

14.02.38

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax:907/276-7178



## MEMORANDUM

TO: Public Advisory Group

FROM: *Submitted for*  
Molly McCammon  
Executive Director

RE: November 16 Meeting

DATE: November 13, 2000

Please find attached the following materials for Thursday morning's meeting:

- Draft agenda for Thursday's meeting
- Draft agenda for upcoming Trustee Council meeting (Dec. 4-5)
- Draft resolution and grant related to the future habitat program. At its March 16, 2000 meeting, the Trustee Council directed the Executive Director to develop a proposal to create a permanent habitat protection program to be administered by a private, non-profit organization. Toward this end, attached are:

(1) Draft Trustee Council resolution, which would approve a 2-phase grant to The Conservation Fund/The Nature Conservancy -- Phase 1 would be \$1.5 million for a pilot effort (1/1/01-9/30/02) and Phase II would be \$25 million for a long-term effort (beginning 10/1/02).

(2) Draft Attachment A, a grant agreement which would be entered into between DOI (USFWS) and The Conservation Fund/The Nature Conservancy.

(3) Draft Attachment B, which lists agency expenses that might be incurred. These expenses would be in addition to the expenses incurred by the grantee and may be appropriate for funding by the Trustee Council.

Comments on these documents were recently received from Trustee agency staff, The Conservation Fund, and the Nature Conservancy. We are currently reviewing their comments and will discuss them with you at the Thursday PAG meeting.

The meeting will begin at 9:00 a.m. Remember you must call in: 1-800-315-6338. Code, when requested, is 456 then the # sign.

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax:907/276-7178



## AGENDA

*Exxon Valdez* Oil Spill Trustee Council  
Public Advisory Group  
Fourth floor conference room  
645 G Street, Anchorage, Alaska

### Teleconference

**Thursday, November 16, 2000 - 9:00 a.m.-1:00 p.m.**

**DRAFT**

**DRAFT**

9:00 a.m. Welcome/Roll Call

1. December 4-5, 2000, Trustee Council meeting agenda
2. Gulf Ecosystem Monitoring (GEM) update
3. Possible Habitat Grant
4. Other Trustee Council activities

1:00 p.m. Adjourn

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#### Federal Trustees

U.S. Department of the Interior  
U.S. Department of Agriculture

#### State Trustees

Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation

AGENDA  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
MEETING

December 4, 2000 @ 1:00 p.m.

December 5, 2000 @ 8:30 a.m.

645 G STREET, Suite 401, ANCHORAGE

DRAFT

Trustee Council Members:

BRUCE BOTELHO/CRAIG TILLERY

Attorney General/Trustee  
State of Alaska/Representative

MICHELE BROWN

Commissioner  
Alaska Department of Environmental  
Conservation

MARILYN HEIMAN

Special Assistant to the Secretary  
for Alaska  
U.S. Department of the Interior

DAVE GIBBONS

Trustee Representative  
U.S. Department of Agriculture  
Forest Service

JAMES W. BALSIGER

Director, Alaska Region  
National Marine Fisheries Service

FRANK RUE

Commissioner  
Alaska Department of Fish & Game

Teleconferenced in Anchorage, Restoration Office, 645 G Street  
State Chair

December 4, 2000

1. Call to Order - 1:00 p.m.
  - Approval of Agenda
  - Approval of August 3, 2000, meeting notes
2. Public comment period - 1:00 p.m.
3. Public Advisory Group report
  - Rupert Andrews, Chair
4. Executive Director's report
  - Molly McCammon
5. Small parcel grant\*

6. Small Parcels:
  - PWS 05 Valdez Duck Flats\*
  - PWS 06 Valdez Duck Flats\*
  - PWS 1010 Jack Bay\*
7. Funds for Old Harbor/State land exchange\*
8. Archaeology repository\*

**December 5, 2000**

1. Call to Order 8:30 a.m.
2. Any additional public comment
3. GEM briefing and discussion
  - Molly McCammon
  - Phil Mundy
  - Bob Spies
4. Break - 10:30 a.m.
5. Alaska SeaLife Center update - 10:45 a.m.
  - Tylan Schrock, Executive Director
6. Lapse Date Extensions\* - 11:15 a.m.
7. Deferred projects\*
8. Lunch provided during Executive Session - 12:00
  - Public Advisory Group appointments
  - Executive Director evaluation
9. Trustee fiduciary investment training - 1:00 p.m.
  - Mike O'Leary, Callan Associates
10. Break - 3:00 p.m.
11. Public Advisory Group appointments \*- 3:15 p.m.
12. Deferred projects\* - 3:45 p.m.

\* indicates tentative action items

Adjourn - 5:00 p.m.

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all on same  
page AB

pdb

DRAFT

**RESOLUTION**  
**of the**  
***Exxon Valdez* Oil Spill Trustee Council**  
**concerning a**  
**Long-Term Funding Source for Habitat Protection**

WHEREAS in November 1994, following an extensive public process, the *Exxon Valdez* Oil Spill Trustee Council adopted the *Restoration Plan* to guide a comprehensive and balanced program to restore resources and services injured by the oil spill;

WHEREAS the Trustee Council has used the *Restoration Plan* to guide acquisition and protection of large and small habitat parcels important to the long-term recovery of injured resources and services;

WHEREAS the *Restoration Plan* recognized that complete recovery from the oil spill likely would not occur for decades and in fact full recovery of many injured resources and services is not yet complete;

WHEREAS the *Restoration Plan* recognized establishment of the Restoration Reserve to provide a secure source of funding for restoration into the future beyond the final payment from Exxon Corporation in 2002;

