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15, 3, 3

A/R

The Alaska Reforestation Council

Forest Tree Improvement Cooperative

P. O. Box 242081 Anchorage, Alaska 99524-2081

RECEIVED JUL 12 1995 RECEIVED MAR 3 1995

TO: The Honorable Ted Stevens and Frank Murkowski and
Don Young

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

FROM: Earl P. Stephens, PhD
Alaska Reforestation Council
Forest Tree Improvement Cooperative

Earl Stephens

DATE: February 27, 1995

SUBJECT: The Establishment in Alaska of a World-Class Terrestrial Ecosystem
Research and Development Institute

Gentlemen:

May I suggest that in your efforts to open ANWR to exploration and rational development that you include in the scheme of things the establishment of a World-Class Terrestrial Ecosystem Research and Development Institute?

Imagine the knowledge such an Institute would generate and the influence it would have upon the policies of developing our natural resources. My understanding is that Congress has appropriated \$571 million in discretionary funds for ecosystem management for fiscal year 1995, an increase of about 12 percent over 1994. Based upon the proportion of Federal land ownership in the State, Alaska's fair share would be ample to establish the Institute and get it well under way, especially since we already have formed a nucleus of one with the Ecosystem Management Research and Development Partnership of Interior and Southcentral Alaska. The time is now!

Thank you, for your consideration.

See Distribution

3/1/95
*Molly: Working Together, I
believe we can accomplish this.*

Sincerely,

"The Private and Public Sectors Working Together"

Earl Stephens

The Alaska Reforestation Council

Forest Tree Improvement Cooperative

P. O. Box 242081 Anchorage, Alaska 99524-2081

WHY ALASKA NEEDS A WORLD-CLASS TERRESTRIAL ECOSYSTEM RESEARCH AND DEVELOPMENT INSTITUTE EARL P. STEPHENS DECEMBER 1994

A terrestrial ecosystem research and development institute is a logical and necessary means to effect the intent of the Alaska National Interest Lands Conservation Act and other federal and state legislation which have produced a preponderantly public ownership of land in Alaska: 220 million acres of federal, 105 million state, 44 million native, almost a million mental health, with the remaining few million acres of borough, municipality, and small private ownership. The salient purpose of this land ownership distribution was to meet the needs of the people on a sustainable basis. To ascertain and rationalize the uses to which these lands will be committed requires an ecosystem approach which treats human society and the environment as a single system.

The ecosystem approach becomes even more complex when human society is factored into the equation. The bottom line involves values, and people's perceptions of the components of the environment and their worth, singly and in combinations, vary considerably. Environmental and economic conflicts arise, the basis for coalitions -- clubs, federations, conservancies, foundations, etc. -- which advocate and support special recognition and treatment of specific parts of the ecosystems. Emotions can play a decisive role in the all important process of deciding the uses of our natural resources. What we need is an unbiased source of information/knowledge that decision makers, public and private, can apply with confidence, the very essence of the ecosystem approach. And, essential too, is a source of knowledge that can be used to inform the public of its land use options.

Last year with the encouragement of the U.S. Forest Service's Pacific Northwest Research Station at Portland, Oregon, The Ecosystem Management Research and Development Partnership of Interior and Southcentral Alaska was formed. The goals of the Partnership are to bring together a diverse group of scientists and resource managers who will develop a research and management program for the sustainable ecosystem management of the forests of Interior and South-Central Alaska, and to provide leadership and seek funding to facilitate and support the development of sustainable ecosystem management for that region. An awesome array of talent already is represented by the Partnership. The original signatories include the Alaska Department of Natural Resources, the Pacific Northwest Research Station and Region 10 of the U.S. Forest Service, the University of Alaska Fairbanks, the Tanana Chiefs Conference, Inc., Alaska Fish and Wildlife Research Center National Biological Survey U.S. Department

of Interior, and the Alaska Reforestation Council. Recent additions are the Natural Resources Conservation Service, Koncor Forest Products, and the Mat-Su Borough, while others are pending. And I might add, that an organized effort has not yet been made to increase its membership. The fact is that the establishment of a Terrestrial Ecosystem Research and Development Institute already is underway. To achieve the level of organization required to cope with the problems confronting Alaska's efforts to diversify its economy, however, long term financial support is essential. The Long Term Ecological Research Project located at UAF and funded in part by the National Science Foundation is a fine example.

Just recently, the Exxon Valdez Oil Spill Trustee Council announced the award of \$25 million to the University of Alaska Fairbanks Institute of Marine Science at Seward. The Marine Center will be developed into a world-class, scientific research facility for the study of marine mammals, fish, birds, and the ecosystem of Prince William Sound. What a worthy cause! There will be a bullish market for this technology applicable to the northern latitudes especially in light of recent global developments. This is a significant step in the diversification of Alaska's economy. However, we need to expand this effort, and the timing is right. A Terrestrial Ecosystem Research and Development Institute to complement the Marine Institute is a must.

The marine and terrestrial ecosystems are components of the same biosphere, are intimately interrelated, and the perspective of one is requisite to the comprehension of the other. This is reason enough to establish a terrestrial counterpart to the marine center. Add to this, however, that Congress, under a misapprehension, has stored the bulk of land in Alaska behind the legislative walls of National Parks, National Parks and Preserves, National Preserves, National Monuments, Wilderness Areas, National Wild and Scenic Rivers, National Forests, etc. This legion of land legislation laws has made Alaska the embodiment of land stewardship culture the finest in the history of the world. Now all we need is the knowledge to advance this culture to the advantage of our society! Meanwhile, due to the dynamics of the environment, the seams of these land sanctuaries are beginning to crack and the supposedly safe havens deteriorate: water and air pollution, insect and disease epidemics, wild fires, earthquakes, volcanic eruptions, droughts, floods, cyclonic winds, ice storms, frost action, and other natural disturbances are doing their thing. Fish and game populations fluctuate erratically for no apparent reason. Forest management operations are being conducted without our knowing the impacts upon biodiversity, watersheds, anadromous streams, etc. People pressures are straining the ecological integrity of our national parks. And the "balance of nature" is being questioned.

The Exxon Valdez Oil Spill Trustee Council seems to be following a similar course of action. It has announced plans to invest approximately half of the remaining oil spill settlement money, some \$400 million, in the acquisition of land as part of its habitat restoration program. Paradoxically, the ability does not exist to evaluate the role these lands will have in the restoration of the spill-damaged habitat, nor do we have the level of organization and commitment from our policy makers, advocacy groups, and the scientific community which are

sorely needed to accomplish this task. The challenge goes beyond the short term objective of acquiring additional public lands; that is, toward longer term management and restoration of impacted habitats.

The time is now, opportune, to establish a Terrestrial Ecosystem Research and Development Institute. A consortium-like effort should be employed to obtain short and long term commitment. No source of support should be left unsolicited; we are all in this together. The federal government ought to be a prime contributor since it is responsible for the publicly skewed distribution of land ownership. The State stands to benefit most from the knowledge achieved and could endow some of its recently acquired oil taxes. The Exxon Valdez Oil Spill Trustees Council could enhance its investment in the Marine Science Center by complementing it with terrestrial research. The private sector should kick in its share since it will be operating in an economy catalyzed by the technology the Institute generates.

The impact of a World-Class Terrestrial Ecosystem Research and Development Institute upon Alaska's well being could be analogous to that the Permanent Fund will have some day. An infrastructure like this is appropriate for Alaska. It doesn't pollute the air, despoil our water, clutter-up our highways, impair the environment in any way. What it does do is help to make this world a better place in which to live. Indeed, we can ill afford not to make this investment in our future. Let's all pitch in and make it happen!

DISTRIBUTION LIST

I Washington Delegation:

Stevens, Murkowski, Young

II Alaska Administration:

- A. Governor's Office:

Ayers, Herman

- B. Lt. Governor's Office:

McC. Dawell

- C. Legislature:

1. House:

Green, Williams, Phillips,
Mackie, Vezev

2. Senate:

Leman, Pearce, Halford, Duncan,
Rieger

III Exxon Valdez Oil Spill Council:

McC. Cannon, Farvik

IV Others:

- A. Participants: Ecosystem Mgt. Research + Development

Partnership of Interior and
Southcentral Alaska (47)

- B. Sturgulewski, Steve Kalluck, Paul Jenkins

PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA

April 8, 1995

Exxon Valdez Oil Spill Trustee Council
Restoration Office
645 G Street Suite 401
Anchorage, Alaska 99501-3451

RECEIVED
APR 10 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

Dear Sirs :

We have submitted documentation for Acknowledgment to the US Department of the Interior, the US Department of Justice and the President of the United States. We have presented to these agents of the United States a catalogue of public documents which serve as incontrovertible evidence of our allodial title to this region. Our claim pre-dates all legislation affecting Alaska's Indigenous since 1934. By choice the United States has never treated with the Katalla-Chilkat Tlingit People. Our claim to this land pre-dates Alaska Statehood.

It has become necessary to formalize our resolve for *self determination* and *self governance*. We have identified our allodial territory (free from church and state) and wish to protect it from further encroachments, conveyances and expropriations by foreign or domestic industrial development regimes. We must guard against abuses of our Basic Human Rights. We have registered our abhorrence of the collusion and coercion by the State of Alaska and Chugach Alaska Corporation regarding the ancestral territories of the Katalla-Chilkat Tlingit. In order to pre-empt violations of the Anti-Genocide Covenant, the Anti-Apartheid Covenant and the International Labor Organization Convention of the United Nations, by Referendum, we have formed this *non confrontational* Provisional Government. We have begun to develop the framework to function as an autonomous territory, to protect our interest in the region, and to assure it remains intact.

The *Economic Development Policy* of our Provisional Government prevents any form of *neo-mercantilism* or *neo-colonialism*, especially those in violation to article 2 paragraph (c) and (d) of the Apartheid Convention. The development and management of our assets for the benefit of our people and future generations is more in keeping with traditional Tlingit custom. Our *Trade and Commerce Policy* is not opposed to conducting commerce and trade with foreign and domestic interests, but insist that we maintain full oversight authority. Our Government seeks mutual humanitarian cooperation more aligned to our own policies especially in relation to foreign and domestic interests.

We have sought Immediate Injunctive Relief and have asked for a three (3) month moratorium on further *encroachments, conveyances, or expropriations* concerning our territory. We are seeking through the Office of Tribal Justice, at the US Department of Justice to assure us the protection and enforcement of our Basic Human Rights through coordinated Congressional, Judicial, and Executive cooperation of the United States.

Therefore we request your cooperation to honor this moratorium. I shall be pleased to answer any questions or concerns you may have regarding the allodial title of the Katalla-Chilkat Tlingit of Alaska and our place in any discussions relating to our allodial lands and waters.

Thank you.


Gary C. Patton, Head Representative

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

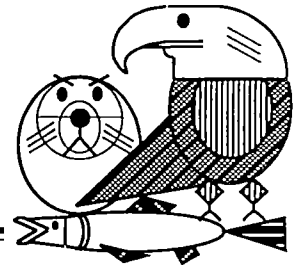
1001 Boniface Parkway Suite 45P
Anchorage, Alaska 99504
tel.: 907-338-3814 fax: 907-338-8095

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



April 21, 1995

Mr. Gary C. Patton
1001 Boniface Parkway, Suite 45P
Anchorage, Alaska 99504

Dear Mr. Patton:

Thank you for your letter dated April 8, 1995. I have forwarded it to all of the individual members of the Trustee Council.

Sincerely,

A handwritten signature in cursive script that reads "Molly McCammon".

Molly McCammon
Executive Director

MM/kh

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation

United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior



Women of the Wilderness

specializing in trips, courses and related workshops

RECEIVED
APR 24 1995

To: Exxon Valdez Oil Spill Trustees Council

From: Alaska Women of the Wilderness

RE: Kenai Fjords purchase

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

I am writing in support of using the Exxon Valdez Oil Spill money to buy back the land from the Native corporations. It is imperative that we do all we can to keep the beautiful Kenai Fjords in tact. Please when meeting on April 30 and May 1, know that you are supported in buying back the Kenai Fjords and do all you can to make that happen.

Sincerely,

Roschele Wagoner

Roschele Wagoner

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

CORDOVA PUBLIC SCHOOLS

P.O. BOX 140
100 FISHERMAN AVENUE
CORDOVA, ALASKA 99574
PHONE: (907) 424-3265 OR 424-3267
FAX: (907) 424-3271

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

RECEIVED
MAY 5 1995

MAY 3, 1995

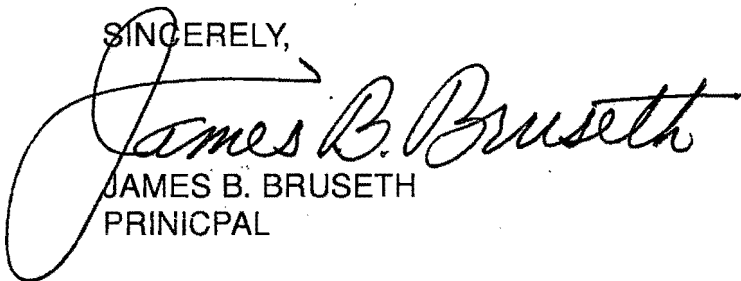
MOLLY MCCAMMON
EXECUTIVE DIRECTOR
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
645 G ST., SUITE 401
ANCHORAGE, AK 99501-3451

DEAR MS. MCCAMMON,

THANK YOU FOR THE ALASKA MARINE ECOSYSTEM POSTER. IT WAS GIVEN TO MR. PAUL BEDNARZ, A SIXTH GRADE TEACHER, WHO IS ESPECIALLY INTERESTED IN MARINE SCIENCE. OUR ENTIRE SCHOOL DEVOTES THE MONTH OF MAY TO STUDYING THE MARINE ENVIRONMENT. THERE ARE MANY FIELD TRIPS AND ACTIVITIES PLANNED AROUND A MARITIME SCIENCE THEME. YOUR POSTER WAS VERY TIMELY.

