Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 401, Anchorage, Alaska 99501-3451 Phone: (907) 278-8012 Fax: (907) 276-7178



EXXON VALDEZ OIL SPILL

TRUSTEE COUNCIL

MEMORANDUM

To:

Public Advisory Group

From:

Molly McCammon MAN

Executive Director

Date:

April 13, 1995

Subj:

ADMINISTRATIVE RECORD Proposed Collection of Bird Specimens for Project No. 95320Q

The Trustee Council's Chief Scientist, Dr. Robert Spies, has recommended proceeding with the collection of bird specimens proposed as part of the Avian Predation on Herring Spawn Project (95320Q, part of the SEA Program) by the principal investigator, Dr. Mary Anne Bishop, U.S. Forest Service. I concur with this

authorization for this proposed collection. If you have questions or comments on this recommendation, please contact me by

recommendation. Per the Collections Review Policy discussed at the last Trustee Council meeting, I am notifying you of this recommendation, prior to giving final

Wednesday, April 19.

enclosures: Dr. Spies' recommendation, 04/12/95

Dr. Bishop's request, 03/10/95

APPLIED EMMANNE SCIENCES

April 12, 1995

TO: Molly McCammon Executive Director

FR: Robert Spies Chief Scientist

RE: Proposed Collection of Bird Specimens for Project No. 95320Q, Avian Predation on Herring Spawn

On March 10th Mary Anne Bishop, principal investigator on Project No. 95320Q, submitted a request and justification for the collection of a small sample of Glaucous-winged Gulls, Mew Gulls, Surfbirds, Black Turnstones, and Surf Scoters in Prince William Sound. A copy of Bishop's justification is attached. The purpose of the collections is to sample the diets of five key avian predators on herring spawn and estimate total eggs ingested (in metric tons) by birds in Prince William Sound. This information will be brought into models of herring embryo survival, thus enabling better estimates of herring spawn biomass and better management of PWS herring stocks for benefit of both the herring fisheries and the marine-related ecosystem. There is strong justification to proceed with the collection of bird specimens as proposed by Bishop, and my recommendation is that this request be approved. My analysis follows with reference to the draft policy on collections in your memorandum to the Trustee Council dated March 30, 1995.

1. How many individuals are proposed to be collected and the approximate times and locations? How do these numbers compare with the total population in the general collecting area?

All collections are planned in April and May on northern Montague Island. Here are the numbers of birds proposed to be collected, followed in parentheses by recent estimates of numbers of each species seen on northern Montague Island during the sampling period: 30 Glaucous-winged Gulls (45,000), 20 Mew Gulls (9,700), 20 Surfbirds (56,000), 20 Black Turnstones (25,000), and 20 Surf Scoters (7,451 in March 1994 in PWS). With the exception of the Surf Scoters, the estimated numbers of birds are for northern Montague Island only. Thus, actual population estimates for PWS and the adjacent north Gulf of Alaska coast would be higher, and substantially so for glaucous-winged and mew gulls.

2. What is the general health of the population? Is the population increasing, decreasing or holding steady in the proposed sampling area? Is reproduction and young survival normal?

The general health of all five species is probably good. Based on Bird Study No. 2 (Klosiewski and Laing 1994), there is evidence of population declines for Glaucous-winged Gulls, Mew Gulls, and scoter species between 1972-73 and 1989-91. There is, however, no indication that any of these populations are in distress, and recent boat surveys indicate that gulls are increasing in Prince William Sound since 1990. In addition, the Surf Scoter is a legally-taken game bird for which there is a daily bag limit of 15 a day. The 7,451 Surf Scoters estimated by the U.S. Fish and Wildlife Service in March 1994 is an increase of 1,530 from the same survey in 1993. Unlike the two gulls and the Surf Scoter, which are widely distributed, much of the world populations for Surfbirds and Black Turnstones may be found on Montague Island during spring migration. However, numbers of these shorebirds stopping on northern Montague Island in spring migration have shown no decreases on mostly ad hoc surveys during the years 1989-1994 (USFWS unpubl. data).

3. Is the proposed take likely to affect any population trends?

In a word, no. The numbers proposed to be collected are about 1/4 of 1% or less of the local seasonal population (PWS population in case of Surf Scoter). This level of collections, performed only in a single year, will have a negligible impact on the population trends of any of the five species.