WHEREAS, consistent with the *Restoration Plan*, on March 1, 1999 the Trustee Council determined there is a need for a continuing long-term comprehensive and balanced restoration program that includes protection of additional key habitats;

WHEREAS on March 1, 1999 the Trustee Council allocated \$55 million of the funds remaining on October 1, 2002 and the associated earnings thereafter to be managed as a long-term funding source for habitat protection, with a significant proportion of these funds to be used for small parcel habitat protection and a portion also to be used for purchase of lands along or adjacent to the Karluk or Sturgeon rivers, if such a purchase is authorized by the Trustee Council;

WHEREAS private, non-profit organizations can bring certain efficiencies to a long-term habitat protection program, such as responding more quickly than government to opportunities for acquisition of priority lands, leveraging resources by attracting matching funds, further broadening the protection impact of each dollar spent by achieving below-appraised-value purchases through use of tax incentives and estate planning strategies, and minimizing administrative costs;

WHEREAS on March 16, 2000 the Trustee Council directed the Executive Director to develop a proposal to create a permanent habitat protection program to be

administered by a private, non-profit organization;

WHEREAS The Conservation Fund and The Nature Conservancy are private, non-profit organizations which have substantial experience in negotiating land acquisition packages in Alaska as well as elsewhere and which have expressed their interest in collaboratively implementing a long-term habitat protection program on behalf of the Trustee Council;

THEREFORE BE IT RESOLVED that \$1,500,000 be awarded as a pilot grant to The Conservation Fund and The Nature Conservancy (as laid out in Attachment A - Grant Agreement), to be administered jointly by these two private, non-profit organizations for a habitat protection effort in the northern Gulf of Alaska on behalf of the Trustee Council;

BE IT FURTHER RESOLVED that the grant funds are to be used by The Conservation Fund and The Nature Conservancy for the acquisition of lands and interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill-area ecosystem;

BE IT FURTHER RESOLVED that The Conservation Fund and The Nature Conservancy shall pursue protection of any specific parcel only after consultation with the Trustee Council and shall acquire parcels only from willing sellers;

BE IT FURTHER RESOLVED that the implementation and results of the pilot grant will be reviewed by the Trustee Council prior to October 1, 2002 and, unless the Trustee Council by unanimous vote decides to discontinue the grant, an additional \$25,000,000 and the earnings derived therefrom (consistent with the Trustee Council's March 1, 1999 resolution) will be added to the grant and the duration of the grant will be extended for as long as funds, either the principal set aside for this purpose or the earnings thereon, are available for obligation (see Attachment A - Grant Agreement);

BE IT FURTHER RESOLVED that, following review of the land acquisitions expected to occur in the upcoming year and in accordance with Attachment B, the Trustee Council may annually designate some portion of the grant funds to pay for Trustee agencies' direct costs of receiving title to land acquired under the grant;

BE IT FURTHER RESOLVED that the Trustee Council will annually review the accomplishments and activities under the grant and may, with proper notice and upon a unanimous decision of the Trustee Council, terminate the grant.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2000, in Anchorage, Alaska.

DAVE GIBBONS Date  
Trustee Representative  
Alaska Region  
USDA Forest Service

BRUCE W. BOTELHO	Date
Attorney General	
State of Alaska	

MARILYN HEIMAN Date  
Special Assistant to the Secretary  
for Alaska  
Department of the Interior

JAMES W. BALSIGER Date  
Director, Alaska Region  
National Marine Fisheries Service

FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game

MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation



**RESOLUTION  
of the  
*Exxon Valdez* Oil Spill Trustee Council  
concerning a  
Long-Term Funding Source for Habitat Protection**

**ATTACHMENT A  
GRANT AGREEMENT**

**Grant Number:**

**Segment:**

**Title:** *Exxon Valdez* Oil Spill Trustee Council: Long-Term Funding Source for Habitat Protection

**Beginning Date:** January 2, 2001

**Ending Date:**

**State:** Alaska

**Parties:** United States Department of the Interior (Interior)

State of Alaska (State)

*Exxon Valdez* Oil Spill Trustee Council (Trustee Council)

The Nature Conservancy & The Conservation Fund (Recipients)

**Authorities:** Pub. L. 106-113, 113 Stat. 1501, 1999

Pub. L. 102-229, Sec. 207, Dire Emergency Supplemental Appropriations Act, 1992

**Documents attached and incorporated herein:**

Resolution of the *Exxon Valdez* Oil Spill Trustee Council, March 1999, Concerning the Restoration Reserve and Long-Term Restoration Needs

**DRAFT UNDER REVIEW:** Resolution of the *Exxon Valdez* Oil Spill Trustee Council, December 2000 (?), Concerning a Long-Term Funding Source for Habitat Protection

**TO BE DRAFTED: Memorandum of Understanding Between The Nature Conservancy and The Conservation Fund for Administration of the *Exxon Valdez* Oil Spill Trustee Council's Long-Term Habitat Protection Fund**

**Objective:**

This Grant Agreement provides a long-term funding source for habitat protection in the northern Gulf of Alaska. Funding will be provided by the Trustee Council in two phases: \$1.5 million in Phase I and \$25 million, and the earnings derived thereon, in Phase II. These funds will be used by the Recipients for the acquisition of lands or interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem. No Grant Funds may be used for land management or stewardship fees.