WE APPRECIATE THE EFFORTS OF THE TRUSTEE COUNCIL IN KEEPING OUR SCHOOL AND COMMUNITY INFORMED.

SINCERELY,


JAMES B. BRUSETH
PRINCIPAL

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA

May 5, 1995

Regional Forester
US Department of Agriculture
P.O. Box 21628
709 W. 9th Street
Juneau, Alaska 99801

RECEIVED
JUL 12 1995

RECEIVED
MAY 10 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

RE: Timber Rights for Timber Rights Exchange w/Eyak and Shearstone Corporations
Section 29, Copper River Meridian, 634 acres
Publication Dates 3/31, 4/7, 4/14, 4/21, 1995;

AND

IBLA 95-340, Katalla-Chilkat Tlingit of Alaska, Provisional Government

Dear Sir:

We wish to advise you that the Katalla-Chilkat Tlingit of Alaska has submitted documentation to the Department of the Interior, the Department of Justice and the Office of the President of the United States for consideration as an acknowledged autonomous People. We are in receipt of the above referenced IBLA docket number which positions the Katalla-Chilkat Tlingit for Regional Territorial Selection within the above referenced 634 acres as evidence of the Department of Interior intention to hear our petition.

We have identified our allodial territory (free from church and state) and intend to protect it from further encroachments, conveyances and expropriations by foreign or domestic industrial development regimes. In order to pre-empt violations of the Anti-Genocide Covenant and the Anti-Apartheid Covenant of the United Nations, by Referendum, we have formed a *non confrontational* Provisional Government to develop the framework to function as an autonomous territory to protect our region and to assure it remains intact. We shall guard against abuses of our Basic Human Rights.

We have registered our abhorrence of the collusion and coercion by the State of Alaska, Chugach Alaska Corporation and Eyak Corporation regarding our ancestral territories of the Katalla-Chilkat Tlingit. The premise of our allodial territory corresponds in no sense to property, but rather to the maintenance of the necessary ecological space to regulate such things as the genetic pool and food supply. Very clearly the renewable resource base of our People is far more important to us than the uses to which our resources have been put by domestic and foreign industrial regimes for which we have received no benefit.

Our claim to the allodial territory of the Katalla-Chilkat Tlingit has never been extinguished by any act of the United States Congress or Executive. We were abandoned by the Tlingit of Southeastern Alaska at the time of the Tlingit Haida Claim of 1934-59. The Katalla-Chilkat Tlingit were disregarded in the Alaska Native Claims Settlement Act (ANCSA) of 1971 and our land ceded to others. We propose a benevolent alternative to function as an autonomous territory of Alaska Indigenous People.

1001 Boniface Parkway Suite 45P
Anchorage Alaska 99504
tele: 907-338-3814 fax: 907-338-8095

**PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA**

Regional Forester
US Department of Agriculture
page 2

The collusive, conspiratorial policies employed against us threaten the survival of eco-systems without which we as a distinct People cannot survive. Your intention of our demise is apparent by these neo-colonial and neo-mercantile practices employed against us. The Exchange under discussion now represents further conveyance of our territory and is a symbolic policy of *Apartheid* and its collusive nature could be considered an act of war against our People. This Exchange, in harmony with other implemented Plans, reflects failed continuity for managing inclusive eco-systems necessary for the long term sustainability of any sub-system.

Explicit in the collaborative decisions from the State of Alaska, Chugach Alaska Corporation, Eyak Corporation and now the US Department of Agriculture encroachment, expropriation and conveyance have been applied to this territory. Title to this territory is clouded and no claim is superior to the Katalla-Chilkat Tlingit. Before proceeding further into this murky labyrinth of fraud perpetuated on our People, and in light of the United States' willingness to consider our Petition, consider the consequences. United Nations Charter, Chapter IX, Trust Territories, Article 73 and subsequent enabling Resolutions of the UN General Assembly, clearly indicates recourse available to the Katalla-Chilkat Tlingit of Alaska includes the Congress and President of the United States but also available to our People for the adjudication of crimes is the proper court in Rome.

We have sought *Immediate Injunctive Relief* and asked for a six (6) month moratorium on further *encroachments, conveyances, or expropriations* concerning our Territory. We have sought help to acquire an *Executive Order* to accomplish this through the Office of Tribal Justice. We have sought cooperation of the Office of Tribal Justice at the US Department of Justice to invoke the Federal Pre-emption Doctrine under the *commerce clause of the Constitution article (1) section (8)*. We have sought *protection and enforcement of our Basic Human Rights through Congressional and Executive cooperation of the United States*.

We urge you to honor our request for a moratorium and discontinue further discussions on this Exchange proposal. It should be clear from your own work under discussion that the State of Alaska, Chugach Alaska Corporation and Eyak Corporation intends to continue colonial and mercantile activities. Noting the disregard for the concerns based on actual experience of the residents of the region to the planned activities under discussion is more testimony to support the need to adopt our own policy standards for our Territory.

Our Policy for *Commerce and Trade* prevents any form of *neo-mercantilism, or neo-colonialism*, especially those in violation to article 2 paragraph (c) and (d) of the anti-*Apartheid* Convention. The Katalla-Chilkat Tlingit of Alaska are determined to direct our own destiny and maintain full oversight authority regarding our allodial territory. Our Economic Development Policy includes development and management of our assets for the benefit of our People and future generations more in keeping with traditional Tlingit custom. Our Government seeks mutual humanitarian cooperation more aligned to our own Policies.

1001 Boniface Parkway Suite 45P
Anchorage Alaska 99504
tele: 907-338-3814 fax: 907-338-8095

**PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA**

Regional Forester
US Department of Agriculture
page 3

We have sought Government to Government recognition as the most appropriate method of Acknowledgment for the Katalla-Chilkat Tlingit. We request your support for this benevolent resolution of the continued abuses of our Human Rights which would render remedies sought in appropriate international courts unnecessary.

I shall be happy to discuss any questions or concerns raised by this protest at your earliest convenience. I reiterate, further conveyance of our allodial territory is a violation of the Anti-*Apartheid* Covenant of the UN codified in US Law. We urge you to honor our request for a moratorium until our petition has been judged within the Department of the Interior.

Thank you.



Gary C. Patton
Head Representative

cc: Larry Hudson
Forest Supervisor
Chugach National Forest
3301 C Street, Suite 300
Anchorage, Alaska 99503-3998

Donna Platt, President
Eyak Corporation
P.O. Box 340
Cordova, AK 99574

✓ **EXXON VALDEZ** Oil Spill Trustees Council
645 G Street, Suite 401
Anchorage, AL 99501-3451

**1001 Boniface Parkway Suite 45P
Anchorage Alaska 99504
tele: 907-338-3814 fax: 907-338-8095**

ATTN: Molly McCammon
Exxon Valdez Oil Spill Trustee Council
Restoration Office
645 G street, Suite 401
Anchorage, Alaska 99501-3451

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

MAY 22 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Certified Mail

RE: MISUSE OF TRUST FUNDS.

Ms. McCammon;

After viewing the "Restoration Plan", "1995 Status Report", "FY 96 Draft" and the other miscellaneous paperwork I have received I find that the information you are trying to shove down the publics throats is inconclusive, inconsistent, misleading and some information is even false.

I feel that the Environmentalist and Native groups with power backing are running rampant over the Trustee Council.

The summary of injuries listed in the Restoration plan are prevaricated. Please find inclosed copies of ADF&G reports and orders of which I have highlighted. Your plan does not even mention the Tanner crab, Halibut, Gray cod, sablefish, Brown, Red, or blue King crab. Nor that the sensitive King crab rookery was located within the direct area of the flow of oil.

Your summary states that the shrimp showed no mortality or decline but the ADF&G report shows that prior to the spill catches ranged from 75,173 to 242,678 pounds of whole shrimp, but in 1991 the catch dropped to 17,255 pounds. Why are there such discrepancies between the ADF&G documents and the Trustee's documents?

Subsistence, a subject of discrimination. Only natives received the right to claim subsistence. First off, deer can not be included as subsistence as they and the moose were planted in the Prince William Sound area.

Chenega was wiped out during the big earthquake and the survivors moved to Cordova until the Federal government built new Chenega some years back, therefore most of them lived off groceries from Davis Super Foods.

Tatitlek also receives their groceries from town, and a select few still catch salmon and seal, but so would a lot of the NON-NATIVE old timers that harvested salmon, clams, and seal prior to the 1972 marine mammal act. My children are fifth generation Alaskans, but with no native blood and the trustee council is discriminating against them and others by saying that non-natives do not qualify as subsistence users.

The timber rights purchased in Orca Narrows by the Trustees goes against the Court documents that I have viewed. The monies to be paid by Exxon over the ten year period were to RESTORE THE RESOURCES INJURED BY THE SPILL, [EMPHASIS ADDED].

The oil reached shorelines nearly 600 miles southwest from Bligh Reef, it did not travel east to Orca Narrows. According to the settlement the funds may be used for activities to restore injured resources and services. It DOES NOT manage fish and wildlife resources or MANAGE LAND. [EMPHASIS ADDED].

The Natives sold the Timber rights long before the oil spill, they were allowing logging on their lands before the oil spill, the monies from the the original sale of the timber rights had already been spent before the oil spill, the Natives began mismanaging their holdings before the oil spill, therefore this injury was not caused, created or brought on by the oil spill.

The ADF&G already manages the anadromous fish streams in the Orca Narrows, "the parcel" and those streams are protected by the State forest management regulations and laws. The bald eagle nests are protected and located by the federal government. The marbled murrelets tend to nest on adjacent state and federal lands. I think that the trustee's are using the trust funds frivolously.

The trust fund is better known as the meal ticket for a bunch of feel loading scientist, environmentalist, lawyers and native groups and it is time to dump the free loaders, starting with the Cordova science center.

Maybe it is time to let the fisherman get involved, the ones that really know the sound, even better then the so called Biologists.

As an example...I believe the year was 1987 when ADF&G Biologist, I believe James Brady who would not listen to the local fisherman when they told him to open up the Coghill sockeye season because they were running heavy and the lake would end up with an over escapement, a major over escapement happened. The Biologist against the argument of the fishermen decided to dynamite the lake in order to kill the overs. Fisherman tried to tell the Biologist that it would kill everything, the eggs, the next years fry, the adolescent and the adults, the Biologist did it anyway. Some fisherman said with the amount of dynamite he used the lakes bottom might stress and crack...the fishermen were unfortunately right.

I hope that the fishermen sue each of the trustee's through a TORT provision, as you are all individually responsible for the incorrect and missing information within the "RESTORATION PLAN" and the misuse of trust funds.

Thank you for allowing me to voice my opinion.

Sincerely;



Denny Kay Weathers
Box 1791, Deep Bay,
Hawkins Island
Via Cordova, Alaska
99574

5-17-95

Copies to each trustee

Copy to NM file

Copy held for Newspaper

Copy held for EW

Notes: Trustees' ADF+G reports sent only
to Ms. McCammon please view hers.

DKW
5-17-95

PHONE COMMENT LOG

RECEIVED

Name Affiliation Phone Address
 Chris Anderson Resident 424-5505 (msg) EXXON VALDEZ OIL SPILL
 JUL 12 1995 P.O. Box 892 CARDOVA, AK 99574
 TRUSTEE COUNCIL ADMINISTRATIVE RECORD
 Add to mailing list? Yes ☒ No ☐ Newsletters only ☐ Technical Docs + ☐
 Date of call: 5-23-95 Comment taker: KERI HILE
 Subject of comments: Flemming Spit, Cardova.

Comments:

Opposed to T.C.'s plans for the cove area. He's a resident who feels that he and all other residents have regarded living there as a blessing. He fears that all residents will be evicted. The community sauna and all the little cabins will be torn down. Campers will no longer be able to camp on spit. The only other Cardova camping option is right next to a landfill where there is no view; city charges \$10 per night. Present spit campers wouldn't be able to afford that fee. Lots of visitors and leaseholders would loose out. The acquisition would ruin the homes and way of life for many people. It would be really sad.

PHONE COMMENT LOG

Name	Affiliation	Phone	Address
Eileen Shute	Concerned Citizen		P.O. Box 202303 Anchorage, AK 99520

Add to mailing list? Yes ☒ No ☐ Newsletters only ☒ Technical Docs + ☐

Date of call: May 30, 1995 Comment taker: CJ Evans

Subject of comments: Eyak Lands

Comments:

Please use the money to protect habitat. Does not want to see the Eyak lands clearcut, but she does want the Natives to retain ownership of the land. Please buy timber rights.

