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Exxon Valdez Oil Spill Trustee Council

2002 STATUS REPORT



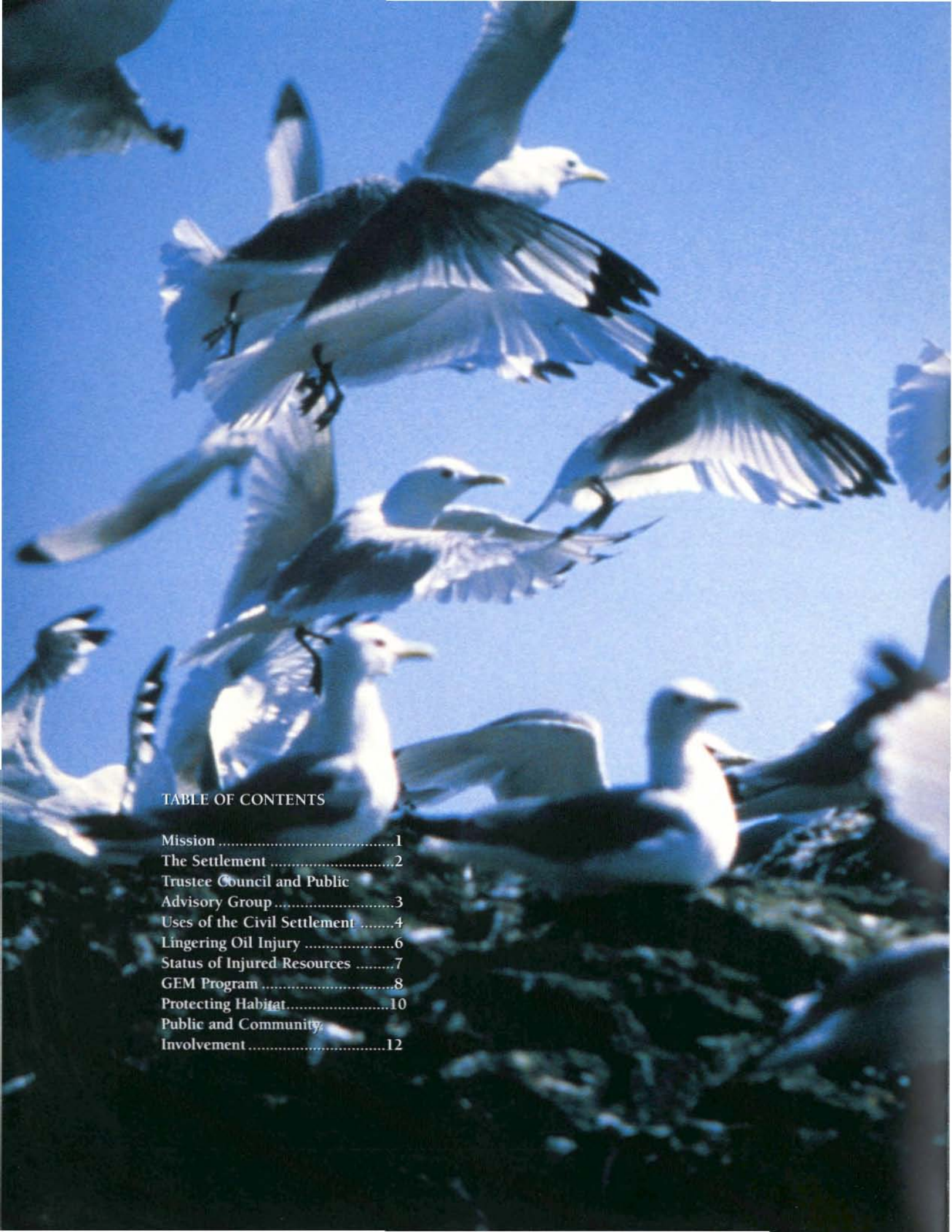


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Mission Statement of the Exxon Valdez Oil Spill Trustee Council:

The mission of the Trustee Council and all participants in Council efforts is to efficiently restore the environment injured by the *Exxon Valdez* oil spill to a healthy, productive, world-renowned ecosystem, while taking into account the importance of quality of life and the need for viable opportunities to establish and sustain a reasonable standard of living.