**Background:**

The March 24, 1989 *Exxon Valdez* in Alaska's Prince William Sound was the largest oil spill in U.S. history, contaminating about 1,500 miles of Alaska's coastline. Under the consent decree approved by the U.S. District Court for the District of Alaska in October 1991, Exxon Corporation agreed to pay civil claims totaling \$900 million to the federal government and the State of Alaska by September 1, 2001. Administration of the civil settlement is carried out under agreements between the federal government and the State of Alaska. These agreements establish a six-member federal/state trusteeship, the *Exxon Valdez* Oil Spill Trustee Council (hereinafter the "Trustee Council" or its successor in function), including a representative of the Secretary of the Interior. Decisions about the types of activities to fund with civil payments are governed by the consent decree and a Restoration Plan approved by the Trustee Council. One of the major activities identified in the Restoration Plan is habitat acquisition, and to date interests in land totaling over 600,000 acres have been acquired.

The Nature Conservancy and The Conservation Fund (hereinafter the "Recipients") are private, non-profit organizations which have substantial experience in negotiating land acquisition packages in Alaska as well as nationwide. The Recipients have the ability to respond quickly to opportunities for acquisition of priority lands from willing sellers, leverage resources by attracting matching funds, achieve below-appraised-value purchases through use of tax incentives and estate planning strategies, and minimize administrative costs.

**Availability of Funds:**

Funds available for this Grant Agreement are principal, and earnings derived therefrom, from funds set aside by the Trustee Council from the 1991 civil settlement between Exxon Corporation, the State of Alaska, and the United States of America for a long-term habitat fund. Funding will be provided by the Trustee Council in two phases:

Phase 1	\$1,500,000	Commence January 2, 2001
Phase 2	\$25,000,000 and the earnings derived thereon	Commence October 1, 2002, unless the Trustee Council, by unanimous vote prior to this date, decides not to proceed with Phase II

In regard to Phase II, the principal will be invested by the State of Alaska Department of Revenue, Treasury Division. By October 31 of each year, the Trustee Council will inform the Recipients of the amount of funds available for expenditure in that federal fiscal year, based on \_\_\_\_\_....

*NOTE: The Trustee Council will need to select an approach for determining the amount of funds available each year. Two obvious approaches are (1) actual earnings from the prior year and (2) average earnings over a specified number of quarters or years. The Council will also need to decide whether or not to inflation-proof the fund. Also note that the amount of funds available to the Recipients each year will be reduced by agency expenses (see draft resolution and Attachment B).*

However, by unanimous vote, the Trustee Council may make available an amount of funds that is less than or greater than that determined by the formula.

**Term:**

1. Duration. Except as provided below, this grant shall remain in effect as long as funds, either the principal set aside for this purpose by the Trustee Council, or earnings thereon, are available for obligation hereunder.

2. Termination.

a) This grant may be terminated by the Trustee Council, with 30 days advance written notice, upon a unanimous decision of the Trustee Council or, if the Trustee Council is no longer in effect, the federal and state agencies serving as the successor in function to the Trustee Council.

b) This grant may be terminated by the Recipient, with 30 days advance written notice to the Trustee Council or its successor in function.

c) In the event of termination of the grant, the Recipient shall be entitled to receive or retain only a pro rata portion of the annual lump sum payment identified above, based on the number of days remaining in the federal fiscal year. The Recipient shall refund to the Trustee Council no later than 30 days after the effective date of the termination any such portion of the annual payment.

**Lands to be Acquired:**

This Grant Agreement provides funding for the acquisition of lands or interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem.

The Recipients shall acquire parcels only from willing sellers. The Recipients shall specifically seek to acquire:

- a) lands with concentrated biological values or high natural lands recreational values;
- b) lands which provide access to areas of high biological significance or areas with high natural lands recreational values;
- c) isolated parcels within otherwise protected areas.

The Recipients shall evaluate properties using the following criteria:

- a) habitat value;
- b) threat of development or loss;
- c) opportunity to enhance management of protected areas;
- d) willingness of a state, federal, or other public agency to manage the land or interests in the land;
- e) feasibility of acquiring the property, including willing seller;
- f) leverage, i.e., the amount of matching funds available;
- g) partnership support, i.e., the number of funding partners and the amount of public support.

The acquisition cost shall not exceed the fair market value of the parcel, as determined by appraisal. However, in exceptional cases, the Trustee Council may, by unanimous vote, agree to pay a price in excess of fair market value.

**Process:**

1. Land Acquisition. The Recipients shall manage all aspects of the land acquisition process, including:

- a) periodically solicit parcel nominations from the public, agencies, and other organizations;
- b) evaluate parcels;
- c) consult with the Trustee Council as to which nominated parcels should be pursued for acquisition;
- d) coordinate with the United States, State of Alaska, or other public agency approved by the Trustee Council, that will own and manage the interests in the land;
- e) negotiate with willing sellers for the purchase of parcels;
- f) complete due diligence on each parcel to be acquired, including appraisal, title review, and Level I and any other hazardous materials inspection;
- g) develop acquisition or option agreements;
- h) arrange for closing and acceptance of title by the United States, the State of Alaska, or other public agency approved by the Trustee Council, including preparing documents and making payments to landowners as agreed to by the Recipients and the landowners;
- i) to the greatest degree practical, secure matching funds from private or public sources in order to minimize acquisition costs to the Trustee Council.

2. Support. The Trustee Council, through its member agencies, will provide the Recipients the following support:

- a) a lump sum of \$25,000 annually to each of the Recipients to cover costs related to acquisition other than those costs specified in Section 3 (f) below (e.g., personnel time, indirect expenses such as telephone, duplication, and postage); no other charges for indirect costs, including application of the Recipients' indirect cost rates, are allowed under this Grant Agreement;
- b) technical and legal expertise in federal and state land acquisition procedures, including review by the acquiring agency or government (i.e., state or federal) of appraisals, title commitments and policies, hazardous materials reports, and legal documents;
- c) technical information regarding existing land ownership, habitat and wildlife value, and agency priorities;
- d) acceptance of habitat tracts acquired by the Recipients and approved by the

Trustee Council.