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

The Alaska Reforestation Council

Forest Tree Improvement Cooperative

P. O. Box 242081 Alaska 99524-2081

RECEIVED
JUL 12 1995
RECEIVED
MAR 3 1995

TO: The Honorable Ted Stevens and Don Young
EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

FROM: Earl P. Stephens, PhD
Alaska Reforestation Council
Forest Tree Improvement Cooperative
EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

DATE: February 27, 1995

SUBJECT: The Establishment in Alaska of a World-Class Terrestrial Ecosystem Research and Development Institute

Earl Stephens

Gentlemen:

May I suggest that in your efforts to open ANWR to exploration and rational development that you include in the scheme of things the establishment of a World-Class Terrestrial Ecosystem Research and Development Institute?

Imagine the knowledge such an Institute would generate and the influence it would have upon the policies of developing our natural resources. My understanding is that Congress has appropriated \$571 million in discretionary funds for ecosystem management for fiscal year 1995, an increase of about 12 percent over 1994. Based upon the proportion of Federal land ownership in the State, Alaska's fair share would be ample to establish the Institute and get it well under way, especially since we already have formed a nucleus of one with the Ecosystem Management Research and Development Partnership of Interior and Southcentral Alaska. The time is now!

Thank you, for your consideration.

See Distribution

3/1/95

Molly: Working Together, I believe we can accomplish the

Sincerely,

Earl Stephens

"The Private and Public Sectors Working Together"

The Alaska Reforestation Council

Forest Tree Improvement Cooperative

P. O. Box 242081 Anchorage, Alaska 99524-2081

**WHY ALASKA NEEDS A WORLD-CLASS TERRESTRIAL ECOSYSTEM
RESEARCH AND DEVELOPMENT INSTITUTE
EARL P. STEPHENS
DECEMBER 1994**

A terrestrial ecosystem research and development institute is a logical and necessary means to effect the intent of the Alaska National Interest Lands Conservation Act and other federal and state legislation which have produced a preponderantly public ownership of land in Alaska: 220 million acres of federal, 105 million state, 44 million native, almost a million mental health, with the remaining few million acres of borough, municipality, and small private ownership. The salient purpose of this land ownership distribution was to meet the needs of the people on a sustainable basis. To ascertain and rationalize the uses to which these lands will be committed requires an ecosystem approach which treats human society and the environment as a single system.

The ecosystem approach becomes even more complex when human society is factored into the equation. The bottom line involves values, and people's perceptions of the components of the environment and their worth, singly and in combinations, vary considerably. Environmental and economic conflicts arise, the basis for coalitions -- clubs, federations, conservancies, foundations, etc. -- which advocate and support special recognition and treatment of specific parts of the ecosystems. Emotions can play a decisive role in the all important process of deciding the uses of our natural resources. What we need is an unbiased source of information/knowledge that decision makers, public and private, can apply with confidence, the very essence of the ecosystem approach. And, essential too, is a source of knowledge that can be used to inform the public of its land use options.

Last year with the encouragement of the U.S. Forest Service's Pacific Northwest Research Station at Portland, Oregon, The Ecosystem Management Research and Development Partnership of Interior and Southcentral Alaska was formed. The goals of the Partnership are to bring together a diverse group of scientists and resource managers who will develop a research and management program for the sustainable ecosystem management of the forests of Interior and South-Central Alaska, and to provide leadership and seek funding to facilitate and support the development of sustainable ecosystem management for that region. An awesome array of talent already is represented by the Partnership. The original signatories include the Alaska Department of Natural Resources, the Pacific Northwest Research Station and Region 10 of the U.S. Forest Service, the University of Alaska Fairbanks, the Tanana Chiefs Conference, Inc., Alaska Fish and Wildlife Research Center National Biological Survey U.S. Department

of Interior, and the Alaska Reforestation Council. Recent additions are the Natural Resources Conservation Service, Koncor Forest Products, and the Mat-Su Borough, while others are pending. And I might add, that an organized effort has not yet been made to increase its membership. The fact is that the establishment of a Terrestrial Ecosystem Research and Development Institute already is underway. To achieve the level of organization required to cope with the problems confronting Alaska's efforts to diversify its economy, however, long term financial support is essential. The Long Term Ecological Research Project located at UAF and funded in part by the National Science Foundation is a fine example.

Just recently, the Exxon Valdez Oil Spill Trustee Council announced the award of \$25 million to the University of Alaska Fairbanks Institute of Marine Science at Seward. The Marine Center will be developed into a world-class, scientific research facility for the study of marine mammals, fish, birds, and the ecosystem of Prince William Sound. What a worthy cause! There will be a bullish market for this technology applicable to the northern latitudes especially in light of recent global developments. This is a significant step in the diversification of Alaska's economy. However, we need to expand this effort, and the timing is right. A Terrestrial Ecosystem Research and Development Institute to complement the Marine Institute is a must.

The marine and terrestrial ecosystems are components of the same biosphere, are intimately interrelated, and the perspective of one is requisite to the comprehension of the other. This is reason enough to establish a terrestrial counterpart to the marine center. Add to this, however, that Congress, under a misapprehension, has stored the bulk of land in Alaska behind the legislative walls of National Parks, National Parks and Preserves, National Preserves, National Monuments, Wilderness Areas, National Wild and Scenic Rivers, National Forests, etc. This legion of land legislation laws has made Alaska the embodiment of land stewardship culture the finest in the history of the world. Now all we need is the knowledge to advance this culture to the advantage of our society! Meanwhile, due to the dynamics of the environment, the seams of these land sanctuaries are beginning to crack and the supposedly safe havens deteriorate: water and air pollution, insect and disease epidemics, wild fires, earthquakes, volcanic eruptions, droughts, floods, cyclonic winds, ice storms, frost action, and other natural disturbances are doing their thing. Fish and game populations fluctuate erratically for no apparent reason. Forest management operations are being conducted without our knowing the impacts upon biodiversity, watersheds, anadromous streams, etc. People pressures are straining the ecological integrity of our national parks. And the "balance of nature" is being questioned.

The Exxon Valdez Oil Spill Trustee Council seems to be following a similar course of action. It has announced plans to invest approximately half of the remaining oil spill settlement money, some \$400 million, in the acquisition of land as part of its habitat restoration program. Paradoxically, the ability does not exist to evaluate the role these lands will have in the restoration of the spill-damaged habitat, nor do we have the level of organization and commitment from our policy makers, advocacy groups, and the scientific community which are

sorely needed to accomplish this task. The challenge goes beyond the short term objective of acquiring additional public lands; that is, toward longer term management and restoration of impacted habitats.

The time is now, opportune, to establish a Terrestrial Ecosystem Research and Development Institute. A consortium-like effort should be employed to obtain short and long term commitment. No source of support should be left unsolicited; we are all in this together. The federal government ought to be a prime contributor since it is responsible for the publicly skewed distribution of land ownership. The State stands to benefit most from the knowledge achieved and could endow some of its recently acquired oil taxes. The Exxon Valdez Oil Spill Trustees Council could enhance its investment in the Marine Science Center by complementing it with terrestrial research. The private sector should kick in its share since it will be operating in an economy catalyzed by the technology the Institute generates.

The impact of a World-Class Terrestrial Ecosystem Research and Development Institute upon Alaska's well being could be analogous to that the Permanent Fund will have some day. An infrastructure like this is appropriate for Alaska. It doesn't pollute the air, despoil our water, clutter-up our highways, impair the environment in any way. What it does do is help to make this world a better place in which to live. Indeed, we can ill afford not to make this investment in our future. Let's all pitch in and make it happen!

DISTRIBUTION LIST

I Washington Delegation:

Stivers, Murkowski, Young

II Alaska Administration:

- A. Governor's Office:

Ayers, Heiman

- B. Lt. Governor's Office:

McCawell

- C. Legislature:

1. House:

Green, Williams, Phillips,
Mackie, Vezev

2. Senate:

Leman, Pearce, Halford, Duncan,
Rieger

III Exxon Valdez Oil Spill Council

McCann, Farick

IV Others:

- A. Participants: Ecosystem Mgt.

Research + Development

Partnership of Interior and
Southcentral Alaska (47)

- B. Sturgulewski, Steve Kallick Paul Jenkins

PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA

April 8, 1995

Exxon Valdez Oil Spill Trustee Council
Restoration Office
645 G Street Suite 401
Anchorage, Alaska 99501-3451

RECEIVED
APR 10 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

Dear Sirs :

We have submitted documentation for Acknowledgment to the US Department of the Interior, the US Department of Justice and the President of the United States. We have presented to these agents of the United States a catalogue of public documents which serve as incontrovertible evidence of our allodial title to this region. Our claim pre-dates all legislation affecting Alaska's Indigenous since 1934. By choice the United States has never treated with the Katalla-Chilkat Tlingit People. Our claim to this land pre-dates Alaska Statehood.


It has become necessary to formalize our resolve for *self determination* and *self governance*. We have identified our allodial territory (free from church and state) and wish to protect it from further encroachments, conveyances and expropriations by foreign or domestic industrial development regimes. We must guard against abuses of our Basic Human Rights. We have registered our abhorrence of the collusion and coercion by the State of Alaska and Chugach Alaska Corporation regarding the ancestral territories of the Katalla-Chilkat Tlingit. In order to pre-empt violations of the Anti-Genocide Covenant, the Anti-Apartheid Covenant and the International Labor Organization Convention of the United Nations, by Referendum, we have formed this *non confrontational* Provisional Government. We have begun to develop the framework to function as an autonomous territory, to protect our interest in the region, and to assure it remains intact.

The *Economic Development Policy* of our Provisional Government prevents any form of *neo-mercantilism* or *neo-colonialism*, especially those in violation to article 2 paragraph (c) and (d) of the Apartheid Convention. The development and management of our assets for the benefit of our people and future generations is more in keeping with traditional Tlingit custom. Our *Trade and Commerce Policy* is not opposed to conducting commerce and trade with foreign and domestic interests, but insist that we maintain full oversight authority. Our Government seeks mutual humanitarian cooperation more aligned to our own policies especially in relation to foreign and domestic interests.

We have sought Immediate Injunctive Relief and have asked for a three (3) month moratorium on further *encroachments, conveyances, or expropriations* concerning our territory. We are seeking through the Office of Tribal Justice, at the US Department of Justice to assure us the protection and enforcement of our Basic Human Rights through coordinated Congressional, Judicial, and Executive cooperation of the United States.

Therefore we request your cooperation to honor this moratorium. I shall be pleased to answer any questions or concerns you may have regarding the allodial title of the Katalla-Chilkat Tlingit of Alaska and our place in any discussions relating to our allodial lands and waters.

Thank you.


Gary C. Patton, Head Representative

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

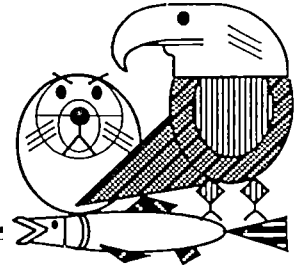
1001 Boniface Parkway Suite 45P
Anchorage, Alaska 99504
tel.: 907-338-3814 fax: 907-338-8095

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



April 21, 1995

Mr. Gary C. Patton
1001 Boniface Parkway, Suite 45P
Anchorage, Alaska 99504

Dear Mr. Patton:

Thank you for your letter dated April 8, 1995. I have forwarded it to all of the individual members of the Trustee Council.

Sincerely,

A handwritten signature in cursive script that reads "Molly McCammon". The signature is fluid and stylized, with the first and last names being more prominent.

Molly McCammon
Executive Director

MM/kh

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior



Women of the Wilderness

specializing in trips, courses and related workshops

RECEIVED
APR 24 1995

To: Exxon Valdez Oil Spill Trustees Council

From: Alaska Women of the Wilderness

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

RE: Kenai Fjords purchase

I am writing in support of using the Exxon Valdez Oil Spill money to buy back the land from the Native corporations. It is imperative that we do all we can to keep the beautiful Kenai Fjords in tact. Please when meeting on April 30 and May 1, know that you are supported in buying back the Kenai Fjords and do all you can to make that happen.

Sincerely,

Roschele Wagoner
Roschele Wagoner

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

CORDOVA PUBLIC SCHOOLS

P.O. BOX 140
100 FISHERMAN AVENUE
CORDOVA, ALASKA 99574
PHONE: (907) 424-3265 OR 424-3267
FAX: (907) 424-3271

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

RECEIVED
MAY 5 1995

MAY 3, 1995

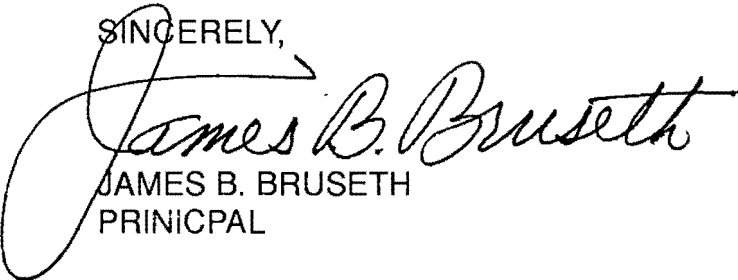
MOLLY MCCAMMON
EXECUTIVE DIRECTOR
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
645 G ST., SUITE 401
ANCHORAGE, AK 99501-3451

DEAR MS. MCCAMMON,

THANK YOU FOR THE ALASKA MARINE ECOSYSTEM POSTER. IT WAS GIVEN TO MR. PAUL BEDNARZ, A SIXTH GRADE TEACHER, WHO IS ESPECIALLY INTERESTED IN MARINE SCIENCE. OUR ENTIRE SCHOOL DEVOTES THE MONTH OF MAY TO STUDYING THE MARINE ENVIRONMENT. THERE ARE MANY FIELD TRIPS AND ACTIVITIES PLANNED AROUND A MARITIME SCIENCE THEME. YOUR POSTER WAS VERY TIMELY.