The restoration will be accomplished through the development and implementation of a comprehensive interdisciplinary recovery and rehabilitation program that includes:

- natural recovery,
- monitoring and research,
- resource and service restoration,
- habitat acquisition and protection,
- resource and service enhancement,
- replacement,
- meaningful public participation,
- project evaluation,
- fiscal accountability, and
- efficient administration.



The Settlement

The settlement among the State of Alaska, the United States government and Exxon was approved by the U.S. District Court on October 9, 1991. It resolved various criminal charges against Exxon as well as civil claims brought by the federal and state governments for recovery of natural resource damages resulting from the oil spill. The settlement had three distinct parts:

CRIMINAL PLEA AGREEMENT. Exxon was fined \$150 million, the largest fine ever imposed for an environmental crime. The court forgave \$125 million of that fine in recognition of Exxon's cooperation in cleaning up the spill and paying certain private claims. Of the remaining \$25 million, \$12 million went to the North American Wetlands Conservation Fund and \$13 million went to the national Victims of Crime Fund.

CRIMINAL RESTITUTION. As restitution for the injuries caused to the fish, wildlife and lands of the spill region, Exxon agreed to pay \$100 million. This money was divided evenly between the federal and state governments.

CIVIL SETTLEMENT. Exxon agreed to pay \$900 million with annual payments stretched over a 10-year period. The final payment was received in September 2001. The settlement contains a "reopener window" between September 1, 2002, and September 1, 2006, during which the governments may make a claim for up to an additional \$100 million. The funds must be used to restore resources that suffered a substantial loss or decline as a result of the oil spill, the injuries to which could not have been known or anticipated by the six trustees from any information in their possession or reasonably available to any of them at the time of the settlement (September 25, 1991).

Exxon Valdez Oil Spill Trustee Council

The Exxon Valdez Oil Spill Trustee Council was formed to oversee restoration of the injured ecosystem through the use of the \$900 million civil settlement. The Council consists of three State of Alaska and three federal trustees (or their designees):

Commissioner, Alaska Department of Fish and Game; Commissioner, Alaska Department of Environmental Conservation; Attorney General, Alaska Department of Law; Secretary, U.S. Department of the Interior; Director, National Oceanic and Atmospheric Administration; and Secretary, U.S. Department of Agriculture.

Public Advisory Group

The Public Advisory Group advises the Trustee Council on decisions relating to allocation of funds, conduct of injury assessment and conduct of restoration activities related to the Exxon Valdez oil spill. The group consists of 17 members to reflect balanced representation from the public at large as well as members from 12 principal interests. As of March 2002, the Public Advisory Group members are:

MEMBER

Torie Baker
Chris Beck
Chris Blackburn
Dave Cobb
Gary Fandrei
Brett Huber
Dan Hull (Vice Chair)
Jim King
Chuck Meacham (Chair)
Pat Norman
Vacant
Gerald Sanger
Stan Senner
Stacy Studebaker
Chuck Totemoff
Martha Vlasoff
Ed Zeine

STAKEHOLDER GROUP

Commercial Fishing
Public at Large
Public at Large
Public at Large
Public at Large
Sport Hunting and Fishing
Public at Large
Conservation
Science/Academic
Native Landowner
Aquaculture
Commercial Tourism
Environmental
Recreational Users
Forest Products
Subsistence
Local Government

Ex-Officio Members:

Sen. Loren Leman, Alaska State Senate
Rep. John Harris, Alaska State House of Representatives