3. Acquisition Information Package. For each parcel Recipients propose to acquire with Grant Funds, Recipients shall submit to the Trustee Council an acquisition information package (hereinafter the "Acquisition Package"). The Acquisition Package shall include the following:

- a) legal description of the parcel;
- b) property owner;
- c) acreage;
- d) map showing location;
- e) description of property and restoration value;
- f) costs, including acquisition price and the following related and associated expenses. The expenses must be reasonable and allowable and those which the acquiring agency or government (i.e., state or federal) would have incurred itself in acquiring the concerned parcel.
  - i) appraisal
  - ii) title reports
  - iii) title insurance
  - iv) escrow and closing fees
  - v) survey
  - vi) real property taxes
  - vii) contaminants surveys
  - viii) penalty costs for prepayment of pre-existing recorded mortgages
  - ix) travel related to project acquisition
  - x) preliminary title commitment or title policy
  - xi) such other expenses as may be contained in a list approved by the Assistant Secretary, Policy, Management and Budget, Department of Interior and approved by the Trustee Council;
- g) identification of agency (United States, State of Alaska, or other public agency approved by the Trustee Council) that will own and manage the parcel;
- h) amount of matching funds, if any;
- i) Level I and any other required hazardous materials inspections.

4. Trustee Council Approval. After receipt of a complete Acquisition Package, the Trustee Council shall promptly--and in no event more than 90 days after receipt--notify the Recipients of its approval or disapproval of the proposed acquisition. The Trustee

Council's approval process shall include reasonable and adequate public notice about the proposed acquisition and an opportunity for public comment. The Trustee Council shall approve the Acquisition Package in writing or submit a written notice of disapproval to the Recipients stating the basis for disapproval.

5. Fund Transfer. Upon Trustee Council approval of the Acquisition Package, Interior shall disburse grant funds to the Recipients via the SMARTLINK Payment System. The Recipients will draw down funds from SMARTLINK no more than 3 days prior to the Recipients closing, or, when applicable, closing into escrow, on the approved acquisition.

6. Annual Reporting. Recipients shall submit a report to the Trustee Council by December 31 of each year describing activities and accomplishments under this Grant Agreement. The report shall include an accounting of funds spent.

**Ultimate Use and Management of Lands Acquired:**

Lands acquired with funding provided hereunder shall be managed in perpetuity for the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem.

1. Conservation Easement. Each parcel acquired with Grant Funds shall be subject to a conservation easement. If a parcel is acquired by the United States or the State of Alaska, the conservation easement shall be held by the non-acquiring government. If a parcel is acquired by another public agency approved by the Trustee Council, the conservation easement shall be held by both governments.

2. Recorded Deed. The recorded deed for each parcel acquired with grant funds shall be subject to the conservation easement described above.

**Standard Provisions: TO BE ADDED BY INTERIOR**

1. Notices

2. Entirety of the Agreement

3. Term of the Agreement

**RESOLUTION**  
**of the**  
***Exxon Valdez Oil Spill Trustee Council***  
**concerning a**  
**Long-Term Funding Source for Habitat Protection**

**ATTACHMENT B**

In addition to the costs incurred by the grant recipient and paid under the grant, Trustee agencies (ADF&G, ADNR, DOI, USFS) may incur expenses in receiving title to acquired parcels. The following list specifies those agency expenses that may be appropriate for Trustee Council funding. In order to ensure cost efficiencies and to avoid duplication of effort and expenses, the list includes only those activities that agencies are required to perform in order to receive title.

Activities that May Be Appropriate for Trustee Council Funding

Appraisal review by the acquiring government  
Title review by the acquiring government  
Hazardous material report review by the acquiring government  
Site inspections (required by some agencies only)  
NEPA compliance  
Other - ? NEED AGENCY INPUT

Activities that Would Not Be Appropriate for Trustee Council Funding

Negotiators' time and travel  
Legal review  
Appraisals in addition to those conducted by the grant recipient  
Appraisal review by the non-acquiring government  
Surveys and other items listed in the grant as responsibilities of the grant recipient  
Activities that serve agency management purposes but are not required to receive title  
Indirect expenses (phone, office supplies, duplication, etc.)

By October 1 of each year, the Trustee Council will be asked to give general approval to agency budget requests for the long-term habitat program. All funds requested must be associated with acquisition activities expected to occur in the upcoming fiscal year. Actual expenditure of the funds will be authorized by the Executive Director on a quarterly basis. All funds authorized must be associated with acquisition activities expected to occur in the upcoming quarter. Any authorized funds not spent by the end of the fiscal year will lapse back to the long-term habitat fund.

NOTE: All funds expended for agency activities will come from the earnings generated by the \$25 million grant.



# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax:907/276-7178



## MEMORANDUM

**TO:** Trustee Council

**FROM:** Molly McCann  
Executive Director

**DATE:** November 8, 2000

**RE:** Update on GEM planning process

This memo is intended to update you on planning efforts for the Gulf Ecosystem Monitoring and Research Program (GEM) that have occurred since the last Trustee Council meeting in August.

### 1. Preparation of "straw dog" draft GEM monitoring and research plan

Following the three regional focus groups on GEM held last July-August, staff prepared a "straw dog" draft plan to be used as a focal point for review and discussion at the annual workshop, held this year in October. That draft, plus supplemental materials, was enclosed in a binder and widely distributed in early October.

