 090808. This report will provide managers with additional information to make decisions regarding progress toward recovery of sea otter and sea duck populations, and intertidal communities at northern Knight Island. Results will also facilitate understanding risk factors, including exposure to lingering oil, which may have been contributing to delayed rates of recovery, and will identify locations of specific shoreline habitats where populations of marine mammals, birds and fishes have incurred exposure to lingering oil and which may be suitable for direct restoration actions. The combined results of the proposed work will allow managers to better evaluate the current state of progress toward recovery in the nearshore ecosystem in PWS and to identify specific locations that may be most suitable for and result in the most direct benefit in achieving restoration objectives.

V. PUBLICATIONS AND REPORTS

Proposed Budget, FY10

Dr. Monson salary, 1.5 month @ \$7400/ month	\$11,100
TOMLAB software	\$ 3,500
9% Agéncy G.A.	\$ 1.314
Т	otal\$15,914

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- Tinker, M.T., J.Bodkin, M. Staedler, G. Esslinger, D. Monson, G. Bentall, and M. Murray. 2008. Using TDR records to detect reproductive events in sea otters. Presentation at: Third International Bio-logging Science Symposium, Monterey, CA September, 2008.

December 2009

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Education

Ph.D.	2009	University of California Santa Cruz, Santa Cruz, CA	Ecology and Evolutionary Biology
M.S.	1995	University of California Santa Cruz, Santa Cruz, CA	Marine Science
B.S.	1983	Luther College Decorah, IA	Biology

Areas of Specialization and/or Research Interests

Retrospective and historical data analysis, nearshore ecology of marine systems; predator/prey dynamics; mammalian reproductive biology/ecology; marine food web dynamics and marine mammal foraging ecology; population biology.

Publications

Monson, D. H. 2009. Sea otters (*Enhydra lutris*) and Steller sea lions (*Eumetopias jubatus*) in the North Pacific: Evaluating mortality patterns and assessing population status at multiple time scales. Ph.D. Dissertation, Dept. of Ecology and Evolutionary Biology, University of California, Santa Cruz. 223 pp.

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Resolution 10-04 RE PJ 10100750A & 10100808

DRAFT 02/18/10

RESOLUTION 10-04 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL REGARDING AUTHORIZATION FOR ADDITIONAL FUNDS FOR PROJECTS 10100750-A and 10100808

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of <u>United States of America v.</u> <u>State of Alaska</u>, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after public meetings, unanimous agreement has been reached to expend funds received in settlement of <u>State of Alaska v. Exxon Corporation, et al.</u>, No. A91-083 CIV, and <u>United States of America v. Exxon Corporation, et al.</u>, No. A91-082 CIV, U.S. District Court for the District of Alaska, for necessary natural resource damage assessment and restoration activities in the amount of \$36,624 for fiscal year 2010 as described in Attachment A. The monies are to be distributed according to the following schedule:

TOTAL APPROVED	\$36,624
TOTAL TO UNITED STATES OF AMERICA	\$36,624
U.S Geological Survey	\$36,624

Funds shall be spent in accordance with Attachment A.

By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make available additional funds for Bodkin Project 10100750-A, Monitoring for Evaluation of Recovery and Restoration of Injured Nearshore Resources and Ballachey

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DRAFT 02/18/10

Project 10100808, Nearshore Synthesis: Sea Otters and Sea Ducks from the

appropriate account designated by the Executive Director.

Approved by the Council at its meeting of February 26, 2010 held in Anchorage, Alaska as affirmed by our signatures affixed below.

STEVE ZEMKE Alternate Trustee Chugach Nation Forest U.S. Department of Agriculture DANIEL S. SULLIVAN Attorney General Alaska Department of Law

KIM ELTON Senior Advisor to the Secretary for Alaska Affairs U.S. Department of the Interior CRAIG R. O'CONNOR Special Counsel National Oceanic & Atmospheric Administration U.S. Department of Commerce

DENBY S. LLOYD Commissioner Alaska Department of Fish and Game LARRY HARTIG Commissioner Alaska Department of Environmental Conservation

Attachment A: Funding Distribution

Resolution 10-04 - Attachment A Funding Distribution FY 10 Work Plan Project Approved on February 26, 2010

		-	FY10	FY 10	FY10	Total
			Direct cost	PJ Mgmt	G&A	Resolution
PI	Project Title		approved	Approved	Approved	10-04
						FY10 approved
10100808 Ballachev	Nearshore Synthesis: Sea Otters and Sea Ducks		\$14 600	\$0	\$1314	\$15 914
10100750A Bodkin	Monitoring for Evaluation of Recovery and Restoration of Injured Nearshore Resources		\$19,000	\$0 \$0	\$1,710	\$20,710
		USGS	\$33,600	\$0	\$3,024	\$36,624
	Total to the United St	ates of America		*		\$36,624
	Total Approved Re	solution 10-04				\$36,624

*USGS has declined project management funds for these amendments.