Frank Rue



Michele Brown



Dave Gibbons



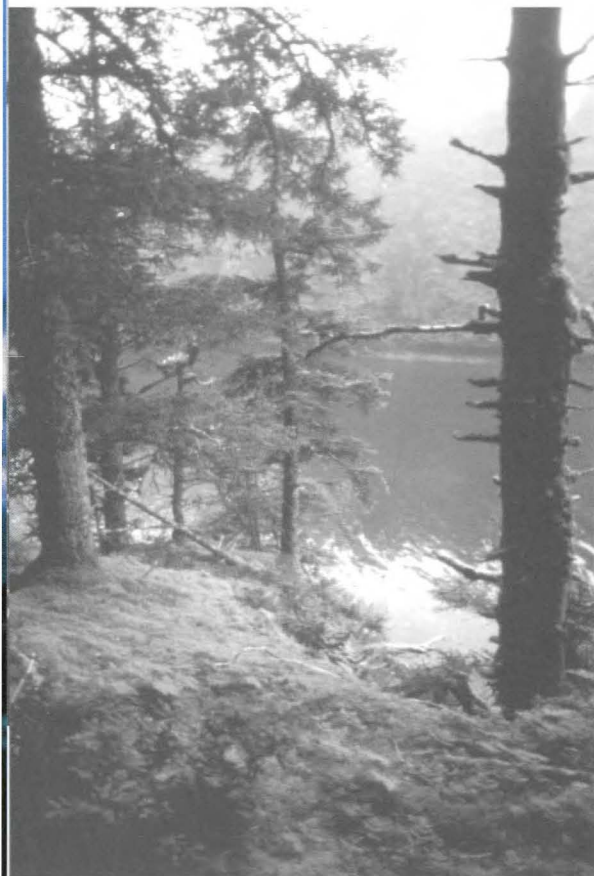
Drue Pearce



James Balsiger



Craig Tillery



Uses of the Civil Settlement

The Trustee Council adopted a Restoration Plan for the civil settlement funds in 1994 after an extensive public process. More than 2,000 people participated in public meetings or sent in written comments. The uses of the civil settlement were adopted in response to that public comment.

REIMBURSEMENTS

As part of the settlement agreement, \$173.2 million went to reimburse the federal and state governments for costs incurred conducting spill response, damage assessment and litigation. Another \$39.9 million was used to reimburse Exxon for cleanup work that took place after the civil settlement was reached.

RESEARCH, MONITORING, GENERAL RESTORATION

Monitoring of fish and wildlife in the spill region provides basic information to determine population trends, productivity and health. Research increases our knowledge about the biological needs of individual species and how each contributes to the Gulf of Alaska ecosystem and provides better tools for more effective resource management. General restoration work includes projects to protect archaeological resources, improve subsistence resources, enhance salmon streams, reduce marine pollution and restore damaged habitats.

HABITAT PROTECTION

Protection of habitat helps prevent additional injury to species due to loss of habitat. The Trustee Council accomplishes this by providing funds to government agencies to acquire title or conservation easements on land important for its restoration value.

RESTORATION RESERVE

This savings account was established in recognition that full recovery from the oil spill would not occur for decades. The funds are now managed and invested by the Alaska Department of Revenue on behalf of the Trustee Council. In October 2002 the reserve will be divided into two accounts: \$55 million for habitat protection (a \$30 million set-aside for future protection of Koniag, Inc. lands on Kodiak Island and \$25 million for additional land acquisition) and the remainder for long-term research and monitoring (the GEM Program).

PUBLIC INFORMATION, SCIENCE MANAGEMENT AND ADMINISTRATION

This component includes management of the annual work plan and habitat programs, scientific oversight of projects, agency coordination and overall administrative costs. It also includes funds for public meetings, newsletters and other means of disseminating information to the public.