### 2. National Research Council Review

The NRC met for the second time in Anchorage on October 5-7, 2000, to review the April 2000 GEM Program document and to receive additional invited briefings. This was the first time the full committee had met. One additional member has been appointed since June, Dr. Stephen Picou from the University of South Alabama, who has extensive experience in studying the social impacts to communities from the *Exxon Valdez* oil spill. The committee received additional comments from a panel on community perspectives: How Can the GEM Program Best Support the Needs of Alaska Native Communities? The panel included Patty Brown-Schwalenberg of the Chugach Regional Resources Commission; Paul Panamarioff, Ouzinkie; Pat Norman, Port Graham; and Gary Kompkoff, Tatitlek. Jay Stinson of Kodiak provided additional perspective from the needs of fishing communities.

The meeting provided Dr. Mundy and myself the opportunity to brief the committee on the status of GEM planning. Copies of the "straw dog" were distributed and discussed,

although the committee did not have the time to study the workshop binder in detail. Although no formal recommendations were given, the committee did have two quick reactions to the "straw dog":

- 1) The "straw dog" looked more like a fully-developed implementation plan than a preliminary planning document. Committee members felt that more attention should be devoted at this stage to fleshing out the "skeleton" and the rationale (the "what" and the "why") of the plan, and the details (the "how," "when," and "where") should be left to a later stage. In updating the "why," they pointed to the need for updating and revising the scientific background and conceptual foundation. They also strongly encouraged the use of small "writing teams" in further developing the plan.
- 2) Based on their experience with other efforts, committee members reiterated their concern with attempting to do a plan in too short a time frame. They all strongly felt that attempting to produce a well-conceived draft plan by December 2000 was not possible and that, in fact, a fully developed plan could take much longer, even several years. The committee will be sending a formal letter in the next few weeks emphasizing this point.

The committee is next scheduled to meet in Washington, D.C. on December 7-9 in a closed work session to prepare an interim report on the April 2000 GEM Program document. I am scheduled to brief them on the status of the planning efforts at this meeting.

### 3. Annual Workshop

On October 12-13, the annual Restoration Workshop was held at the Regal Alaskan Hotel with nearly 190 participants. The workshop, usually held in January, was moved up to October so that it could be a forum for an intensive work session on the draft GEM monitoring and research plan. The "binder" (see #1 above) was provided in advance of the workshop to all participants. A copy of the final workshop agenda is attached.

An enormous amount of input was received during the two days of the workshop, and from that perspective, the workshop was highly successful. We have summarized the comments from all 24 individual sessions and distributed these by e-mail to all participants. In addition, summary comments from the Council's core peer reviewers and several invited guests made during a final plenary session were recorded and transcribed and are now available, as are additional follow-up comments from most of them. Let me know if you would like any of these materials.

Comments received during and after the workshop cover a wide range of opinion and level of detail. However, a number of general themes have emerged:

- Start small
- Focus on what you can do without leveraging

- Revise and update scientific background (to level of publishable manuscript?)
- Develop alternate models for conceptual foundation, including human impacts models
- Retrospective analysis and synthesis of EVOS work should be a priority in early years
- Synthesis should be driven by user defined needs
- Gap analysis needs to be formalized
- Biggest gaps are physical and biological oceanography and forage species, although GLOBEC and other federally-funded projects may meet some of the oceanography needs in the early years
- Upper trophic levels can't be ignored
- Address data needs early on
- Include community and citizen-based efforts and traditional ecological knowledge in the monitoring program

#### 4. Revised draft for Trustee Council consideration/action

The substantial input received from the NRC and the workshop participants will require a great deal of analysis, thought, and rewriting of the plan. We will not be able to have a revised draft of the plan by your December 4-5 meeting. There are a number of approaches that could be taken, none of them necessarily the "right" or "wrong" one. We are now having detailed discussions at the staff level on possible scenarios for a plan for the early years of GEM, and would like to present them to you for discussion at your December meeting. We will also have a Detailed Project Description and budget for furthering our planning efforts (Project 01630). After receiving direction from you and feedback from the NRC on December 7, our next step will be to develop a detailed outline of a draft monitoring and research plan for you to approve in January 2001, followed by development of the draft plan itself. Our goal now is to have the draft plan to you in April and to the NRC in late May/early June.

If you have any questions on this memo, or would like to discuss these issues prior to the December meeting, please don't hesitate to give me a call.

Cc:                Restoration Work Force  
                      Public Advisory Group  
                      National Research Council

Attachment:    October 12-13 Workshop Agenda

# Gulf Ecosystem Monitoring and Research

FY 2001 EVOS Annual Workshop

## October 12

- 8:00 Registration & Coffee
- 8:30 Welcome and introductory remarks - Molly McCammon, Executive Director, EVOS Trustee Council
- 9:00 "Resource Management in the 21st Century," Frank Rue, Commissioner, ADF&G, and James Balsiger, Alaska Regional Director, NMFS
- 9:30 "National and International Approaches to Important Research Questions for North Pacific Ocean" - Dr. Vera Alexander, Dean, School of Fisheries and Ocean Sciences, UAF
- 10:00 Break
- 10:30 "GEM & the Global Ocean Observing System" - Dr. Tom Malone, Director & Professor of Horn Pt. Laboratory, UMCES
- 11:00 Transition from oil spill restoration to GEM; Description of Draft GEM Monitoring and Research Plan; Introduction to the GEM Workshop process - Dr. Phil Mundy and Dr. Bob Spies
- Noon Lunch provided
- 1:00 Work Group Sessions I: Review of draft monitoring and research plan, organized by major themes.
- Seabirds - *Turnagain Room*  
Forage Fish - *Redington III*  
Nearshore Plants & Animals - *Spenard I*  
Terrestrial Linkages - *Redington II*  
Coastal Processes - *Spenard II*  
Synthesis - *Spenard III*