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DRAFT 02/24/10

RESOLUTION 10-05 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL REGARDING REAUTHORIZATION OF PREVISOULY DISBURSED FUNDS ASSOCIATED WITH REMODELING COSTS

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of <u>United States of America v</u>. <u>State of Alaska</u>, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after public meetings, unanimous agreement has been reached to expend funds received in settlement of <u>State of Alaska v. Exxon Corporation, et al.</u>, No. A91-083 CIV, and <u>United States of America v. Exxon Corporation, et al.</u>, No. A91-083 CIV, and <u>United States of America v. Exxon Corporation, et al.</u>, No. A91-082 CIV, U.S. District Court for the District of Alaska, for additional remodeling and moving costs associated with Exxon Valdez Oil Spill Trustee Council's Anchorage office. Remodeling funds were previously authorized in <u>Resolution 10-02 Regarding Amendment to Project 10100100 Authorizing</u> <u>Additional Funds for the Administrative Budget</u> to the United States Geological Survey through the Government Services Administration in the amount of \$30,000 (USGS waived GA) dated November 18, 2009.

The Council hereby authorizes an additional \$3,000 in previously-disbursed funds from Project 10100100 EVOS Administrative Budget to be used for remodeling costs.

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DRAFT 02/24/10

Approved by the Council at its meeting of February 26, 2010 held in Anchorage,

Alaska as affirmed by our signatures affixed below.

STEVE ZEMKE Trustee Alternate Chugach Nation Forest U.S. Department of Agriculture DANIEL S. SULLIVAN Attorney General Alaska Department of Law

KIM ELTON Senior Advisor to the Secretary for Alaska Affairs U.S. Department of the Interior CRAIG R. O'CONNOR Special Counsel National Oceanic & Atmospheric Administration U.S. Department of Commerce

DENBY S. LLOYD Commissioner Alaska Department of Fish and Game LARRY HARTIG Commissioner Alaska Department of Environmental Conservation

PTG 01 (Revised), Aialik Bay

Owner:	Port Graham Corporation (PGC), Alaska Wildland Adventures (AWA)
Physical Location:	These parcels are located on the Eastern shore of Aialik Bay within the boundaries of Kenai Fjords National Park
Acreage:	2265 acres (PGC) and 4.8 acres (AWA)
Brief Description:	Head of Aialik Bay
Agency Sponsor: Appraised Value:	National Park Service (NPS)

Parcel Description. These parcels, comprised of two tracts owned by Port Graham Corporation (PGC) (2265 acres combined) and one 4.8-acre tracts owned by Alaska Wildland Adventures (AWA), are located between Coleman Bay and Aialik Glacier on the east shore of Aialik Bay within the boundaries of Kenai Fjords National Park. PTG 01 originally also contained a 2250-acre tract owned by PGC on the west side of Aialik Bay, but PGC is not interested in selling that tract at this time. Lands were conveyed to PGC under ANCSA provisions. AWA purchased its 4.8-acre parcel in 2009 from a private individual; the parcel contained a cabin used by hunters in the late 1950s and early 1960s, however the structures were removed in 1964. All three parcels are in a natural condition at this time, with the exception of a National Park Service (NPS) cabin on a 5-acre parcel that the NPS leases from PGC to provide for public use. The parcels contain rugged cliffs, coastal temperate rainforest, and tidally influenced shoreline. Pocket areas above high tide contain beach grass communities.

PGC lands within the park were designated as the first priority for fee simple acquisition in the 1988 NPS Land Protection Plan because these lands "are important in terms of scenic qualities, wildlife habitat, cultural resources and visitor uses". The plan points out that the lands are surrounded by NPS land in "the heart of the Kenai Fjords."

The AWA parcel was identified as the second priority in the Land Protection Plan because the tract is "in a prominent, exposed location that can be seen from boats when they are near the head of Aialik Bay."

Linkage to Restoration:

Restoration Benefits.

Injured species that not recovering and will benefit from acquisition of these parcels include Pacific Herring. Injured species with unknown recovery status that will benefit from acquisition of these lands include Marbled and Kittlitz's Murrelets. Injured species still recovering that will benefit include intertidal communities, Barrow's Goldeneyes, Black Oystercatchers, Harlequin Ducks, Sea Otters, and Mussels. The Aialik Bay area, including these parcels, is also used by Bald Eagles, River Otters, Common Murres, Common Loons, Cormorants, Harbor Seals, Killer Whales, Pink Salmon, Sockeye Salmon, and Dolly Varden char. The area supports recreational use by kayakers, nature viewers, fishers, birdwatchers and hikers. The majority of visitors to Kenai Fjords National Park tour Aialik Bay (approximately 55,000 people annually) and observe the untrammeled natural beauty and wildlife of these parcel. Much of these parcels are prominently visible to park visitors on tour boats or kayaks in Aialik Bay.