WE APPRECIATE THE EFFORTS OF THE TRUSTEE COUNCIL IN KEEPING OUR SCHOOL AND COMMUNITY INFORMED.

SINCERELY,


JAMES B. BRUETH
PRINCIPAL

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA

May 5, 1995

Regional Forester
US Department of Agriculture
P.O. Box 21628
709 W. 9th Street
Juneau, Alaska 99801

RECEIVED
JUL 12 1995

RECEIVED
MAY 10 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

RE: Timber Rights for Timber Rights Exchange w/Eyak and Shearstone Corporations
Section 29, Copper River Meridian, 634 acres
Publication Dates 3/31, 4/7, 4/14, 4/21, 1995;

AND

IBLA 95-340, Katalla-Chilkat Tlingit of Alaska, Provisional Government

Dear Sir:

We wish to advise you that the Katalla-Chilkat Tlingit of Alaska has submitted documentation to the Department of the Interior, the Department of Justice and the Office of the President of the United States for consideration as an acknowledged autonomous People. We are in receipt of the above referenced IBLA docket number which positions the Katalla-Chilkat Tlingit for Regional Territorial Selection within the above referenced 634 acres as evidence of the Department of Interior intention to hear our petition.

We have identified our allodial territory (free from church and state) and intend to protect it from further encroachments, conveyances and expropriations by foreign or domestic industrial development regimes. In order to pre-empt violations of the Anti-Genocide Covenant and the Anti-Apartheid Covenant of the United Nations, by Referendum, we have formed a *non confrontational* Provisional Government to develop the framework to function as an autonomous territory to protect our region and to assure it remains intact. We shall guard against abuses of our Basic Human Rights.

We have registered our abhorrence of the collusion and coercion by the State of Alaska, Chugach Alaska Corporation and Eyak Corporation regarding our ancestral territories of the Katalla-Chilkat Tlingit. The premise of our allodial territory corresponds in no sense to property, but rather to the maintenance of the necessary ecological space to regulate such things as the genetic pool and food supply. Very clearly the renewable resource base of our People is far more important to us than the uses to which our resources have been put by domestic and foreign industrial regimes for which we have received no benefit.

Our claim to the allodial territory of the Katalla-Chilkat Tlingit has never been extinguished by any act of the United States Congress or Executive. We were abandoned by the Tlingit of Southeastern Alaska at the time of the Tlingit Haida Claim of 1934-59. The Katalla-Chilkat Tlingit were disregarded in the Alaska Native Claims Settlement Act (ANCSA) of 1971 and our land ceded to others. We propose a benevolent alternative to function as an autonomous territory of Alaska Indigenous People.

1001 Boniface Parkway Suite 45P
Anchorage Alaska 99504
tele: 907-338-3814 fax: 907-338-8095

**PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA**

Regional Forester
US Department of Agriculture
page 2

The collusive, conspiratorial policies employed against us threaten the survival of eco-systems without which we as a distinct People cannot survive. Your intention of our demise is apparent by these neo-colonial and neo-mercantile practices employed against us. The Exchange under discussion now represents further conveyance of our territory and is a symbolic policy of *Apartheid* and its collusive nature could be considered an act of war against our People. This Exchange, in harmony with other implemented Plans, reflects failed continuity for managing inclusive eco-systems necessary for the long term sustainability of any sub-system.

Explicit in the collaborative decisions from the State of Alaska, Chugach Alaska Corporation, Eyak Corporation and now the US Department of Agriculture encroachment, expropriation and conveyance have been applied to this territory. Title to this territory is clouded and no claim is superior to the Katalla-Chilkat Tlingit. Before proceeding further into this murky labyrinth of fraud perpetuated on our People, and in light of the United States' willingness to consider our Petition, consider the consequences. United Nations Charter, Chapter IX, Trust Territories, Article 73 and subsequent enabling Resolutions of the UN General Assembly, clearly indicates recourse available to the Katalla-Chilkat Tlingit of Alaska includes the Congress and President of the United States but also available to our People for the adjudication of crimes is the proper court in Rome.

We have sought *Immediate Injunctive Relief* and asked for a six (6) month moratorium on further *encroachments, conveyances, or expropriations* concerning our Territory. We have sought help to acquire an *Executive Order* to accomplish this through the Office of Tribal Justice. We have sought cooperation of the Office of Tribal Justice at the US Department of Justice to invoke the Federal Pre-emption Doctrine under the *commerce clause of the Constitution article (1) section (8)*. We have sought *protection and enforcement of our Basic Human Rights through Congressional and Executive cooperation of the United States*.

We urge you to honor our request for a moratorium and discontinue further discussions on this Exchange proposal. It should be clear from your own work under discussion that the State of Alaska, Chugach Alaska Corporation and Eyak Corporation intends to continue colonial and mercantile activities. Noting the disregard for the concerns based on actual experience of the residents of the region to the planned activities under discussion is more testimony to support the need to adopt our own policy standards for our Territory.

Our Policy for *Commerce and Trade* prevents any form of *neo-mercantilism, or neo-colonialism*, especially those in violation to article 2 paragraph (c) and (d) of the anti-*Apartheid* Convention. The Katalla-Chilkat Tlingit of Alaska are determined to direct our own destiny and maintain full oversight authority regarding our allodial territory. Our Economic Development Policy includes development and management of our assets for the benefit of our People and future generations more in keeping with traditional Tlingit custom. Our Government seeks mutual humanitarian cooperation more aligned to our own Policies.

1001 Boniface Parkway Suite 45P
Anchorage Alaska 99504
tele: 907-338-3814 fax: 907-338-8095

**PROVISIONAL GOVERNMENT
KATALLA-CHILKAT TLINGIT OF ALASKA**

Regional Forester
US Department of Agriculture
page 3

We have sought Government to Government recognition as the most appropriate method of Acknowledgment for the Katalla-Chilkat Tlingit. We request your support for this benevolent resolution of the continued abuses of our Human Rights which would render remedies sought in appropriate international courts unnecessary.

I shall be happy to discuss any questions or concerns raised by this protest at your earliest convenience. I reiterate, further conveyance of our allodial territory is a violation of the Anti-*Apartheid* Covenant of the UN codified in US Law. We urge you to honor our request for a moratorium until our petition has been judged within the Department of the Interior.

Thank you.



Gary C. Patton
Head Representative

cc: Larry Hudson
Forest Supervisor
Chugach National Forest
3301 C Street, Suite 300
Anchorage, Alaska 99503-3998

Donna Platt, President
Eyak Corporation
P.O. Box 340
Cordova, AK 99574

✓ *EXXON VALDEZ* Oil Spill Trustees Council
645 G Street, Suite 401
Anchorage, AL 99501-3451

ATTN: Molly McCammon
Exxon Valdez Oil Spill Trustee Council
Restoration Office
643 G Street, Suite 401
Anchorage, Alaska 99501-3431

RE: MISUSE OF TRUST FUNDS.

Ms. McCammon:

After viewing the "Restoration Plan", "1995 Status Report", "FY 96 Draft" and the other miscellaneous paperwork I have received I find that the information you are trying to shove down the public's throats is inconclusive, inconsistent, misleading and some information is even false.

I feel that the Environmentalist and Native groups with power backing are running rampant over the Trustee Council.

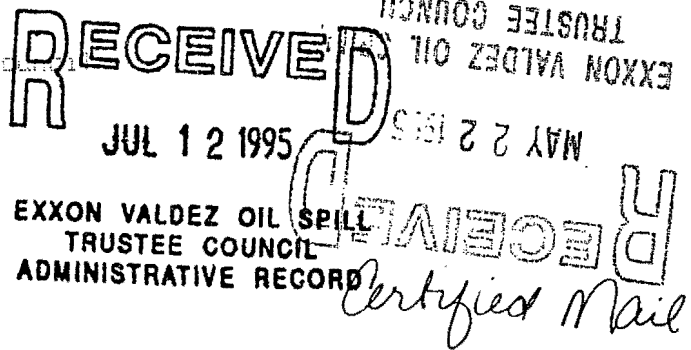
The summary of injuries listed in the Restoration plan are prevaricated. Please find inclosed copies of ADF&G reports and orders of which I have highlighted. Your plan does not even mention the Tanner crab, Halibut, Gray cod, sablefish, Brown, Red, or blue King crab. Nor that the sensitive king crab rookery was located within the direct area of the flow of oil.

Your summary states that the shrimp showed no mortality or decline but the ADF&G report shows that prior to the spill catches ranged from 75,173 to 242,576 pounds of whole shrimp, but in 1991 the catch dropped to 17,255 pounds. Why are there such discrepancies between the ADF&G documents and the Trustee's documents?

Subsistence, a subject of discrimination. Only natives received the right to claim subsistence. First off, deer can not be included as subsistence as they and the moose were planted in the Prince William Sound area.

Chenega was wiped out during the big earthquake and the survivors moved to Cordova until the Federal government built new Chenega some years back, therefore most of them lived off groceries from Davis Super Foods.

Tatitlek also receives their groceries from town, and a select few still catch salmon and seal, but so would a lot of the NON-NATIVE old timers that harvested salmon, clams, and seal prior to the 1972 marine mammal act. My children are fifth generation Alaskans, but with no native blood and the trustee council is discriminating against them and others by saying that non-natives do not qualify as subsistence users.



The timber rights purchased in Orca Narrows by the Trustees goes against the Court documents that I have viewed. The monies to be paid by Exxon over the ten year period were to RESTORE THE RESOURCES INJURED BY THE SPILL, [EMPHASIS ADDED].

The oil reached shorelines nearly 600 miles southwest from Bligh Reef, it did not travel east to Orca Narrows. According to the settlement the funds may be used for activities to restore injured resources and services. It DOES NOT manage fish and wildlife resources or MANAGE LAND. [EMPHASIS ADDED].

The Natives sold the Timber rights long before the oil spill, they were allowing logging on their lands before the oil spill, the monies from the the original sale of the timber rights had already been spent before the oil spill, the Natives began mismanaging their holdings before the oil spill, therefore this injury was not caused, created or brought on by the oil spill.

The ADF&G already manages the anadromous fish streams in the Orca Narrows. "the parcel" and those streams are protected by the State forest management regulations and laws. The bald eagle nests are protected and located by the federal government. The marbled murrelets tend to nest on adjacent state and federal lands. I think that the trustee's are using the trust funds frivolously.

The trust fund is better known as the meal ticket for a bunch of feei loading scientist, environmentalist, lawyers and native groups and it is time to dump the free loaders, starting with the Cordova science center.

Maybe it is time to let the fisherman get involved, the ones that really know the sound, even better then the so called Biologists.

As an example...I believe the year was 1987 when ADF&G Biologist, I believe James Brady who would not listen to the local fisherman when they told him to open up the Cognill sockeye season because they were running heavy and the lake would end up with an over escapement, a major over escapement happened. The Biologist against the argument of the fishermen decided to dynamite the lake in order to kill the overs. Fisherman tried to tell the Biologist that it would kill everything, the eggs, the next years fry, the adolescent and the adults, the Biologist did it anyway. Some fisherman said with the amount of dynamite he used the lakes bottom might stress and crack...the fishermen were unfortunately right.

I hope that the fishermen sue each of the trustee's through a TORT provision, as you are all individually responsible for the incorrect and missing information within the "RESTORATION PLAN" and the misuse of trust funds.

Thank you for allowing me to voice my opinion.

Sincerely:



Denny K. Leather
Box 1791, Deep Bay,
Hawkins Island
via Cordova, Alaska
99574

5-17-95

Copies to each trustee

Copy to NM file

Copy held for Newspaper

Copy held for ~~RTD~~

Notes: Trustees' ADF+G reports sent only
to Ms. McCammon please view hers.

DKW
5-17-95

PHONE COMMENT LOG

RECEIVED

Name Affiliation Phone Address
 Chris Anderson Resident 424-5505
 (msg) EXXON VALDEZ OIL SPILL
 TRUSTEE COUNCIL
 ADMINISTRATIVE RECORD
 Add to mailing list? Yes ☒ No ☐ Newsletters only ☐ Technical Docs + ☐
 Date of call: 5-23-95 Comment taker: KERI HILE
 Subject of comments: Flemming Spit, Cordova.

Comments:

Opposed to T.C.'s plans for the Cove area. He's a resident who feels that he and all other residents have regarded living there as a blessing. He fears that all residents will be evicted. The community sauna and all the little cabins will be torn down. Campers will no longer be able to camp on spit. The only other Cordova camping option is right next to a landfill where there is no view; city charges \$10 per night. Present spit campers wouldn't be able to afford that fee. Lots of visitors and leaseholders would loose out. The acquisition would ruin the homes and way of life for many people. It would be really sad.