- 3:30 Break
- 4:00 Work Group Sessions II: Review of draft monitoring & research plan, organized by disciplinary groups.
- Marine Mammals - *Redington III*  
Marine & Fish Ecology - *Redington II*  
Seabird Ecology - *Spenard III*  
Nearshore, Benthic & Coastal Ecology - *Turnagain Room*  
Biological Oceanography - *Spenard I*  
Physical, Geochemical & Chemical Oceanography & Effects of Climate - *Spenard II*
- 5:00 Reception
- 6:30 Group Facilitators dinner

## October 13

- 8:00 Coffee
- 8:30 Announcements
- 8:45 Work Group Sessions III: Review of draft monitoring & research plan, organized by scientific questions.
- Food - *Hospitality Room 3038*  
Habitat - *Redington III*  
Removals - *Redington II*  
Interactions: Food, Habitat - *Spenard II*  
Interactions: Food, Removals - *Turnagain Room*  
Interactions: Habitat, Removals - *Spenard III*  
Interactions: Food, Habitat, Removals - *Spenard I*
- 11:00 Break

11:30 Work Group Sessions IV: Review of draft monitoring and research plan, organized by overarching issues.

Citizen Monitoring & Traditional Ecological Knowledge - *Redington II*  
Data & Information Management & Transfer - *Hospitality Room 3038*  
Modeling & Forecasting - *Spenard I*  
Resource Management Applications - *Redington III*  
Human Uses & Impacts - *Turnagain Room*

12:30 Lunch provided

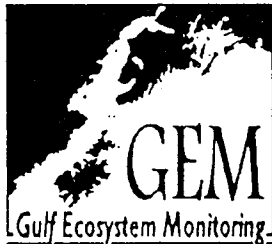
1:30 Work Group Sessions IV continued

2:30 Break

3:00 Summary comments by group facilitators, peer reviewers & invited guests. Group discussion or follow up as needed.

4:30 Closing comments - Molly McCammon

Adjourn



**Exxon Valdez Oil Spill Trustee Council**

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Exxon Valdez Oil Spill Trustee Council

FY 2001 Annual Workshop

# GEM:

## Gulf Ecosystem Monitoring & Research Draft Plan

Regal Alaskan Hotel  
Anchorage, AK  
October 12-13, 2000



# Meeting Summary

**A. GROUP:** Exxon Valdez Oil Spill Public Advisory Group (PAG)

**B. DATE/TIME:** July 20, 2000

**C. LOCATION:** Anchorage, Alaska

**D. MEMBERS IN ATTENDANCE:**

<u>Name</u>	<u>Principal Interest</u>
Rupert Andrews	Sport Hunting and Fishing
Chris Beck	Public-at-Large
Pam Brodie	Environmental
Sheri Buretta	Subsistence
Dave Cobb	Public-at-Large
Dan Hull	Public-at-Large
James King	Public-at-Large
Chuck Meacham, Chair	Science/Academic
Ed Zeine	Local Government
Bruce Bruseth for John Harris	Alaska State House of Representatives ( <i>ex officio</i> )

**E. NOT REPRESENTED:**

<u>Name</u>	<u>Principal Interest</u>
Torie Baker	Commercial Fishing
Chip Dennerlein	Conservation
Stacy Studebaker	Recreation Users
Chuck Totemoff	Native Landowners
Vacant	Public-at-Large
Vacant	Forest Products
Vacant	Commercial Tourism
Vacant	Aquaculture
Loren Leman	Alaska State Senate ( <i>ex officio</i> )

**F. OTHER PARTICIPANTS:**

<u>Name</u>	<u>Organization</u>
Debbie Hennigh	Trustee Council Staff
Bill Hauser	AK Department of Fish and Game
Molly McCammon	Trustee Council Staff
Phil Mundy	Trustee Council Staff
Doug Mutter	Designated Federal Officer, Dept. of Interior
Sandra Schubert	Trustee Council Staff
Bob Spies	Chief Scientist, Trustee Council
Cherri Womac	Trustee Council Staff

## G. SUMMARY:

The meeting was convened July 20 at 9:00 a.m. by Chuck Meacham, Vice-Chair. Roll call was taken, a quorum was not met. There were no members of the public present, however, there was a public hearing on the FY 2001 Annual Work Plan the evening of July 19.

Molly McCammon discussed the status of the PAG. The final session of the PAG under the Restoration Settlement Agreement runs from October 1, 2000, to September 30, 2002. The Trustee Council extended the term from January 2002 to October to complete the federal fiscal year. Nominations are now being requested for membership during the next 2-year session of the PAG. They are due August 25. If any current PAG member wishes to serve during the next session, they must submit their intentions in a written statement to Cherri Womac. There will be no revisions to the PAG make-up or charter at this time. Staff will be recruiting for currently vacant PAG seats (see above)—so pass the word. Any suggestions on the future organization of a PAG for the GEM (Gulf Ecosystem Monitoring) program are also welcome.

McCammon noted that there has been a high turnover in Restoration Office staff lately, with most people leaving the state. Joe Hunt, Rebecca Williams, Traci Cramer, and Hugh Short all left. Brenda Hall is the new receptionist and Debbie Hennigh is the new Admin/Special Assistant. The Juneau Restoration Office is closed. A computer/web page support person is needed.