Additionally, the Aialik Bay Public Use Cabin is located on the PGC parcel. The NPS currently leases 5 acres containing the cabin for rental to the public. The popular cabin is heavily used by recreational visitors throughout the summer (approximately 400 user nights annually).

The parcels also have significant cultural values, including several archeological sites containing prehistoric elements in relatively pristine condition.

These parcels are entirely surrounded by NPS lands within Kenai Fjords National Park. Although not currently designated as wilderness, the surrounding lands have been identified as suitable for wilderness designation, and under NPS policy, are managed as wilderness.

Potential Threats.

Under private ownership, uses that would be incompatible with the NPS management are allowable. Such uses include subdivision, development, limited timber cutting, hunting, and denial of public use and access. These uses would change the character of the park and would adversely affect natural resources and the visitor experiences.

PGC and AWA jointly developed a lodge on another PGC parcel within Aialik Bay in 2009 and closed surrounding private lands to public use except lodge guests. At the time the 4.8 acre parcel was purchased by AWA, the real estate listings promoted it as a site suitable for development as a lodge.

Proposed Management.

Upon acquisition, these parcels will be managed by the NPS as part of Kenai Fjords National Park, consistent with applicable federal laws and policy. The purpose of the park, as defined in ANILCA, is to maintain unimpaired the scenic and environmental integrity of ...coastal fjords and islands in their natural state and to protect seals, sea lions, other marine mammals, and marine and other birds..."

Request.

The NPS has obtained appraisals of these parcels. These appraisals were approved by the DOI Office of Valuation Services. The NPS has presented Offers to Sell to the two landowners and is awaiting their decisions. The NPS will not accept the Offers to Sell unless the EVOS Trustee Council approves and provides funding for these acquisitions. Upon receipt of Offers to Sell, signed by the owners, the NPS will request that the Trustee Council approve and fund acquisition of these parcels.



Kenai Fjords National Park



Womac, Cherri G (EVOSTC)

From: Sent: To: Subject: kadams@gci.net on behalf of Ken Adams [kadams@gci.net] Friday, February 26, 2010 10:20 AM Womac, Cherri G (EVOSTC) public comment

February 26, 2010

Good Day members of the Trustee Council:

My name is Kenneth Adams. I'm a fisherman and resident of Cordova and I want to thank the Council for the opportunity to comment at the meeting of a Trustee Council representative and staff held in Cordova on the 18th of this month. The topic of the Trustee Council's future is of much importance to those of us who were impacted by EVOS and we take this matter seriously.

I'll refer to those comments this morning and also present them in hard copy format.

I'd like to call to the attention of the Council that I and partner Mr. Ross Mullins, along with our scientist collaborators, have had extensive experience with the Trustee Council. Beginning in 2002 and ending in 2006, we submitted a series of five consecutive proposals that were supported by the Council. Our intention was to utilize the results of the Sound Ecosystem Assessment (SEA) project, funded by the Council, and work to improve the status of the Prince William Sound (PWS) fisheries. You may recall in your 1994 Restoration Plan, the importance of restoration of the oil spill impacted fisheries was acknowledged.

I bring this to your attention to emphasize the fact that we are not new -comers and our more than five years experience has granted some insight into the Trustee Council process. I'll present a brief list of topics that I believe merit attention.

#1 Lingering oil: Despite on going lack of recovery of several species, the presence of oil remaining in beaches of PWS makes the strongest case for EVOS impact. The reopener claim submitted to Exxon is worthy of their funding. Exxon should bear this burden, not the Trustee Council's reserve. There are other topics of importance that should be addressed with the restoration reserve account.

#2 Trustee Council administration costs: This cost has reportedly been as high as two million dollars annually. I believe this is too expensive and other usages of the restoration reserve are more worthy.

#3 Perceived Trustee Council phase-out: I agree with this intention that we discussed at the Cordova meeting. The Trustee Council over the years has accomplished a variety of results; some good and some not so good. The Council has been inconsistent and at times, politically driven. A new entity needs to be created or adopted to manage the ongoing restoration needs.

#4 Long term monitoring: In various Council reports there have been references to the lack of an on-going ecosystem data base to distinguish between natural and anthropogenic causes of change. I believe a mini-GEM program should be undertaken to address this longed-for but not accomplished goal. I especially believe an on-going zooplankton monitoring program in PWS would be of value regarding improvement of our understanding of the ecosystem function and an aid to fisheries management and recovery, salmon and herring especially.

#5 Regional concerns: I believe PWS should be the main focus of future monitoring, research, and restoration activities. PWS and this region's stakeholders were most directly impacted of any region affected by EVOS. Every outgoing crude oil tanker continues the threat to PWS and potential additional oil spills

#6 Herring restoration: This topic is of much importance to the PWS ecosystem and of course, to fishermen and communities dependent upon harvests of this species. An on-going herring restoration program is worthy of funding but should not be the sole usage of restoration reserve revenues as mentioned above.

Thanks for the opportunity to present these comments.

Yours truly, Kenneth Adams

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