The following table accounts for how the settlement funds are being used (in millions) as of March 2002:

REIMBURSEMENTS FOR DAMAGE ASSESSMENT AND RESPONSE	\$ 213.1
Governments (includes litigation and cleanup) <i>(a)</i>	173.2
Exxon (for cleanup after 1/1/92)	39.9
RESEARCH, MONITORING AND GENERAL RESTORATION	\$ 170.5
FY 1992 - FY 2001 Work Plans	123.8
FY 2002 Work Plan (authorized)	4.5
FY 2003 Work Plan (estimate)	5.0
Alutiiq Museum (Kodiak)	1.5
Archaeological Repository/Exhibits (PWS & Kenai Pen)	3.0
Alaska SeaLife Center	26.2
Port Graham Hatchery	0.8
Reduction of Marine/Oil Pollution	5.7
HABITAT PROTECTION AND ACQUISITION	\$ 406.2
Large Parcel and Small Parcel habitat protection programs (past expenditures, outstanding offers, estimated future commitments and parcel evaluation costs)	376.3
Koniag, Inc. Special Account	29.9
INVESTMENT FUND	\$ 145.1
Principal, projected interest and unobligated funds	
Habitat Protection	25.1
Gulf Ecosystem Monitoring & Research <i>(b)</i>	120.0
PUBLIC INFORMATION, SCIENCE MANAGEMENT AND ADMINISTRATION	\$ 30.7
FY 1992 - FY 2001 Work Plans	28.2
FY 2002 Work Plan (authorized)	1.5
FY 2003 Work Plan (estimate)	1.0
TOTAL RESTORATION FUNDING (AS OF 3/1/02)	\$ 965.6
Exxon payments	900.0
Accrued Interest (minus fees)	47.0
Projected Interest (through 9/30/02)	18.6

(a) Reimbursement to governments reduced by \$2.7 million included in the FY 1992 Work Plan.

(b) Actual amount dependent on investment earnings.





Lingering Oil Injury

A major reassessment of the status of recovery from the effects of the *Exxon Valdez* oil spill was conducted in the winter of 2001-2002. Based on that review, the coastal and marine ecosystems in the oil spill region are continuing to recover, but have not fully recovered at this time from the effects of the 1989 spill. In 2002 the Trustee Council declared five resources "recovered" from the effects of the oil spill and moved two resources – the AB pod of killer whales and designated wilderness areas – to "recovering." Positive signs of recovery for Pacific herring have not persisted since the last recovery update in 1999. For that reason, as well as the public's urging to use the precautionary principle, herring were moved back to the "not recovering" category. Subtidal communities were moved to "recovery unknown" since study results are inconclusive, and their recovery status will likely never be known.

In all, seven resources are considered fully recovered from the effects of the oil spill; 16 resources and all four human services have still not fully recovered; and the recovery of five resources is considered unknown.

In summer 2001, Trustee Council-funded researchers with the National Marine Fisheries Service's Auke Bay Laboratory found beaches in Prince William Sound still contaminated with oil equivalent to about 20 acres in total. The results were surprising: more oil was found than expected, especially in the subsurface; subsurface oil was less weathered and more toxic; and oil was found lower in the intertidal, closest to the zone of biological production.

Other Trustee Council-funded research indicates that recovery of sea otters and harlequin ducks in the heavily oiled region of Knight Island has not occurred, with continuing oil exposure suspected as a factor. Further studies are underway in 2002 to determine if these remaining pockets of oil are bioavailable and the cause of the observed impacts to these two species, and possibly other species in the intertidal.

The analysis of the injury and recovery status of all the resources and services on the list only applies to recovery from the effects of the 1989 oil spill. Many of these resources are also experiencing the effects of other natural and human factors, resulting in significant population declines. A major concern with lingering oil effects is how the changes in overall population or abundance from the initial oil-related damage may combine with other kinds of changes and disturbances in the marine ecosystem. Thus, where species lie on the continuum of recovery from the oil spill does not necessarily reflect their overall status or health.



Status of Injured Resources and Services

Updated as of August 6, 2002.

NOT RECOVERING

These species are showing little or no clear improvement since spill injuries occurred.

Common loon	Harlequin duck
Cormorants (3 spp.)	Pacific herring
Harbor seal	Pigeon guillemot

RECOVERING

Substantive progress is being made toward recovery objectives. The amount of progress and time needed to achieve recovery vary depending on the resource.

Clams	Marbled murrelet
Designated wilderness	Mussels
Intertidal communities	Sea otter
Killer whale (AB pod)	Sediments

RECOVERED

Recovery objectives have been met for the following species.