McCammon reviewed the investment program being developed by the Trustee Council. An Investment Working Group was established and has been meeting monthly since January. They produced the Investment Policies, which were adopted by the Trustee Council and previously mailed to the PAG. She noted that the research portion of the fund would be managed as a perpetual endowment. The intent on the land-related portion of the fund was to manage it also as an endowment, but to remain flexible. An asset allocation mix and spending plan were also mailed to PAG members. Spending for research would be fixed for the first 4 years, figuring 8.25% return minus 3.25% inflation, or 5% growth. Also mailed to PAG members was an analysis of where to place the fund. The Council's decision was to go with the Alaska Department of Revenue. The funds will be moved from the District Court in Texas to the Department of Revenue by the end of July. The legislature cannot use this dedicated fund. The PAG's general comments were that this all looked good.

McCammon discussed habitat protection. Only 1 large parcel remains in active consideration: the Karluk/Sturgeon Rivers deal with Koniag Native Corporation on Kodiak Island. Negotiators are close to agreement for a 10-year extension of the current conservation easement, but not for a land sale. Many small parcels (under 1,000 acres) were dropped from the active consideration list if no action had occurred. The Trustee Council is considering a possible arrangement with a non-profit, such as The Nature Conservancy or the Conservation Foundation, to operate the small parcel program under the direction of the Trustee Council, who would make the decisions on what parcels to buy. The non-profits provide flexibility that the Trustees do not have. The groups have already helped the Trustee Council on some purchases. The Council's staff are working out an agreement to take to the Trustee Council this fall. The PAG will have an opportunity to examine and comment on the proposal this fall at a teleconferenced meeting. A draft agreement is due in September.

Chuck Meacham supports using conservation groups in this area, although he would just as soon put the funds to work in science endeavors. Sheri Buretta is in strong opposition to using groups with their own agendas to do Trustee Council work; she does not think it relates to restoration. These groups can manipulate the process and put pressure on potential sellers, she said. She does not think pressuring people to sell is right. Dan Hull said there could be a role for contracting work, but he shares concerns about decisions not being made for the good of the general public—which the non-profits do not represent. They may inappropriately skew the process and influence which parcels are considered. He likes efficiency, but not giving control to organizations who don't answer to the public. He is disappointed that this is being considered. Pam Brodie stated that these 2 organizations were not “politically active” and are not influenced by organizations such as hers (Sierra Club). Dave Cobb expressed concern that this may cost more than the cost incurred for the Trustee Council to do it themselves.

McCammon presented a status report on the GEM program. A revised draft was produced in April (mailed to the PAG) and sent to the National Research Council (NRC) for a review. The review committee held its first meeting in June, and will meet again in October—part of this meeting will be open to the public. At this point, GEM is a program, not a plan. The NRC review is to be completed in November 2001. In the meantime, the Trustee Council wants a draft monitoring plan developed by January 2001. Regional focus groups have started to discuss this (this week and the next 2 weeks). A draft monitoring plan is due for public comment in late September. The annual EVOS workshop has been moved to October to focus on this monitoring plan. PAG members are invited to attend the focus group sessions.

Cobb asked if there would be co-mingling of Trustee Council funds with others. McCammon replied that no, but others may want to mingle their funds with ours. There would be opportunities for cooperative efforts and cost-sharing, though. Jim King suggested that “enhancement” be included as well as “monitoring.”

Phil Mundy went through the Focus Group Workbook (Handout #1). He has looked at national and international programs for possible use as a monitoring template, but found none suitable. There are potential funding partners (e.g., Department of Defense). He discussed measurement standards, targeted end human uses, themes, change detection, site location, and incorporating community concerns. Hull said he wants to see a link between research and monitoring and using this information for the management of resources.

McCammon introduced the latest draft Annual Work Plan for 2001 (mailed to PAG). Some 114 proposals totaling \$13 million were received. At this point, 60 projects worth \$6.2 million are being considered. A funding cap of \$6.0 for research, monitoring and general restoration has been set for 2001.

Bob Spies went through the work plan, cluster by cluster (Handout #2 and #3): pink salmon; Pacific herring; SEA and related projects; cutthroat trout, dolly varden and other fish; marine mammals; nearshore ecosystem; seabird/forage fish and related projects; subsistence; reduction of marine pollution; habitat improvement; ecosystem synthesis/GEM transition; public information/science management/administration; project management; and restoration reserve.

Hull voiced his concern about how projects related to resource management, and wanted to know what was normal agency management. McCammon said this is a gray area, depending on many



factors. Rupe Andrews asked about the financial health of the Alaska SeaLife Center. McCammon said it was struggling through start-up but should be okay over time. Spies noted that income is close to operating expenses; the struggle is with the added costs of the bond debt. King thought a book on the restoration program would be a good idea, as would a project mapping seasonal distribution of seabirds. Chris Beck outlined a proposal he submitted (#494) related to recreation in PWS. He hopes to get it in shape to be accepted. McCammon replied that coordination with agencies who were dealing with this issue was needed. Cobb asked if matching funds for projects were still desired. McCammon said yes. Hull asked about the ASLC bench fees. Spies noted that Trustee Council projects get a reduced rate and that costs were high for projects involving care of live animals.

McCammon reviewed the administrative budget (Handout #4). She noted that the Trustee Council funding commitment to the Alaska Resource Library and Information System (ARLIS) is now a separate budget item. If the Council does not continue this support, all the oil spill volumes would transfer to the University of Alaska Anchorage. The Restoration Office has eliminated three staff positions and established one Special Assistant position, closed the Juneau office, and made other cuts to reduce the overhead budget. Peer review is still an expensive item.