PHONE COMMENT LOG

Name	Affiliation	Phone	Address
Eileen Shute	Concerned Citizen		P.O. Box 202303 Anchorage, AK 99520

Add to mailing list? Yes ☒ No ☐ Newsletters only ☒ Technical Docs + ☐

Date of call: May 30, 1995 Comment taker: CJ Evans

Subject of comments: Eyak Lands

Comments:

Please use the money to protect habitat. Does not want to see the Eyak lands clearcut, but she does want the Natives to retain ownership of the land. Please buy timber rights.

RECEIVED
JUL 12 1995

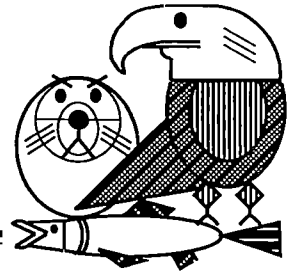
EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

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



July 3, 1995

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

R. Smeright
HCR 64 Box 565
Seward, Alaska 99664

Dear Mr. Smeright:

Thank you for your recent correspondence regarding the Trustee Council actions on habitat protection. Your comments were forwarded to all the Trustee Council members prior to their June 1, 1995, meeting in Cordova.

As you know, the Trustee Council took action on November 2, 1994, to protect lands on Kodiak Island. The Council met again on December 2, in Juneau, and signed resolutions authorizing possible acquisition of lands owned by Tatitlek, Chenega, and Eyak Corporations, Afognak Joint Ventures, and the Kodiak Island Borough on Shuyak Island. In addition, the Council expressed support for continuing negotiations for possible acquisition of Port Graham and English Bay lands within Kenai Fjords National Park. Negotiations in various stages are currently underway with all of the above parties.

Thank you again for your continued interest in the *Exxon Valdez* Trustee Council actions. If you would like further information or details on this issue, or if you would like to be placed on the mailing list to receive our newsletter, please don't hesitate to call Ms. L.J. Evans at 1-800-478-7745 (within Alaska) or 1-800-283-7745 (outside Alaska).

Sincerely,

Molly McCammon
Executive Director

mm/raw/kh

Trustee Agencies

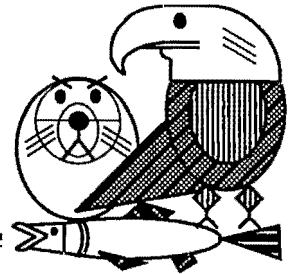
State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

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



July 3, 1995

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Ms. Christine Smith
12016 Wilderness Road
Anchorage, Alaska 99516

Dear Ms. Smith:

Thank you for your recent correspondence regarding the Trustee Council actions on habitat protection. Your comments were forwarded to all the Trustee Council members prior to their June 1, 1995, meeting in Cordova.

As you know, the Trustee Council took action on November 2, 1994, to protect lands on Kodiak Island. The Council met again on December 2, in Juneau, and signed resolutions authorizing possible acquisition of lands owned by Tatitlek, Chenega, and Eyak Corporations, Afognak Joint Ventures, and the Kodiak Island Borough on Shuyak Island. In addition, the Council expressed support for continuing negotiations for possible acquisition of Port Graham and English Bay lands within Kenai Fjords National Park. Negotiations in various stages are currently underway with all of the above parties.

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Sincerely,

Molly McCammon
Executive Director

mm/raw/kh

Trustee Agencies

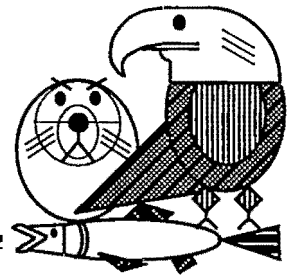
State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

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



July 3, 1995

Ms. Laurie Smith
P.O. Box 80705
Fairbanks, Alaska 99708

Dear Ms. Smith:

Thank you for your recent correspondence regarding the Trustee Council actions on habitat protection. Your comments were forwarded to all the Trustee Council members prior to their June 1, 1995, meeting in Cordova.

As you know, the Trustee Council took action on November 2, 1994, to protect lands on Kodiak Island. The Council met again on December 2, in Juneau, and signed resolutions authorizing possible acquisition of lands owned by Tatitlek, Chenega, and Eyak Corporations, Afognak Joint Ventures, and the Kodiak Island Borough on Shuyak Island. In addition, the Council expressed support for continuing negotiations for possible acquisition of Port Graham and English Bay lands within Kenai Fjords National Park. Negotiations in various stages are currently underway with all of the above parties.

Thank you again for your continued interest in the *Exxon Valdez* Trustee Council actions. If you would like further information or details on this issue, or if you would like to be placed on the mailing list to receive our newsletter, please don't hesitate to call Ms. L.J. Evans at 1-800-478-7745 (within Alaska) or 1-800-283-7745 (outside Alaska).

Sincerely,

Molly McCammon
Executive Director

mm/raw/kh

RECEIVED
JUL 12 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

1533

PRESS RELEASE

--For Immediate Release--

March 29, 1995

RECEIVED
MAR 31 1995

Contacts: Rick Steiner, David Grimes
(907) 424-5509
(907) 346-4071

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

COURT ACTION FILED AGAINST EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

CITIZEN'S GROUP ASKS COURT TO ESTABLISH SPILL RESTORATION REVIEW COMMISSION

Today, more than 6 years since the disastrous grounding of the Exxon Valdez in Alaska's Prince William Sound, Court action has been filed charging that the Government Trustees have not fulfilled their obligation to the Injured Environment, the Public, and the Court.

The motions were filed in the U. S. District Court, District of Alaska. This is the Court that approved the historic \$1 Billion out-of-court settlement of the Natural Resource Damage claims against Exxon on October 11, 1991.

The motions to intervene in and to compel compliance with this historic settlement were brought by The Coastal Coalition, a group of concerned citizens from the oil spill region.

Today's motions before the Court assert that the Governments have violated the settlement because they have failed to assist in environmental recovery.

Specifically, the motions assert that the Governments have:

- A. Accomplished very little in terms of tangible benefit to the injured Environment.
- B. Diverted enormous financial resources - intended by the settlement to be used in the maximum interest of environmental recovery - into non-essential, wasteful expenditures.
- C. Taken far too long - five and a half years - to develop a restoration plan to be of maximum benefit to the Injured Environment.
- D. Failed to accomplish any significant, comprehensive coastal habitat acquisition and protection, thus allowing further large-scale, significant, irreparable injury to occur to the already stressed coastal ecosystem.

As relief, the motions ask the Court to order the establishment of the Exxon Valdez Oil Spill Restoration Review Commission to conduct, for the first time, an independent, comprehensive, detailed review of all Government policies, expenditures, and activities since March 24, 1989, related to oil spill restoration.

The Commission would review all aspects of Government activities in relation to mitigating the damage caused by this oil spill.

The Coastal Coalition asks that the Commission do two things:

1. Assess what has and has not been accomplished by the Governments to redress the damage caused by the spill;
2. Provide a basis for doing better next time.

In their motion, The Coastal Coalition states:

The concept of Natural Resource Damages as a substantial compensable loss in the case of oil spills and other industrial disasters is unique to the legal system of the United States. The level of environmental damage mitigation proposed by the out-of-court settlement is entirely unprecedented in history. As such, the way in which the Exxon Valdez Oil Spill Natural Resource Damage settlement is used for Restoration is enormously important in assessing society's genuine commitment to redress environmental damage caused by industrial disasters.

Coastal Coalition member David Grimes says:

For those of us from the spill region who fought with our lives to defend our ocean home after the oil spill, the government Trustees' failure to do all they can to help heal our home is unacceptable. We expected them to act as emergency room physicians, and instead we got hospital administrators.

Not only is the patient still struggling to recover from her oil spill injuries, but the Trustees continue to stand by and watch while enormous new injuries occur. Until the Trustees do their job, the burden of responsibility for healing the spill region falls once again on the shoulders of we who call it home.

###

The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
Cordova, AK. 99574
(907)424-5509
(907)346-4071

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No.
A91-082 CIV

EXXON CORPORATION, EXXON SHIPPING
COMPANY, and EXXON PIPELINE COMPANY,
in personam, and the T/V
EXXON VALDEZ, in rem,

Defendants.

STATE OF ALASKA,

Plaintiff,

v.

Civil Action No.
A91-083 CIV

EXXON CORPORATION, and EXXON
SHIPPING COMPANY,

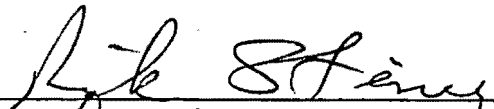
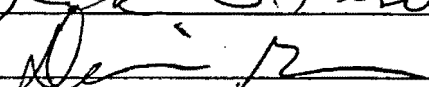
Defendants.

AGREEMENT AND
CONSENT DECREE

MOTION TO INTERVENE

BROUGHT BY: The Coastal Coalition, on behalf of the Environment
injured by the Exxon Valdez Oil Spill.

Dated: March 29, 1995

MOTION TO INTERVENE

Pursuant to Federal rule of civil procedure 24B (Permissive Intervention), The Coastal Coalition moves to intervene in the above captioned matter.

Our intervention will not delay or otherwise prejudice the rights of the original parties to this agreement. In fact, it is our specific intent to expedite the effective implementation of this agreement through our intervention.

We find it necessary to intervene on behalf of the injured Environment in this Agreement and Consent Decree because the Government parties have failed to fulfill their obligations to act on behalf of the injured Environment.

STANDING TO ASSERT

The Coastal Coalition, represented in this motion by Rick Steiner and David Grimes, has standing to assert this motion on behalf of the Environment injured by the Exxon Valdez Oil Spill.

The Coastal Coalition is an informal coalition of concerned citizens that formed in 1989 to assist in expediting restoration of the Oil Spill region. The Coalition helped create a regional consensus for the concept of settling the Natural Resource Damage cases out-of-court and formally proposed such to the State of Alaska, the United States and Exxon on July 4, 1990. Since the settlement, the Coalition has been concerned that all Natural Resource Damage recoveries be expended in the maximum interest of environmental recovery, and in a timely manner.

Coastal Coalition members Rick Steiner and David Grimes have been residents of Prince William Sound collectively for almost 30 years, and have been involved in virtually all aspects of the Oil Spill--the emergency response, education in other coastal states, prevention efforts, restoration policy formation, etc. We are entirely confident of our standing to bring this action before this Court on behalf of the injured Environment - our home.

After exhausting all non-judicial avenues to correct the Government's confusion concerning how to implement this Agreement and Consent Decree, we find it our moral responsibility to intervene on behalf of the injured Environment in lieu of the Governments.

The State of Alaska, the United States of America, and their designated Trustees have had several years since this Court approved this agreement to seek this Court's guidance on how to implement this agreement, yet, despite an enormous amount of public criticism of their actions, they have not done so.

Thus, we find it necessary to stand in place of the designated Government Trustees in order to bring this extraordinarily important matter before the Court for judicial review.

Obviously, Prince William Sound and the rest of the coastal ecosystem injured by the Exxon Valdez Oil Spill cannot assert its own case directly to this Court. However, the Courts regularly grant standing to claimants serving as conservators or guardians of entities who cannot assert their own claims. In fact, the corporations, Governments and the T/V Exxon Valdez, as parties to this agreement, all had to have someone to plead their case for them.

With regard to Natural Resources, legal standing has been granted to such by Congress and the Courts in the event that such Natural Resources are damaged or lost as a result of industrial accidents or disasters, such as oil spills.

In their capacity as Trustees, as defined by the agreements approved by this Court, each and every action engaged in by the Governments should have been conducted exclusively in the highest and best interest of the injured Environment. This was the clear intent of Congress in providing for the collection of Natural Resource Damages, and the intent of this Court in approving the Consent Decree, MOA, and Plea Agreement in this case. The Governments in this case were required to act solely "as trustees, for purposes of CERCLA and the Clean Water Act, of natural resources injured lost, or destroyed as a result of the Oil Spill" (Memorandum of Agreement).

Unfortunately, the Governments have not fulfilled their trust responsibilities to the injured Environment. Even some agency staff have grave concerns regarding the Government's implementation of the terms of this agreement.

In approving this agreement, presiding U.S. District Court Judge H. Russell Holland made the following warning to the parties to this agreement:

I want you all to know that I, you know, I'm not able to monitor this kind of thing, but I expect you all to do the monitoring; and quite frankly, I expect to see people back here if the money that flows from these three cases is not going where I expect it to go, based upon the terms of these agreements.

It is the primary assertion of this motion that the money collected by the Governments as a result of this agreement is not being used as expected--in the maximum interest of environmental recovery--and the parties to the agreement are either unable or unwilling to correct the situation themselves. As such, we believe judicial review is necessary to redress the failure of the Governments to fulfill their obligations to this Court, the public, and the injured resources.

Footnote on position on standing to assert:

In the event that this Court finds that we should not have standing to intervene in this agreement, even though as long-standing and loving residents of the region, we would respectfully and vigorously disagree, then we ask this Court to sua sponte grant the relief we seek in order to compel compliance.