Archaeological resources	Pink salmon
Bald eagle	River otter
Black oystercatcher	Sockeye salmon
Common murre	

RECOVERY UNKNOWN

Limited data is available on life history or extent of injury; current research is inconclusive or not complete.

Cutthroat trout	Rockfish
Dolly Varden	Subtidal communities
Kittlitz's murrelet	

HUMAN SERVICES

Human services that depend on natural resources also were injured by the oil spill. Each of these services is considered to be recovering until the resources on which they depend are fully recovered.

Recreation and tourism	Passive uses
Commercial fishing	Subsistence



The GEM Program

The Gulf of Alaska Ecosystem Monitoring and Research (GEM) program represents the Trustee Council's ongoing legacy of promoting long-term recovery of the spill-affected region by understanding the natural and human-caused changes to marine ecosystems. The Trustee Council has set aside nearly \$120 million that will be managed as an endowment to provide ongoing funding (approximately \$6 million annually) for this program.

MISSION

The mission of GEM is to sustain a healthy and biologically diverse marine ecosystem in the northern Gulf of Alaska and the human use of the marine resources in that ecosystem through greater understanding of how its productivity is influenced by natural changes and human activities.

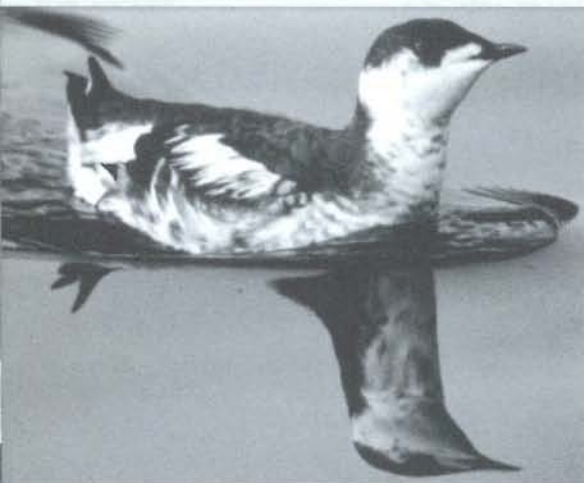
GEM program goals are to:

- detect annual and long-term changes in the marine ecosystem;
- understand the causes of these changes;
- inform the public, resource managers, policymakers and industry about what is happening in the northern Gulf of Alaska;
- solve problems arising from human activities and help regulators improve resource management; and
- predict the status and trends of natural marine resources.

The program will accomplish these goals through a long-term research and monitoring effort working collaboratively with other organizations, institutions, local residents and communities.

The GEM Program is organized around four habitat types: watersheds, intertidal and subtidal zones, the Alaska Coastal Current and offshore habitats. A major principle of the program is that these systems are interdependent. Connections such as across-shelf energy flows will be studied through ongoing synthesis of the data being collected under long-term monitoring studies and short-term research efforts. Salmon provide a good example of the interdependence of these habitat types because salmon affect and depend upon different habitats throughout their lives. Understanding the interactions between these habitats will give a clearer picture of why some salmon populations are increasing and others are decreasing.

The flagship of the GEM Program will be a core monitoring program, which, when combined with the monitoring efforts of other resource agencies and research entities, will help detect environmental change over time and greatly expand understanding of the Gulf of Alaska ecosystems. The program will be supplemented with short-term research to provide a better understanding of the complex processes in the ocean that should allow generations to come to enjoy the great productivity and biodiversity of Alaska's oceans. Models will be used to help organize information and provide tools for delivering information to users and assessing the program on an ongoing basis.



It is becoming increasingly clear that climate and oceanography play major roles in controlling biological processes and populations of fish and wildlife important to humans. In addition, human activities play a prominent role in this marine system and may have unintended consequences on the overall ecosystem dynamics. Fishing may deplete nutrients and fish stocks, alter sea floor habitat and even affect non-commercial species such as the natural predators of fish. Oil spills and chronic leaks occur frequently on a small scale, putting harmful contaminants in the water. Tourism may result in wildlife disturbance and add sewage and graywater to marine habitats. The goal is not to stop these activities, but rather to help resource managers set reasonable standards that ensure these activities are sustainable.