Meacham voiced concern that little was being done with herring in FY2001 and that he would like to see the hydroacoustic project funded. Mundy said that a synthesis on herring research needs was needed before investing in more projects and that this project needed more work and there was no compelling need to move ahead on this now. There may be more than one herring stock in PWS, which greatly affects how it should be managed. He added that discussions need to occur to determine how to best proceed. McCammon said there was no single herring "guru" to seek advice from and that hydroacoustics was not accepted by Fish & Game as a management tool. Meacham said he felt we should move ahead anyway and solicit competitive bids for a project, if that is desired. Ed Zeine agreed as did Hull. Cobb said the whole of PWS should be surveyed.

Meacham moved (and Zeine seconded): That the PAG work group recommend that the Trustee Council set aside about \$75,000 for herring hydroacoustic studies and assessment in PWS, to include some level of assessment in non-traditional herring areas. Brodie said we need to figure the best way to spend money on herring first. Cobb and Buretta agreed with the motion. Hull said we don't need to define methods, but we do need stock information. Zeine emphasized that if a good proposal is not there, don't fund it, stick to current evaluation standards (Hull agreed). [There was no quorum, so no vote was taken.] McCammon said she would recommend \$85,000 to be set aside for added herring work via competitive proposals depending on a report on herring being done by Brenda Norcross and coming out this fall.

Hull questioned the use of king salmon in PWS for the tagging project, suggesting the Kenai River may be a better location. Beck said he would like to see a project to synthesize the science and disseminate information to users.

The meeting adjourned at 3:05 p.m.

#### **H. FOLLOW-UP:**

1. PAG members who wish to serve another term on the PAG must submit their intentions

- in writing to Womac by August 25, 2000.
2. McCammon will compile and distribute information on options for organizing a future PAG for the GEM program.
  3. McCammon will follow up on recommendations for additional work on herring stocks in PWS in FY2001.

**I. NEXT MEETINGS:**

- September 2000 (last week?) PAG Teleconference on small parcel agreement
- October 2000 (12-13) Annual EVOS Workshop on monitoring plan
- November (last week?) or December (first week) PAG Meeting on GEM monitoring plan
- Spring 2001 PAG Teleconference on miscellaneous issues
- July 2001 PAG Meeting on annual work plan

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

1. Focus Group Workbook for the Draft Gulf Ecosystem Monitoring Plan
2. Executive Director's Recommendation/FY01 Work Plan
3. Public comment Received: FY01 Draft Work Plan
4. FY01 Administrative Budget/Project 01100

**K. CERTIFICATION:**

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**PAG Chairperson**

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**Date**

November 14, 2000

To: Ms. Molly McCammon, Executive Director  
Oil Spill Trustee Council members  
Public Advisory Group members

From: Dan Hull  
19300 Villages Scenic Pkwy  
Anchorage, AK 99516

Re: Draft Habitat Grant

While I support the intent and the framework of the Habitat Grant program, it does not adequately safeguard the interests of the general public or communities of the oil spill area as drafted, and should be modified. More specifically, the provisions for public comment and input are too vague and the time frame for public comment is likely to be inadequate for many people in the oil spill area. Also, the provision to extend the habitat grant unless there is a unanimous Trustee Council vote to discontinue it sets a very low bar for measuring the success of the pilot grant and making funding decisions of such significance.

The fact that private nonprofit organizations can "respond more quickly than government to opportunities for acquisition of priority lands" is a good reason to implement a habitat grant program. But the need to act quickly must be balanced against the need to maintain the public trust when making decisions spending funds that essentially belong to the general public. The draft states that the Trustee Council "shall promptly – and in no event more than 90 days after receipt – notify the Recipients of its approval or disapproval of the proposed acquisition." If the Trustee Council must make decisions quickly, then it is certain that members of the public will not have a reasonable opportunity to comment on the proposed acquisitions. This is especially true of the smaller communities in the oil spill area, and particularly in the summer months, when activities such as subsistence and commercial fishing – providing for families and making a living – take precedence over meeting dates. Members of the public should have 90 days to review proposed acquisitions before the Trustee Council makes a decision.

It is also not clear whether the Trustee Council will take public testimony on a proposed acquisition and then decide on the acquisition at a specific meeting, or whether some other process is proposed. I suggest that the former is preferable, and ask that it be stated in the grant agreement.

Also, part g) of the evaluation criteria for the Recipients should be strengthened to specify that "partnership support" means consensus among different stakeholders and interest groups in the region or area of a proposed acquisition. It is not enough to simply say that "public support" is necessary; a consensus among diverse interests of the public will best serve the public over the long run, and guarantee the success of the Habitat Grant program.

Finally, the logic of requiring a unanimous vote by the Trustee Council not to give the Recipients an additional \$25 million in the grant extension escapes me. It appears to be very favorable to the Recipients, but not very favorable to the public. Unless I'm mistaken, it means that if the pilot grant does not serve the interests of the public adequately, and needs major revisions after a year, a single Trustee Council member can prevent those revisions from taking place. This is quite a departure from the high standards of review and approval of funding decisions by the Trustee Council in the past. The decision to spend an additional \$25 million in the grant extension should require a separate vote of approval by the Trustee Council.

I give to the Nature Conservancy annually, so I am supportive of the intent and goals of the Habitat Grant program. But in order for the Habitat Grant program to be successful over the long run, it is critical that the Trustee Council establish and maintain high standards for public participation and oversight to ensure that the interests of the public are well served.

Sincerely,

Dan Hull