4. Is the proposed method of take humane? Are there any effective, alternative means to obtain the data?

Bishop proposes to collect the birds by shotgun at close range. Death will be almost instantaneous.

There are various alternatives to sacrificing birds to obtain gut contents, but none of them are appropriate or adequate in this context. What is critical here is that the investigators intend to observe and record behavioral information on specific individuals and then collect those same individuals for diet analysis. Collection methods that rely on, for example, flushing a flock of birds into a net do not allow investigators to select individuals for collection. In addition, live trapping can be extremely difficult and time consuming, and cause more stress and possibly injury to more birds than quickly shooting a few individuals. Finally, in the case of the shorebirds, stomach pumping techniques are probably not satisfactory for getting large hard-shelled prey (e.g., Mytilus sp.) out of the gut, because the prey items are larger in diameter than the tube which is inserted into the gut (the items can be swallowed because of flexibility in the esophagus, but getting them back out is more difficult!). This could bias results toward soft prey and lead to an overestimate of the importance of herring eggs.

5. What will be lost of if there is no take allowed?

Having quantitative data on actual consumption of eggs is essential to estimations of the level and impact of predation on herring spawn. Without these data, the investigators are left to make assumptions that might well be faulty. Bishop already has completed one season without collecting any specimens, and there would be almost no reason to undertake the 1995 work without the requested collections.

6. What can we realistically hope to learn that will justify this collection?

Herring are a keystone component of the PWS ecosytem, and their economic value is significant. The diet analysis and estimation of the impact of predation on herring spawn proposed by Bishop will provide essential information for modeling herring productivity and survival. This in turn will allow better management of PWS herring stocks for the benefit of the commercial fishery and the ecosystem. In the long run, the bird species that are being collected will benefit from these actions.

7. Have federal and/or state permits been secured? If not, why not?

Bishop has secured a federal collecting permit and has applied for a state permit. No difficulty is expected in securing the state permit.

In conclusion, I recommend approval of Bishop's request to collect bird specimens. In addition, I recommend that we stipulate that the carcasses be retained, frozen, and made available to the University of Alaska or management agencies for analysis of body composition. This is not a part of Project No. 95320Q, but we should encourage maximum use of any specimens collected.

Please let me know if you have any questions.

cc: Stan Senner
EVOS Science Coordinator

Dr. Mary Anne Bishop U.S. Forest Service



Forest Service

Pacific Northwest Research Station/ Alaska Region Copper River Delta Institute P.O. Box 1460 Cordova, AK 99574 (907) 424-7212 FAX (907) 424-7214

Date: 10 March 1995

Caring for the Land and Serving People

Bob Spies, EVOS Chief Scientist Applied Marine Sciences 2155 Las Positas, Suite S Livermore, CA 94550

Reply to: 4000

Dear Bob,

Greetings from sunny Cordova! I heard today through Jim Bodkin that there was a nearshore meeting this past Monday and Tuesday in Anchorage. While I am sorry I was not able to attend, I was pleased to hear that my proposed study on the importance of herring eggs for breeding and migrant birds was discussed on how it will fit into the nearshore investigations for FY96. I hope to discuss this project in more detail with you at your convenience.

The reason I am writing to you is to submit to you a justification for the proposed taking of birds at herring spawn areas this spring as part of 95320Q. I have written this justification based on the draft policy guidelines that were circulated in January. Please let me know if you need any additional information.

I have been in contact with Eric Myers on the proposed collections. I understand that the Trustee Council has not yet acted on the takings issue, but should be considering it (hopefully) by the end of this month. Given my timeline of collections beginning in mid-April, I wanted to submit this to you for your review and consideration.

Thanks again for your help Bob. I look forward to hearing from you.

Best wishes.