Ultimately, it is our understanding and our ability to share information that will determine the future of the Gulf of Alaska ecosystem and the people who depend on it.

GEM SCHEDULE

March 1999:	Trustee Council decides to endow GEM Program.
2000:	Draft GEM Program developed.
2000-2002:	Intensive review by public, resource agencies, user groups, scientists and the National Research Council.
July 2002:	Trustee Council adopts GEM Program.
Fall 2002:	GEM program officially begins; focus on synthesis of existing data.
2003:	Continued synthesis, pilot monitoring.
2003-2007:	Components added until program fully implemented.



Protecting Habitat

The long-term protection of threatened habitat, considered to be essential for the well-being of species injured by the oil spill, was one of the earliest goals of the Trustee Council. Restoration efforts in the Pacific Northwest have taught us that depleted salmon populations cannot rebuild if habitat that is critical during any of their life stages is seriously compromised.

This lesson extends as well to the other fish, birds and mammals that nest, feed, molt, winter and seek shelter in the spill area. An example is the marbled murrelet, which goes out to sea to feed, but travels up to 50 miles over land to find old growth forests in which to nest. To assist this species' recovery from the oil spill, the Trustee Council has protected upland terrestrial nesting habitat. Habitat protection also supports the restoration of commercial fishing, subsistence, recreation and tourism, all of which are dependent on healthy, productive ecosystems.

By purchasing land throughout the spill region, the Trustee Council has ensured that key habitats for injured species will not be damaged further by extensive development or logging, serious threats at the time of the spill. The Trustee Council determined that in an already impacted environment, purchasing land could go a long way toward allowing the ecosystem to recover.

Since 1993, the Trustee Council has acquired the following:

HABITAT PROGRAM	ACRES ACQUIRED	COST
Large Parcels	635,770	\$343.3 million
Small Parcels	7,865	\$20.5 million
Total	643,635	\$363.8 million

LARGE PARCEL ACQUISITIONS

Interests in the lands protected by the Trustee Council range from acquisition of fee simple title to various forms of conservation easements. In total, over 1,400 miles of coastline and more than 300 anadromous rivers, streams and spawning areas have been protected through the Trustee Council's large parcel program. These include:

- 23,800 acres within Kachemak Bay State Park, including a highly productive estuary and several miles of anadromous fish streams and intertidal shoreline;
- 32,537 acres within the Kenai Fjords National Park and on adjacent islands within the Alaska Maritime National Wildlife Refuge, including valuable coastal habitat;
- 26,665 acres of prime habitat on Shuyak Island, at the northern tip of the Kodiak archipelago;



- 41,549 acres of mature spruce forest and highly productive coastal habitat in the Kodiak archipelago, in what has now become Afognak Island State Park;
- 41,750 acres of land and conservation easements on northern Afognak Island, including buffers around Paul's and Laura lakes;
- 207,256 acres of prime habitat for salmon, bald eagles, bears and other species in the Kodiak National Wildlife Refuge;
- 55,402 acres of conservation easements along the Karluk and Sturgeon rivers;
- 206,811 acres of land, conservation easements and timber easements in Prince William Sound, including parcels at Bligh Island, Two Moon Bay, Eshamy Bay, Jackpot Bay, Port Gravina, Sheep Bay and Windy Bay.

SMALL PARCEL ACQUISITIONS

Small parcels typically encompass strategically located habitats, such as coves, important stretches of river, the mouths of rivers or land adjacent to valuable tidelands. They are often close to spill area communities or within already protected areas, such as refuges and parks. These lands are acquired for their habitat qualities as well as their importance for subsistence and recreational use.