NOTE: This is one of four motions we have filed with this Court, and we respectfully ask that the Court consider all four motions collectively, as listed below:

1. Motion to Intervene - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
2. Motion to Intervene - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)
3. Motion to Compel Compliance - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
4. Motion to Compel Compliance - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)

The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
Cordova, AK. 99574
(907)424-5509
(907)346-4071

CERTIFICATE OF SERVICE

We hereby certify that on March 29, 1995, we served by registered mail the following parties:

United States of America
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

State of Alaska
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

Exxon Corporation
General Counsel
Exxon Corporation
225 E. John W. Carpenter Fwy.
Irving, Texas 75062-2298

Exxon Pipeline Company
Office of the President
Exxon Pipeline Company
P.O. Box 2220
Houston, Texas 77252-2220

With the following documents:

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(Civil Actions No. A91-082 and A91-083)
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Decree (Civil Actions No. A91-082 and A91-083)
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Agreement and Consent Decree (Civil Action No. A91-
081CV)

The Coastal Coalition
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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF ALASKA,

Defendant and
Counterclaimant.

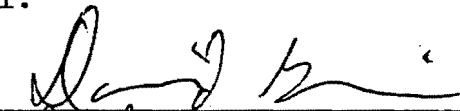
Civil Action No.
A91-081 CV

MEMORANDUM OF AGREEMENT
AND CONSENT DECREE

MOTION TO INTERVENE

BROUGHT BY: The Coastal Coalition, on behalf of the Environment
injured by the Exxon Valdez Oil Spill.

Dated: March 29, 1995



Rick Steiner

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We find it necessary to intervene on behalf of the injured Environment in this Memorandum of Agreement and Consent Decree because the Government parties have failed to fulfill their obligations to act on behalf of the injured Environment.

STANDING TO ASSERT

The Coastal Coalition, represented in this motion by Rick Steiner and David Grimes, has standing to assert this motion on behalf of the Environment injured by the Exxon Valdez Oil Spill.

The Coastal Coalition is an informal coalition of concerned citizens that formed in 1989 to assist in expediting restoration of the Oil Spill region. The Coalition helped create a regional consensus for the concept of settling the Natural Resource Damage cases out-of-court and formally proposed such to the State of Alaska, the United States and Exxon on July 4, 1990. Since the settlement, the Coalition has been concerned that all Natural Resource Damage recoveries be expended in the maximum interest of environmental recovery, and in a timely manner.

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After exhausting all non-judicial avenues to correct the Government's confusion concerning how to implement the Memorandum of Agreement and Consent Decree, we find it our moral responsibility to intervene on behalf of the injured Environment in lieu of the Governments.

The State of Alaska, the United States of America, and their designated Trustees have had several years since this Court approved this agreement to seek this Court's guidance on how to implement this agreement, yet, despite an enormous amount of public criticism of their actions, they have not done so.

Thus, we find it necessary to stand in place of the designated Government Trustees in order to bring this extraordinarily important matter before the Court for judicial review.

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In their capacity as Trustees, as defined by the agreements approved by this Court, each and every action engaged in by the Governments should have been conducted exclusively in the highest and best interest of the injured Environment. This was the clear intent of Congress in providing for the collection of Natural Resource Damages, and the intent of this Court in approving the Consent Decree, MOA, and Plea Agreement in this case. The Governments in this case were required to act solely "as trustees, for purposes of CERCLA and the Clean Water Act, of natural resources injured lost, or destroyed as a result of the Oil Spill."

Unfortunately, the Governments have not fulfilled their trust responsibilities to the injured Environment. Even some agency staff have grave concerns regarding the Government's implementation of the terms of this agreement.

It is the primary assertion of this motion that the money collected by the Governments as a result of this agreement is not being used as expected--in the maximum interest of environmental recovery--and the parties to the agreement are either unable or unwilling to correct the situation themselves. As such, we believe judicial review is necessary to redress the failure of the Governments to fulfill their obligations to this Court, the public, and the injured resources.

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In the event that this Court finds that we should not have standing to intervene in this Memorandum of Agreement and Consent Decree, even though as long-standing and loving residents of the region, we would respectfully and vigorously disagree, then we ask this Court to sua sponte grant the relief we seek in order to compel compliance.

NOTE: This is one of four motions we have filed with this Court, and we respectfully ask that the Court consider all four motions collectively, as listed below:

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2. Motion to Intervene - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)
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4. Motion to Compel Compliance - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)

The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
Cordova, AK. 99574
(907) 424-5509
(907) 346-4071

CERTIFICATE OF SERVICE

We hereby certify that on March 29, 1995, we served by registered mail the following parties:

United States of America
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

State of Alaska
Attorney General
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Exxon Pipeline Company
Office of the President
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Houston, Texas 77252-2220

With the following documents:

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The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
Cordova, AK 99574
907-424-5509
907-346-4071

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No.
A91-082 CIV

EXXON CORPORATION, EXXON SHIPPING
COMPANY, and EXXON PIPELINE COMPANY,
in personam, and the T/V
EXXON VALDEZ, in rem,

Defendants.

STATE OF ALASKA,

Plaintiff,

v.

Civil Action No.
A91-083 CIV

EXXON CORPORATION, and EXXON
SHIPPING COMPANY,

Defendants.

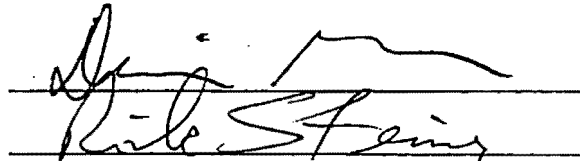
AGREEMENT AND
CONSENT DECREE

MOTION TO COMPEL COMPLIANCE

OF THE UNITED STATES OF AMERICA, THE STATE OF ALASKA, AND
THEIR DESIGNATED TRUSTEES WITH THE ABOVE-CAPTIONED AGREEMENT
AND CONSENT DECREE TO WHICH THEY ARE PARTIES.

BROUGHT BY: The Coastal Coalition, on behalf of the
Environment injured by the Exxon Valdez Oil Spill.

Dated: March 29, 1995



Rick Steiner

JURISDICTION

The United States District Court, District of Alaska, has jurisdiction over this motion in that it approved the Agreement and Consent Decree, with which we are seeking to compel compliance.

PARTIES

The United States of America, the State of Alaska, and their designated Trustee Council are named as non-compliant in implementing this agreement.

The Coastal Coalition, on behalf of the injured Environment, is bringing this motion before the Court in lieu of the non-compliant governments.

BACKGROUND

The concept of Natural Resource Damages as a substantial compensable loss in the case of oil spills and other industrial disasters is unique to the legal system of the United States.

The level of environmental damage mitigation proposed by this Consent Decree approved by this Court, is entirely unprecedented in history.

As such, the way in which the Exxon Valdez Oil Spill natural resource damage settlement is used for restoration is enormously important in assessing society's genuine commitment to redress environmental damage caused by industrial disasters.

Because the United States of America and the State of Alaska, as parties to the agreement, and their designated Trustees and Trustee Council (herein after referred to as "the Governments"), have been incapable of substantively aiding the recovery of the injured Environment - the clear and unequivocal intent of this Court in approving this agreement - they have failed to comply with the agreement and have betrayed their historic public trust responsibility.

CAUSE OF ACTION

The United States and the State of Alaska and their designated Trustees are in violation of this Consent Decree.

The Governments have failed to exercise the orders of this Court, failed to honor their unique trust responsibilities, and failed to act solely on behalf of the resources and services injured by the Exxon Valdez Oil Spill.

Also, Section 1006 (Natural Resources) (g) (Compliance) of the Oil Pollution Act of 1990, Public Law 101-380, provides the authority for any person to seek judicial review of the actions of Federal officials acting as Natural Resource Trustees as follows:

Review of actions by any Federal official where there is alleged to be a failure of that official to perform a duty that is not discretionary with that official may be had by any person in the district court in which the person resides or in which the alleged damage to natural resources occurred.

And, the legal concept of "trustee" and "public trust" are, we believe, derived from common law doctrine which has evolved throughout history to give citizens recourse to judicial relief in such significant circumstances. (For a further discussion of our cause of action, please see our "Urgent Appeal" position paper of March 14, 1995, attached below.) The United States of America, the State of Alaska and their designated Trustee Council have failed tragically in fulfilling their legally mandated trust responsibility and the terms of this Consent Decree. In their Restoration efforts, the Governments have:

- A. Accomplished very little in terms of tangible benefit to the injured Environment.
- B. Diverted enormous financial resources - intended by this agreement to be used in the maximum interest of environmental recovery - into non-essential expenditures.
- C. Taken far too long - five and a half years - to develop a Restoration Plan to be of maximum use to the injured Environment.

- D. Failed to accomplish any significant, comprehensive coastal habitat acquisition and protection, thus allowing further large-scale, significant, irreparable injury to occur to the already severely stressed coastal ecosystem.

To date, this historic, precedent-setting \$900 million program has not been subjected to any comprehensive, independent oversight. The Former GAO investigation was limited in scope and duration, covering a period of less than 2 years of Trustee Council operation (Oct. 8, 1991 - August 20, 1993) and only examined certain aspects of Trustee activity. No pre-settlement activity has been reviewed, and no activity subsequent to August, 1993 has been reviewed, including the Restoration Plan. None of the expenditures from the Restitutionary payments have been reviewed. As such, society has yet to adequately chronicle and learn the valuable lessons offered by this historic Restoration effort.

RELIEF

We ask this Court, in the public interest, to order the establishment of the Exxon Valdez Oil Spill Restoration Review Commission to conduct an independent, comprehensive, detailed review of all Government policies, expenditures, and activities since March 24, 1989, related to the mitigation of injuries caused by this Oil Spill. This review should include all issues concerning the functioning of the Governments in relation to these agreements, including but not limited to, the following:

- A. All phases of the Natural Resource Damage Assessment (NRDA) program and the subsequent Science and Monitoring program - the size, scope, cost, necessary facilities, and scientific quality of the programs, and their link to Restoration.
- B. Legitimacy of all reimbursements taken by Trustee agencies and Exxon, including a complete audit of the equipment inventory.
- C. All phases of the Restoration Planning process, including public involvement.
- D. All Restoration Policy decisions - funding priorities and the link between all expenditures and environmental damage mitigation and recovery.

- E. A thorough review of the Habitat Acquisition and Protection program, including the habitat evaluation process, the relative severity of threat to the habitat, and the appraisal process.
- F. A general analysis of how to effectively structure Natural Resource Damage Settlements, using EVOS as an example - what terms, conditions, and dollar amounts would best mitigate injury in future disasters.

In its charge by this Court, the Commission should:

- A. Have subpoena powers and be able to depose, under oath, all past and present Trustees, Trustee Council members, and Trustee Council staff.
- B. Have access to all documents, confidential or otherwise, produced by the Governments regarding the Oil Spill.
- C. Consult with Trustee Council staff, other agency staff, the Public Advisory Group, the public at large, and land owners in the region as appropriate.
- D. Conduct field hearings throughout the Oil Spill region to hear directly from the public.

The Commission should consist of the following representation:

Government Accounting Office
National Research Council
Natural Resources Defense Council
The Nature Conservancy
Trustees for Alaska
First Nations Development Institute (as indigenous people's advocate)
Other institutions or individuals deemed appropriate by this Court.

The Commission should be funded out of settlement monies, but should otherwise be strictly independent and autonomous. In selecting individuals to serve on the Commission, great care must be exercised to select individuals or institutions that will be able to act strictly objectively, autonomously, and with exclusive focus on what is best for the injured Environment, without regard to political consequences.

The Restoration Review Commission should report to this Court by October 8, 1995 (the fourth anniversary of the Court's approval of the settlement), its findings and recommendations concerning how best to redirect the Government process to more effectively comply with its legal responsibilities and how to better conduct such a process in future disasters. At such time, we ask that this Court order the implementation of recommendations of the Commission that the Court deems appropriate, in consultation with The Coastal Coalition, the Public Advisory Group, and the Governments. The Court could then either terminate the Commission, or order the continuation of its independent oversight and monitoring authority over the Trustee Council.

The basic charge for the Commission should be: (1) to assess what has been accomplished by the Governments compared to what has not and could have been done to mitigate the damage caused by this Oil Spill, and (2) to provide a basis for doing a better job next time.

ALTERNATIVE RELIEF

Should the Court prefer to order relief short of the above, we ask that the Court order the Governments to come before it and satisfy that they have done everything possible to fulfill their obligations to the Court, the public, and the injured Environment.

CONCLUSION

Because of the historic, precedent-setting nature of this process, we feel this review is essential not only to provide direction to the remaining expenditure of funds from this settlement, but also to establish a more effective framework within which to conduct such future efforts.

NOTE:

This is one of four motions we have filed with this Court, and we respectfully ask that the Court consider all four motions collectively, as listed below:

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The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
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(907) 424-5509
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The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
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907-424-5509
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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF ALASKA,

Defendant and
Counterclaimant.

Civil Action No.
A91-081 CV

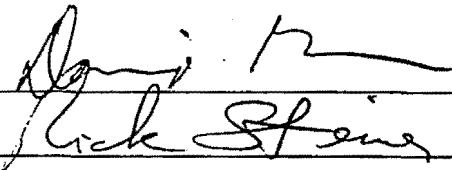
MEMORANDUM OF AGREEMENT
AND CONSENT DECREE

MOTION TO COMPEL COMPLIANCE

OF THE UNITED STATES OF AMERICA, THE STATE OF ALASKA, AND THEIR
DESIGNATED TRUSTEES WITH THE ABOVE-CAPTIONED MEMORANDUM OF
AGREEMENT AND CONSENT DECREE TO WHICH THEY ARE PARTIES.