Mary And Bishop, Ph.D. Research Wildlife Biologist

Enc

cc: Eric Myers, EVOS



Justification of Collecting Activities Project #95320Q, Avian Predation on Herring Spawn

Prepared for: Chief Scientist,

Exxon Valdez Oil Spill Trustee Council

Prepared by: Copper River Delta Institute,

U.S. Forest Service

Summary and Conclusions

- As part of the Avian Predation on Herring Spawn Project (#95320Q) individuals from 5 avian species will be collected to obtain data on avian diet in herring spawn areas.
- The number of gulls, shorebirds, and scoters is small and will not impact the populations of these species.
- Non-lethal methods of obtaining data on avian diets in herring spawn areas have been attempted and were found to be ineffectual, impractical and time-consuming while yielding low quality data. Because of the free ranging nature of the species in question, their behaviors, and their habitat, no non-lethal alternatives are feasible.
- Without collecting birds, no accurate, quantified data on avian diet in herring spawn areas will be available. Without data on the amount of spawn present in the diet of the birds foraging in spawn areas, the impacts of avian predators on herring spawn in Prince William Sound cannot be assessed.

The Proposal

- Project #95320Q, Avian Predation on Herring Spawn, will assess the impact of avian predation on herring spawn in Prince William Sound.
- Boat and aerial surveys will document the size of the avian populations using herring spawn areas. Surveys and collections will occur from mid-April to mid-May (this is highly dependent upon spawn timing). These numbers, combined with behavioral observations, energetic models, and, most importantly, data on diet composition, will be used to estimate the amount of spawn removed by avian predators.
- To acquire data on the diet composition of avian predators using herring spawn areas we will collect 30 Glaucous-winged Gulls, 20 Mew Gulls, 20 Surfbirds, 20 Black Turnstones, and 20 Surf Scoters. In 1994, all 5 species are present in large numbers on the study area during spawn and were, to different degrees, found to be associated with concentrations of herring spawn. Birds will be collected while actively foraging within herring spawn areas. They will be taken with a shotgun firing large enough shot to ensure a clean, quick kill, but small enough to prevent unnecessarily damage to the specimens. The contents of their upper Gastro-intestinal tract will be collected and the carcass will be frozen for analysis of body composition.

- Project #95320Q will work in concert with Project #95166, Herring Natal Habitats. Sampling efforts and field logistics will be coordinated and subsequent data will be integrated into a model describing herring egg loss.
- Not only will this study gather valuable data on herring egg loss through predation but it will also document the importance of the spawn to resident and migratory birds in Prince William Sound.

Population Status of Species

- Glaucous-winged Gulls The largest breeding colony of Glaucous-winged Gulls in the area is
 Egg Island with 20,000 breeding adults. The number of collected individuals equals 0.15
 percent of the Egg Island population. The 1994 spring counts found an estimated 45,000
 Glaucous-winged Gulls on Montague Island. The number of collected individuals equals
 0.07 percent of this population.
- Mew Gulls In 1994, an estimated 9,700 Mew Gulls where counted on Montague Island during spawn. The number of collected individuals equals 0.21 percent of the population.
- Surfbirds In May 1992, an estimated 56,000 Surfbirds were counted on Montague Island. The number of collected individuals equals 0.04 percent of the estimated population.
- Black Turnstones The same May 1992 count estimated 25,000 Black Turnstones on Montague Island. The number of collected individuals equals 0.08 percent of the population.
- Surf Scoters In March 1994, the U.S. Fish and Wildlife Service estimated 7,451 Surf Scoters in Prince William Sound (1,530 higher than 1993). The number of collected individuals equals 0.27 percent of this population. It is likely that the population size is greater in April and early May. In addition, Surf Scoters are a legally hunted species with liberal bag limits.
- The large population sizes of all 5 species and the small number of collected birds results in no significant impact on any population trends.

Alternative Methods

- Ignoring food habits and working under the assumption that herring spawn equals 100
 percent of prey items selected was considered. However, in 1994, the gulls and shorebirds
 were observed consuming non-spawn prey items. For the scoters, no direct observations of
 prey selection are possible. Data from previous work in herring spawn areas shows all 5
 species consuming non-spawn prey items.
- Non-lethal methods of collecting data on the food habits of seabirds usually depends on birds being present at nests. Stomach contents are obtained by forced regurgitation (stomach pump or emetic) or by collection of prey items brought to chicks. However, none of the birds present in the spawn areas are breeding before the roe hatches. Also, both methods of collecting stomach contents in this situation are biased. In the case of stomach pumping, smaller prey items are over represented.
- Live capture of free ranging birds in a rigorous environment is problematic at best. In 1994 we tried several capture methods including net gunning, mistnets, and pull nets. Both the

Collecting Justification Project #95320Q

mistnets and the pull nets failed completely. Several factors contributed to the zero capture rate: large tidal range, high or steady winds, rocky environment, and flushing behavior of birds (out from instead of along the shore). The net gun was an effective capture method at high tide and given a sandy or mud substrate. We refrained from firing the net toward rocky areas for several reasons. The fast moving net could very easily drag birds, severely injuring them on barnacle encrusted rocks. Even in perfect conditions, the net gun can easily kill or permanently disable birds. Additionally, the rocks will damage the net and, more importantly, the metal bolts that carry the net as it is shot.