To date, the Trustee Council has protected 1,855 acres along the Kenai River and its watershed, including several miles of shoreline. Another 3,254 acres have been protected along the Moose River, a major sockeye salmon producer that feeds into the Kenai River. The Homer area has benefited from several prominent acquisitions, including a 220-acre site on bluffs overlooking Cook Inlet with beach access and key tidal and wetland habitats at the base of the Homer Spit and on nearby Beluga Slough. The Council has protected 69 parcels totaling 7,883 acres in the Kiliuda Bay, Uyak Bay and Sitkalidak Strait regions of southern Kodiak Island. Several sites in Prince William Sound – including a 315-acre site within Horseshoe Bay State Marine Park – have also been acquired.

In January 2001 the Trustee Council approved \$1 million for a grant with The Nature Conservancy and The Conservation Fund to continue the Council's habitat protection effort in FY 2002. These two nonprofit organizations are able to respond quickly to opportunities for acquiring priority lands and to leverage resources by attracting matching funds.

FUNDS AVAILABLE FOR FUTURE ACQUISITION

The Trustee Council has designated \$25 million from current reserve funds to continue its habitat protection program beyond October 2002. Investment earnings could initially provide about \$1.25 million per year for an ongoing program.





Public and Community Involvement

THE TRUSTEE COUNCIL'S COMMITMENT

Since its inception, the Trustee Council has been committed to public participation and local community involvement in all aspects of its programs. The Trustee Council recognizes the tremendous loss of livelihood and cultural heritage caused by the 1989 oil spill and has devoted a major portion of the restoration funds to the restoration of the fish, birds, marine mammals and archaeological resources that are important culturally and economically. As the GEM Program develops, the Trustee Council intends to incorporate community involvement, local and traditional knowledge, public participation, education and outreach as major components of its long-term effort to restore and better understand the northern Gulf of Alaska ecosystem.

The Trustee Council is committed to having community members actively involved in:

- planning and developing the program,
- guiding the goals and topics of research projects,
- collecting data and participating in long-term monitoring efforts,
- providing traditional ecological knowledge,
- interpreting results in a local context, and
- educating other community members about ongoing research.

COMMUNITY INVOLVEMENT HIGHLIGHTS

- Since 1995, the Council has provided funds to the Chugach Regional Resources Commission to facilitate community involvement in villages in the spill area. Participants have also promoted community-based projects and involvement, developed local natural resource management plans and provided tribal input on GEM's development.
- The Youth Area Watch program has allowed 168 spill area students from Prince William Sound and Kodiak Island to participate actively in restoration projects.
- Chenega residents helped National Marine Fisheries Service scientists clean oil from 12 local mussel beds and Alaska Department of Environmental Conservation staff clean residual oil on five local beaches used for subsistence. Alaska Native community members identified sites that they wanted evaluated and participated in the survey work itself during NOAA's 2001 lingering oil study in Prince William Sound.
- Fishery enhancement projects were funded in Tatitlek, Chenega Bay, Port Graham and Perryville, and the salmon hatchery in Port Graham, destroyed by fire in 1998, was rebuilt with Trustee Council assistance.
- Restoration and recreation enhancements were funded along several miles of the Kenai River for the benefit of sportfishing and tourism, such as access stairs, floating docks, interpretative displays and streambank restoration.
- The Council provided construction funds for the Alutiiq Archaeological Repository in Kodiak to protect archaeological resources and educate the public about Alutiiq culture.
- Grant funds were provided to Chugachmiut, Inc. to develop a regional archaeological repository in Seward, local displays in Chenega Bay, Tatitlek, Cordova, Valdez, Port Graham, Nanwalek and Seldovia and traveling exhibits.



The Exxon Valdez Oil Spill Trustee Council conducts all programs and activities free from discrimination, consistent with the Americans with Disabilities Act. This publication is available in alternative communication formats upon request. Please contact the Trustee Council's office at 907/278-8012 to make any necessary arrangements. Any person who believes she or he has been discriminated against should write to: EVOS Trustee Council, 441 W. 5th Ave., Suite 500, Anchorage, AK 99501; or O.E.O., U.S. Department of the Interior, Washington, D.C. 20240.

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The Trustee Council's web site has been significantly modified
and now includes links to all reports, documents, habitat maps
and other information.