BROUGHT BY: The Coastal Coalition, on behalf of the Environment
injured by the Exxon Valdez Oil Spill

Dated: March 29, 1995



Rick Steiner

JURISDICTION

The United States District Court, District of Alaska, has jurisdiction over this motion in that it approved the Memorandum of Agreement and Consent Decree with which we are seeking to compel compliance.

PARTIES

The United States of America, the State of Alaska, and their designated Trustee Council are named as non-compliant in implementing this agreement.

The Coastal Coalition, on behalf of the injured Environment, is bringing this motion before the Court in lieu of the non-compliant governments.

BACKGROUND

The concept of Natural Resource Damages as a substantial compensable loss in the case of oil spills and other industrial disasters is unique to the legal system of the United States.

The level of environmental damage mitigation proposed by this agreement approved by this Court is entirely unprecedented in history.

As such, the way in which the Exxon Valdez Oil Spill natural resource damage settlement is used for restoration is enormously important in assessing society's genuine commitment to redress environmental damage caused by industrial disasters.

Because the United States of America and the State of Alaska, as parties to the agreement referenced above, and their designated Trustees and Trustee Council (herein after referred to as "the Governments"), have been incapable of substantively aiding the recovery of the injured Environment - the clear and unequivocal intent of this Court in approving this agreement - they have failed to comply with this agreement and have betrayed their historic public trust responsibility.

CAUSE OF ACTION

The United States and the State of Alaska and their designated Trustees are in violation of the Memorandum of Agreement and Consent Decree.

The Governments have failed to exercise the orders of this Court, failed to honor their unique trust responsibilities, and failed to act solely on behalf of the resources and services injured by the Exxon Valdez Oil Spill.

Also, Section 1006 (Natural Resources) (g) (Compliance) of the Oil Pollution Act of 1990, Public Law 101-380, provides the authority for any person to seek judicial review of the actions of Federal officials acting as Natural Resource Trustees as follows:

Review of actions by any Federal official where there is alleged to be a failure of that official to perform a duty that is not discretionary with that official may be had by any person in the district court in which the person resides or in which the alleged damage to natural resources occurred.

And the legal concept of "trustee" and "public trust" are, we believe, derived from common law doctrine which has evolved throughout history to give citizens recourse to judicial relief in such significant circumstances. (For a further discussion of our cause of action, please see our "Urgent Appeal" position paper of March 14, 1995, attached below.)

The United States of America, the State of Alaska and their designated Trustee Council have failed tragically in fulfilling their legally mandated trust responsibility and the terms of this Memorandum of Agreement and Consent Decree. In their Restoration efforts, the Governments have:

- A. Accomplished very little in terms of tangible benefit to the injured Environment.
- B. Diverted enormous financial resources - intended by this agreement to be used in the maximum interest of environmental recovery - into non-essential expenditures.
- C. Taken far too long - five and a half years - to develop a Restoration Plan to be of maximum use to the injured Environment.

- D. Failed to accomplish any significant, comprehensive coastal habitat acquisition and protection, thus allowing further large-scale, significant, irreparable injury to occur to the already severely stressed coastal ecosystem.

To date, this historic, precedent-setting \$900 million program has not been subjected to any comprehensive, independent oversight. The Former GAO investigation was limited in scope and duration, covering a period of less than 2 years of Trustee Council operation (Oct. 8, 1991 - August 20, 1993) and only examined certain aspects of Trustee activity. No pre-settlement activity has been reviewed, and no activity subsequent to August, 1993 has been reviewed, including the Restoration Plan. None of the expenditures from the Restitutionary payments have been reviewed. As such, society has yet to adequately chronicle and learn the valuable lessons offered by this historic Restoration effort.

RELIEF

We ask this Court, in the public interest, to order the establishment of the Exxon Valdez Oil Spill Restoration Review Commission to conduct an independent, comprehensive, detailed review of all Government policies, expenditures, and activities since March 24, 1989, related to the mitigation of injuries caused by this Oil Spill*. This review should include all issues concerning the functioning of the Governments in relation to these agreements, including but not limited to, the following:

- A. All phases of the Natural Resource Damage Assessment (NRDA) program and the subsequent Science and Monitoring program - the size, scope, cost, necessary facilities, and scientific quality of the programs, and their link to Restoration.
- B. Legitimacy of all reimbursements taken by Trustee agencies and Exxon, including a complete audit of the equipment inventory.
- C. All phases of the Restoration Planning process, including public involvement.
- D. All Restoration Policy decisions - funding priorities and the link between all expenditures and environmental damage mitigation and recovery.
- E. A thorough review of the Habitat Acquisition and Protection program, including the habitat evaluation process, the relative severity of threat to the habitat, and the appraisal process.

*Including those specified by the Plea Agreement (No. A90-015 CR), in that this MOA provides additional direction and context to the expenditure of such funds.

- F. A general analysis of how to effectively structure future Natural Resource Damage Settlements, using EVOS as an example - what terms, conditions, and dollar amounts would best mitigate injury in future disasters.

In its charge by this Court, the Commission should:

- A. Have subpoena powers and be able to depose, under oath, all past and present Trustees, Trustee Council members, and Trustee Council staff.
- B. Have access to all documents, confidential or otherwise, produced by the Governments regarding the Oil Spill.
- C. Consult with Trustee Council staff, other agency staff, the Public Advisory Group, the public at large, and land owners in the region as appropriate.
- D. Conduct field hearings throughout the Oil Spill region to hear directly from the public.

The Commission should consist of the following representation:

Government Accounting Office
National Research Council
Natural Resources Defense Council
The Nature Conservancy
Trustees for Alaska
First Nations Development Institute (as indigenous people's advocate)
Others deemed appropriate by this Court.

The Commission should be funded out of settlement monies, but should otherwise be strictly independent and autonomous. In selecting individuals to serve on the Commission, great care must be exercised to select individuals or institutions that will be able to act strictly objectively, autonomously, and with exclusive focus on what is best for the injured Environment, without regard to political consequences.

The Restoration Review Commission should report to this Court by October 8, 1995 (the fourth anniversary of the Court's approval of the Consent Decree and Plea Agreement), its findings and recommendations concerning how best to redirect the Government process to more effectively comply with its legal responsibilities and how to better conduct such a process in future disasters. At such time, we ask that this Court order the implementation of recommendations of the Commission that the Court deems appropriate, in consultation with The Coastal Coalition, the Public Advisory Group, and the Governments. The Court could then either terminate the Commission, or order the continuation of its independent oversight and monitoring authority over the Trustee Council.

The basic charge for the Commission should be: (1) to assess what has been accomplished by the Governments compared to what has not and could have been done to mitigate the damage caused by this Oil Spill, and (2) to provide a basis for doing a better job next time.

ALTERNATIVE RELIEF

Should the Court prefer to order relief short of the above, we ask that the Court order the Governments to come before it and satisfy that they have done everything possible to fulfill their obligations to the Court, the public, and the injured Environment.

CONCLUSION

Because of the historic, precedent-setting nature of this process, we feel this review is essential not only to provide direction to the remaining expenditure of funds from this settlement, but also to establish a more effective framework within which to conduct such future efforts.

NOTE: This is one of four motions we have filed with this Court, and we respectfully ask that the Court consider all four motions collectively, as listed below:

1. Motion to Intervene - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
2. Motion to Intervene - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)
3. Motion to Compel Compliance - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
4. Motion to Compel Compliance - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)

The Coastal Coalition
Rick Steiner, David Grimes
P.O. Box 2424
Cordova, AK. 99574
(907)424-5509
(907)346-4071

CERTIFICATE OF SERVICE

We hereby certify that on March 29, 1995, we served by registered mail the following parties:

United States of America
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

State of Alaska
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

Exxon Corporation
General Counsel
Exxon Corporation
225 E. John W. Carpenter Fwy.
Irving, Texas 75062-2298

Exxon Pipeline Company
Office of the President
Exxon Pipeline Company
P.O. Box 2220
Houston, Texas 77252-2220

With the following documents:

1. Motion to Intervene - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
2. Motion to Intervene - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)
3. Motion to Compel Compliance - Agreement and Consent Decree (Civil Actions No. A91-082 and A91-083)
4. Motion to Compel Compliance - Memorandum of Agreement and Consent Decree (Civil Action No. A91-081CV)

ATTACHMENTS

- 1) The Coastal Coalition letter of July 17, 1992
- 2) U.S. District Court reply, July 21, 1992
- 3) The Coastal Coalition Position Paper of March 14, 1995
- 4) Trustee Council Response, March 22, 1995

AN URGENT APPEAL TO THE E.V.O.S. TRUSTEE COUNCIL
TO IMMEDIATELY PROTECT THREATENED HABITAT
IN PRINCE WILLIAM SOUND

THE COASTAL COALITION

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907-424-7491 (Fax)

DATED: March 14, 1995

DISTRIBUTED: E.V.O.S. Trustee Council
Eyak Corporation
Honorable H. Russell Holland, U.S. District Court

Embargoed for press release until March 22, 1995.

This Coastal Coalition paper details an urgent situation concerning the restoration and recovery of Prince William Sound from the Exxon Valdez Oil Spill. The first part provides an introduction and background; pages 8 - 14 explain the current emergency; and the last part summarizes specific problems and proposed solutions.

The Coastal Coalition genuinely and respectfully intends this position paper to serve as a constructive aid for the Trustee Council in fulfilling its responsibility to the Court, the public and the environment injured by the Exxon Valdez Oil Spill.

Because of the emergency at Orca Narrows/Simpson Bay, we ask for a written response to this paper from the E.V.O.S. Trustee Council no later than March 21, 1995.

Prince William Sound should have to make no more sacrifice.

INTRODUCTION

On October 8, 1991, the U.S. District Court, District of Alaska, approved the AGREEMENT AND CONSENT DECREE (Civil Actions No. A91-082 and A91-083) resolving claims of the United States and the State of Alaska against Exxon for damages caused by the Exxon Valdez Oil Spill.

The other document providing legal context to this paper and approved by the Court is the MEMORANDUM OF AGREEMENT AND CONSENT DECREE (Civil Action No. A91-081 CV), between the United States of America and State of Alaska.

Together, these two documents, both approved by the Court, govern the use of monies provided by the civil settlement.

This landmark settlement, providing \$900 million over ten years, was supported by the public and rightfully by the Court primarily because it was to immediately provide the money necessary to attend to the extraordinary damage caused by the spill.

As to the damage caused by the spill, presiding U.S. District Court Judge H. Russell Holland stated in approving the settlement:

"The Exxon Valdez oil spill was a complete, utter disaster, which I previously characterized as being off the chart."

Judge Holland's statement was corroborated by several hundred million dollars worth of scientific research into the impacts of the spill, which proved this to be the most damaging oil spill in human history.

The M.O.A. provides that: "The governments shall jointly use all (*emphasis added*) natural resource damage recoveries for the purposes of restoring, replacing, enhancing, rehabilitating or acquiring the equivalent of natural resources injured as a result of the oil spill and the reduced or lost services provided by such resources, except as provided in paragraph B of this article (reimbursement of certain expenses)."

The Trustees, as defined in the Consent Decree and M.O.A., are charged by the Court with the task of executing this court order.

The Court's approval of the civil settlement initiated by far the most extensive attempt in human history to mitigate environmental damage caused by an industrial disaster.

As such, the trust responsibility of the Trustees is unique, precedent setting, and indeed historic.

Certain recitations were made before the Court in attempts to win approval of the civil settlement and criminal plea agreement:

U.S. DEPT. OF JUSTICE:

- "This Oil Spill was a catastrophe and was also an environmental crime."
- "Today the Court has the opportunity to deal with that environmental consequence immediately."
- "The Court is faced today with the difficult and important task of evaluating the acceptability of this plea agreement and the proposed consent decree, which are both unprecedented in nature..."
- "Unlike other economic crimes in which this court is well aware, we can't simply pay interest 20 years down the road to make up for the losses. In environmental cases, it is crucially important that we address the consequences of the conduct immediately."
- "We believe it is in the public's best interest to settle this case in this matter to get the much needed money into Prince William Sound and Gulf of Alaska now as opposed to years from now."

THE COURT: "Okay. Second question, and this gets to some of the muttering that I heard that has made me uneasy about where the restitution money is gonna go. Are you satisfied, to a reasonable legal certainty, that this restitution money, if I approve that agreement, will get where it is agreed to go -- to restoration, rehabilitation, and so forth, of Prince William Sound, as opposed to being drained off?..."

ALASKA ATTORNEY GENERAL: "Is the Court talking about the civil settlement?"

THE COURT: "I'm talking about the civil settlement."

ALASKA ATTORNEY GENERAL: "...I personally represent to this Court...I guarantee that the money will be used for restoration of the Prince William Sound, and it isn't going to be drained."

The asserted intentions of the State of Alaska and the United States in asking for the Court's approval of their settlement agreement with Exxon were honorable -- to get money necessary to aid the recovery of the damaged environment.

BACKGROUND ON HABITAT PROTECTION AND ACQUISITION AS THE PRINCIPAL TOOL OF RESTORATION

Of the five categories of restoration activities specified by the Trustee Council in the "Exxon Valdez Oil Spill Restoration Plan" (Nov. 1994) – General Restoration; Habitat Protection and Acquisition; Monitoring and Research; Restoration Reserve; and Public Information, Science Management, and Administration – the category that clearly offers the best chance of achieving the goals of the Consent Decree and M.O.A. referred to above is Habitat Protection and Acquisition.