- Techniques for capturing free ranging seabirds are not selective. To obtain optimal data on food habits, an actively foraging bird is chosen and watched to record both its habitat and behavior before it is collected. This ensures that the bird has freshly consumed food in its stomach and provides highly relevant data on its environment. Typically, this cannot be done using current live capture methods for seabirds.
- Direct observations of prey item manipulation and intake were considered. Experience
 gained in 1994 during flock scan and focal animal observation rules out this alternative. Most
 prey items are far to small to observe and the data is biased toward large prey items. Often,
 prey intake occurs too fast for an observer to record. For the scoters, direct observation of
 prey selection is impossible.
- Regurgitant from Glaucous-winged Gulls was collected in 1994 by flushing flocks of gulls
 and then searching for any stomach contents they regurgitated before taking off. However,
 this method is haphazard and most likely does not accurately reflect the food habits of the
 birds. Also, the identity of the species may be suspect.

Permits

- Within Alaska, permits for collecting birds for research are required from both the Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service.
- The collecting permit applications for this project are pending.

Importance of Data

Data on the proportion of herring spawn in the diet of avian predators is the keystone to the
analysis of avian impact on herring spawn. The amount of spawn removed by these 5 major
species can only be estimated using the proportion of spawn and other items in their diets as
determined by collecting gastrointestinal contents.



Sierra Club

Alaska Field Office EXXON VALDEZ OIL SPILL 241 E. Fifth Avenue, Suite 205, Anchorage, Falaska 99501

(907) 276-4048 • FAX (907) 258-6807

April 17, 1995

EXXON VALUEZ OIL SPILL Dear Fellow Members of the EVOLUTE RECORD Group,

I would like to suggest an additional item for us to add to the agenda to discuss at the upcoming meeting of the Exxon Valdez Oil Spill Public Advisory Group (PAG). I do not think that it will require a long period of time for discussion.

I would like the PAG to consider taking a stand opposing the U.S. Mineral Management Service's Oil Lease Sale 149. This is an offshore oil lease sale for Lower Cook Inlet and Shelikof Strait, directly within the Oil Spill affected area. If this lease sale goes forward, it significantly increases the risk of another catastrophic oil spill within the area which has not yet recovered from the Exxon Valdez Oil Spill.

Although the Trustee Council has focused its attention almost entirely on how to spend the remaining funds from the \$900 million settlement, it has always had the ability and responsibility to help restore the Oil Spill injuries through management decisions over public resources -- something it can do at little or no cost.

The Mineral Management Service's deadline for public comments is Wednesday, April 19 -- the day before our meeting. However, I believe that MMS would accept comments from such a group as the PAG even if they are a day or two late.

I am attaching a fact sheet with some more information about this lease sale. I encourage you to check with members of your interest group, especially those who live in the Kenai Peninsula and Kodiak Archipelago area about their views on Lease Sale 149. Thank you.

Sincerely,

Pamela Brodie

EVOS PAG Environmental Representative

Molly McCammon / Doug Mutter

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MMS Proposed Oil Lease Sale 149 Lower Cook Inlet & Shelikof Strait -- some comments for the EVOS PAG --

from information provided by Trustees for Alaska & Greenpeace

Within or surrounding the Lease sale area are:

- Five national wildlife refuges -- Alaska Maritime, Kodiak, Becharof, Alaska Peninsula, Kenai;
- Four national parks -- Katmai, Lake Clark, Aniakchak, Kenai Fjords;
- The largest concentration of state-designated critical habitat areas:
- McNeil River State Wildlife Sanctuary, renowned as the greatest brown bear viewing area in the world;
- Kachemak Bay, recently designated as an International Shorebird Reserve;
- Shelikof Strait, designated critical habitat for the threatened Steller sea lion, whose numbers have declined about 70 percent since the mid-1970's, according to government agencies.

Many Native villages suffered during the Oil Spill from loss of their subsistence resources. These are threatened again by Lease Sale 149. The following have expressed strong opposition to the sale in resolutions to MMS: Chugachmiut Environmental Protection Consortium (representing the villages of Port Graham, Nanwalek [formerly English Bay], Chenega Bay and Tatitlek), Ninilchik Traditional Council, Dena'ina Traditional Council, Chickaloon Village).

Oil development threatens multi-million dollar commercial and sport fisheries and tourism, the economic bases for local communities. The area is of comparable value to Bristol Bay, where development is currently under a Congressional moratorium. If it is leased, local demand for a buy-back is likely to be high (more than four hundred people attended the public hearing in Homer to express unanimous opposition to the sale). United Fishermen of Alaska, representing 18,000 commercial fishermen, also opposes Lease Sale 149.

The oil industry has an unfortunate record of pollution on the Kenai Peninsula and in Cook Inlet:

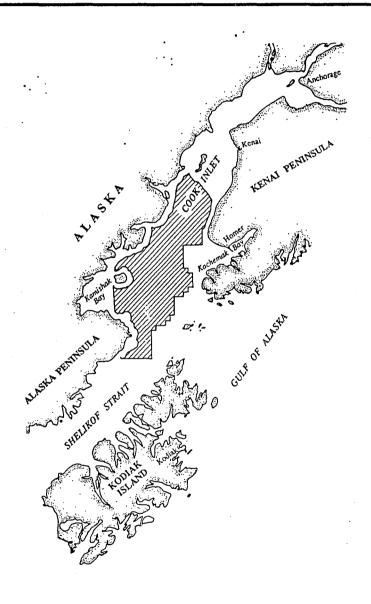
- Oil and gas companies operating 18 facilities in upper Cook Inlet have committed more than 4,000 violations of their Clean Water Act NPDES permits from 1987 to the present;
- Oil industry operations on the Kenai Peninsula caused the Kenai Peninsula Borough to have the highest levels of pollution of any local government in EPA's Region 10 (WA, ID, OR, AK), according to the Toxics Release Inventory;
- The oil industry has left a toxic legacy of more than 150 hazardous waste sites on the Kenai Peninsula, the greatest concentration of these is within the Kenai National Wildlife Refuge;
- The oil industry has resisted efforts to prevent pollution from oil spills through campaigns to preclude requirements of tug escorts in Cook Inlet.

OCS EIS/EA MMS 94-0066

Cook Inlet Planning Area Oil and Gas Lease Sale 149

Draft Environmental Impact Statement

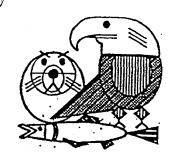
Volume I



Exxon Valdez Oil Spill Trustee Council

Restoration Office

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MEMORANDUM

TO:

Trustee Council

THROUGH:

Molly McCammonn

Executive Director

FROM:

Traci Cramer

Administrative Officer

DECEIVED

......

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL ADMINISTRATIVE RECORD.

DATE: April 17, 1995

RE:

Financial Report as of March 31, 1995

Attached is the Statement of Revenue, Disbursements and Fees, and accompanying notes for the *Exxon Valdez* Joint Trust Fund for the period ending March 31, 1995.

The following is a summary of the information incorporated in the notes and contained on the statement.

Joint Trust Fund Account Balance	\$109,518,545
Less: Commitments (Note 5)	\$50,171,598
Less: Restoration Reserve Balance	\$24,000,000
Plus: Adjustments (Note 7)	\$2,742,197

Uncommitted Fund Balance \$38,089,144

Plus: Future Exxon Payments (Note 1) \$490,000,000 Less: Remaining Reimbursements (Note 3) \$26,300,000

Total Estimated Funds Available \$501,789,144

If you have any questions regarding the information provided please give me a call at 586-7238.

attachments

cc: Restoration Work Force

Bob Baldauf

NOTES TO THE STATEMENT OF REVENUE, DISBURSEMENTS AND FEES FOR THE EXXON VALDEZ JOINT TRUST FUND As of March 31, 1995

1. Contributions - Pursuant to the agreement Exxon is to pay a total of \$900,000,000.

Received to Date \$410,000,000 Future Payments \$490,000,000

- Interest Income In accordance with the MOA, the funds are deposited in the United States District Court, Court Registry Investment System (CRIS). All deposits with CRIS are maintained in United States government treasury securities with maturities of 100 days or less. Total earned since the last report is \$381,730.
- 3. Reimbursement of Past Costs Under the terms of the agreement, the United States and the State are reimbursed for expenses associated with the spill.

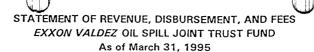
Reimbursements to Date \$150,382,887
Remaining Reimbursements
United States \$3,000,000
State of Alaska \$23,300,000

- 4. Fees CRIS charges a fee of 10% for cash management services. Total paid since the last report is \$42,414.
- 5. Commitments Includes \$24,956,000 for the Trustee Council's contribution toward the Alaska Sealife Center in Seward, \$6,363,584 for the final two installments (plus interest) for the Seal Bay purchase, and \$18,852,014 for the two pending court requests. The contributions for the Alaska Sealife Center will be made in September 1995 and 1996, with the Seal Bay payments due in November 1995 and 1996.

There are two pending court requests. First, \$1,652,014 for the Nearshore Vertebrate Predator and Apex: Forage Fish/Seabird projects approved at the March 31, 1995 meeting. As of this date, the projects are under review by the Department of Justice and the required documentation has not been filed. Secondly, \$17,200,000 for land acquisitions for Orca Narrows, Akhiok-Kaguyak, and Old Harbor.

- 6. Restoration Reserve The required documentation for establishment of the reserve has not been filed.
- 7. Adjustments Under terms of the Agreement, both interest earned on previous disbursements and prior years unobligated funding or lapse are deducted from future court requests. Since the last court request \$104,570 in interest have been earned and \$2,637,624 have been reported as unobligated for the 1992 and 1993 Federal Fiscal Years.

Interest Lapse
United States \$0 \$240,859
State of Alaska \$104,570 \$2,396,765



DRAFT

Federal Fiscal Years Ending

Federal Fiscal Years Ending September 30 To Date					Cumulativa
· ·	1992	1993	1994 .	1995	Cumulative Total
REVENUE:					
Contributions: (Note 1)			•		• •
Contributions from Exxon Corporation	90,000,000	250,000,000	70,000,000		410,000,000
Less: Credit to Exxon Corporation for clean-up costs incurred		(39,913,688)		-	(39,913,688)
Total Contributions	90,000,000	210,086,312	70,000,000	0	370,086,312
Interest Income: (Note 2)			·.		
Exxon Corporation escrow account	831,233				831,233
Joint Trust Fund Account	596,000	1,378,000	3,736,000	2,880,617	8,590,617
Total Interest	1,427,233	1,378,000	3,736,000	2,880,617	9,421,850
Total Revenue	91,427,233	211,464,312	73,736,000	2,880,617	379,508,162
DISBURSEMENTS:					
Reimbursement of Past Costs: (Note 3)					
State of Alaska	29,267,842	29,000,000	25,000,000		83,267,842
United States	24,726,280	36,117,165	6,271,600		67,115,045
Total Reimbursements	53,994,122	65,117,165	31,271,600	0	150,382,887
Disbursements from Joint Trust Account:					
State of Alaska	6,559,200	18,529,113	44,546,266	19,434,190	89,068,769
United States	6,320,500	9,105,881	6,008,387	8,252,361	29,687,129
Total Disbursements	12,879,700	27,634,994	50,554,653	27,686,551	118,755,898
FEES:					
U.S. Court Fees (Note 4)	23,000	154,000	364,000	309,833	850,833
Total Disbursements and Fees	66,896,822	92,906,159	82,190,253	27,996,384	269,989,618
Increase (decrease) in Joint Trust	24,530,411	118,558,153	(8,454,253)	(25,115,766)	109,518,545
Joint Trust Account Balance,	o	24,530,411	143,088,564	134,634,311	
beginning balance Joint Trust Account Balance, end of period	24,530,411	143,088,564	134,634,311	109,518,545	
Commitments: (Note 5)					(50,171,598)
Restoration Reserve: (Note 6)			•		24,000,000
Adjustments: (Note 7)					2,742,197
Uncommitted Fund Balance					38,089,144
Remaining Reimbursements: (Note 3)					(26,300,000)
Total Estimated Funds Available					501,789,144