In fact, the broad consensus among citizens of the oil spill region to quickly settle government claims against Exxon out-of-court was a direct result of the urgent need to secure funds specifically for implementing a comprehensive program of coastal habitat acquisition.

It was widely acknowledged that because it would be virtually impossible to actually restore, in the truest sense of the word, the natural resources and services injured by the oil spill, the most important means of aiding the recovery of the damaged environment to pre-spill condition and of replacing lost resources and services would be the acquisition of yet undamaged habitat in the spill region. This was seen to be best accomplished by the acquisition of certain protections for privately owned coastal habitat threatened by certain industrial activities, primarily unsustainable clearcut logging. As is the first rule in medical treatment, the first rule in ecosystem restoration is seen to be, first, protect the patient (ecosystem) from further injury. Also, the acquisition and intact retention of threatened coastal habitat is the clearest, most direct way to offset and redress other values and services lost or injured as a result of the spill.

This was first formally proposed on behalf of citizens of the region through The Coastal Coalition comprehensive settlement proposal issued July 4, 1990. About 2 1/2 years later, the Trustee Council came to consensus supporting this concept and began to take action (Trustee Council Resolution to Proceed with Habitat Protection Program, January 31, 1993). Finally, in the "Exxon Valdez Oil Spill Restoration Plan" issued November, 1994, five and a half years after the grounding of the Exxon Valdez, the Trustee Council at last had an approved plan with which to implement its comprehensive habitat protection and acquisition program.

The following is part of the Plan's discussion of the issue of habitat protection and acquisition:

Habitat protection and acquisition is one of the principal tools of restoration. It is important in ensuring continued recovery in the spill area.

Resource development, such as harvesting timber or building subdivisions, may alter habitat that supports injured resources or services. Protecting and acquiring land may minimize further injury to resources and services already injured by the spill, and allow recovery to continue with the least interference. For example, the recovery of harlequin ducks might be helped by protecting nesting habitat from future changes that may hamper recovery.

Habitat protection and acquisition may include purchase of private land or interests in land such as conservation easements, mineral rights, or timber rights. Different payment options are possible, including multi-year payment schedules to a landowner. Acquired lands would be managed to protect injured resources and services. In addition, cooperative agreements with private owners to provide increased habitat protection are possible.

Most public comments on the restoration alternatives favored using habitat protection and acquisition as a means of restoration. The following injured resources might benefit from the purchase of private land or property rights: pink and sockeye salmon, Dolly Varden and cutthroat trout, Pacific herring, bald eagle, black oystercatcher, common murre, harbor seal, harlequin duck, marbled murrelet, pigeon guillemot, river otter, sea otter, intertidal organisms, and archaeological sites.

Habitat protection and acquisition is a means of restoring not only injured resources, but also the services (human uses) dependent on those resources. Subsistence, recreation, and tourism benefit from the protection of important fish and wildlife habitats, scenic areas, such as those viewed from important recreation or tourist routes, or important subsistence harvest areas. For example, protecting salmon spawning streams benefits not only the salmon, but also commercial, subsistence, and recreational fishermen.

Habitat protection on existing public land and water may include recommendations for changing agency management practices. The purpose, in appropriate situations, is to increase the level of protection for recovering resources and services above that provided by existing management practices. The Trustee Council may conduct studies within the spill area to determine if changes to public land and water management would help restore injured resources and services. If appropriate, changes will be recommended to state and federal management agencies. Recommendations for special designations, such as parks, critical habitat areas, or recreation areas, may be made to the Alaska legislature or the U.S. Congress.

[from: Exxon Valdez Oil Spill Restoration, November, 1994]

Considering the Trustee's obligation to fulfill the orders of the Court, how is the oil spill region recovering under the Trustees' guardianship? Original injuries from the oil spill continue to manifest in the Sound. Herring populations have crashed, leading to the failure and closure of commercial herring fisheries in Prince William Sound the last three years. Wild stock salmon populations are in jeopardy. Many marine bird populations are severely compromised. By Trustee Council findings, species not recovering include common murre, marbled murrelet, pigeon guillemot, harlequin duck, harbor seal, sea otter, pink salmon and herring.

New injuries that the Trustees have failed to prevent during their tenure at the helm of restoration include the removal by unsustainable clearcut logging of several hundred thousand acres of coastal forest habitat that was critical to restoration and recovery of the oil spill region, in spite of the fact that many of these forests had been made available to the Trustees for acquisition at fair-market value by landowners.

The Trustees, painfully slow to begin their habitat acquisition program, have been sharply criticized by the public and the U.S. government, which in its 1992 GAO report found serious problems with the Trustee Council expenditure process. One problem among many stood out--that Trustee funds essential to emergency mitigation efforts were drained into other, far less urgent ones. For example, of the \$240 million from the first two Exxon payments in December of 1991 and 1992, \$147 million was drained into reimbursing the state and federal governments and Exxon for their pre-settlement expenses, suggesting that the Trustees considered these parties' needs to be more urgent than those of the damaged ecosystem -- this was indeed telling the injured ecosystem to step to the back of the line. And unfortunately, most of the rest of the first two years' expenditure was either unused or spent on an agency "science" program without a clear link to restoration.

On the positive side, in the last year or so the Trustees have begun to acquire habitat essential to restoration and are near closure on significant, comprehensive deals in the Kodiak Archipelago and the Kenai Peninsula. However, Prince William Sound itself, the area of maximum spill impact, has yet to receive any significant habitat protection and continues to experience new injuries devastating to restoration and recovery.

TRUSTEE COUNCIL - EYAK CORPORATION HABITAT NEGOTIATIONS

Due to frequent Trustee Council deliberations in Executive Session, thus excluding the public, it is difficult to know exactly what has transpired throughout the negotiation process. The following is our understanding of the history.

The Eyak Corporation, since 1988, has been engaged in logging operations on some of its lands adjacent to the Copper River Delta, just east of Cordova.

As part of its comprehensive habitat protection program, the Trustee Council has been negotiating or otherwise discussing with the Eyak Corporation a purchase of certain protections on almost all Eyak lands for over three years now. There has been overwhelming public support for the comprehensive protection of Eyak lands as an important component in the Trustee Council restoration program.

However, despite overwhelming public support and the expressed intentions of the Trustee Council and Eyak, the Council was unable until quite recently to secure any protections on any Eyak lands, and clearcut logging continued on the Copper River Delta.

Then in August, 1993, Eyak Corporation began to relocate its logging operation for the first time into Prince William Sound, at Orca Narrows/Simpson Bay about five miles north of Cordova.

In the midst of vehement public protest against Eyak's plan, an emergency meeting was called in Cordova between Trustee representatives and Eyak. At this time, Trustees strongly reaffirmed their desire to protect Orca Narrows/Simpson Bay so as to fulfill their restoration obligations.

In order to keep negotiations alive and to assure protection for the imminently threatened Orca Narrows area, Trustees helped to expedite the emergency conveyance to Eyak of other lands on the Copper River Delta so that Eyak could continue timber harvesting operations to satisfy their financial obligations.

Thus, the Trustees allowed for significant sacrifices to be made in the Copper River Delta--important to Cordova subsistence, recreation, and tourism--in order to protect the Orca Narrows/Simpson Bay area and other Eyak lands in Prince William Sound.

A Trustee Council meeting soon followed in Anchorage on August 6, 1993, at which time Mike Barton, USFS Trustee, proposed on behalf of all Clinton Administration Federal Trustees an offer that would have secured commercial timber rights in perpetuity on Orca Narrows and all other Eyak lands west and

north of Cordova, and additionally would have secured the "Core lands" immediately adjacent to Cordova either in fee or in a highly restrictive easement --the whole deal capped at \$50 million. For the record, the transcript of Mr. Barton's proposal is as follows:

MR. BARTON: Mr. Chairman, I would like to amend the motion in this manner, that the Trustee Council approve -- a counter proposal, if you will, I guess is the right term -- that for fifty million dollars or the appraised fair market, whichever is less, Eyak will convey to the government (a) a restrictive perpetual conservation easement to Power Creek and Eyak Lake lands (*the "Core Lands"*) with the same restrictions contained in the Eyak proposal dated August 5 and that we pursue fee simple through a shareholder vote, that is at minimum, get a restrictive -- a restrictive perpetual easement in their proposal; (b)... a less restrictive perpetual easement to all remaining Eyak lands which at a minimum precludes commercial timber harvesting and grant a right of reasonable public access for non-commercial purposes..." (*italics and emphasis added*)

MR. PENNOYER: All those in favor of the amendment, say aye.

RESPONSE FROM COUNCIL: Aye.

MR. PENNOYER: Opposed?

MR. SANDOR AND MR. COLE: No.

Because two of the State Trustees opposed, the Barton proposal was not adopted. Eyak, however, intended to accept the offer.

About two weeks later, new Federal Trustee George Frampton said:

"...it's also important to note that the Secretary (*of the Interior, Bruce Babbitt*) made some statements yesterday... that he recognized Prince William Sound was the most impacted area and that any program of habitat acquisition ought to look with a very high priority at areas in eastern and western Prince William Sound, and islands in Prince William Sound." (*italics added*)

Shortly thereafter, the Eyak Corporation voluntarily ceased its logging operations, and on September 21, 1993, made a good faith offer to the Trustee Council, stating, among other things, the following:

"This offer extends to a very large tract of lands, from 39,000 to 61,000 acres depending on the status of Eyak's selections in the area. The Board remains willing to convey only commercial timber rights in this area (*apart from the "Core" lands which were offered in fee or with restrictive conservation easements*). Eyak believes that this proposal extends a very high level protection and achieves the restoration goals of the Council in a very extensive area, unavailable in any other way to the Council. (*italics added*)

In analyzing the significance of a commercial timber sale, there has been discussion with the Council concerning whether a Wal-Mart store, or a nuclear waste dump, might be constructed in one of the bays in Prince William Sound. We believe the real environmental threat in the Sound is primarily from commercial timber harvesting. The purchase of commercial timber rights is the most effective way (and indeed, the only way) of serving the restoration goals of the Council on such a large tract of lands."

This Eyak offer was entirely consistent with the Barton/Federal Trustees offer of August, 1993. Clearly, the Eyak Corporation was willing to get out of the timber business for the sake of restoration, but Eyak's offer was rejected by the Trustees. Negotiations continued throughout the winter. By spring, Eyak still could not get a comprehensive deal with the Trustees to protect their coastal habitat and decided they would have to revive their timber harvest plans.

In order to secure protection from the imminent threat of logging, the Council, on May, 1994, finally made their very first (and to this date, only) restoration acquisition in Prince William Sound by signing an agreement to purchase a commercial timber-rights-only conservation easement in perpetuity on 2052 acres at Orca Narrows/Simpson Bay. This was an extremely important acquisition in an area which is the doorway for all travel between Cordova and Prince William Sound. The acquisition, among other things, initiated protection of east Simpson Bay, Cordova's favorite Prince William Sound recreation site and one of the most important nursery sites for eastern Prince William Sound sea otter populations.

Also secured in the agreement was a 10-month Moratorium on all Eyak logging operations until March 1, 1995. The public was genuinely appreciative and greatly relieved, since the purpose of the Moratorium was specifically to provide enough time for the Council and Eyak to come to closure on a comprehensive deal to protect all remaining Eyak lands. This was not accomplished.

Though the deal to protect in perpetuity the 2052 acres at Orca Narrows/Simpson Bay closed in January with the payment of \$3.45 million to Eyak, by February, as the Moratorium expiration date approached, negotiations for comprehensive protection were going badly and the Eyak Corporation and its timber subsidiary, Sherstone, Inc., reasserted their intention to commence logging an area of 14,800 acres near Orca Narrows, known to the Council as "Orca Revised," currently under timber contract to Rayonier, Inc.

The Trustee Council's current acknowledgment of the imminent threat to these lands and the importance of protecting them as part of their legally mandated restoration responsibilities was again stated clearly in the findings of their February 22, 1995 resolution, as follows:

- The Orca Revised lands are threatened with imminent clearcut logging. Although protected under a moratorium on commercial timber harvesting negotiated with Eyak in 1994, the moratorium will expire March 1, 1995. Pre-sale preparation activities by Eyak have begun and Eyak has represented that permits have been secured or are pending for the logging of portions of the Orca Revised lands and that a majority of the commercial timber in the Orca Revised lands is scheduled for harvest by clearcut logging over the next few years.
- The Trustee Council remains desirous of purchasing interests in the Orca Revised lands to alleviate the immediate threat to the injured resources and services that may result from logging activities. Purchasing interests on the Orca Revised lands is important to maintaining water quality and riparian habitats for anadromous fish and maintaining nesting and foraging opportunities for marbled murrelets and bald eagles. The area has a high value for recreation and tourism and is highly visible to the nearby community of Cordova.
- There is widespread public support for the acquisition of interests in the Other Lands and the Orca Revised lands.
- The purchase of the interests in the Other Lands and the Orca Revised lands is an appropriate means to restore a portion of the injured resources and the lost or reduced services in the oil spill area. Acquisition of any interests in these lands is consistent with the Final Restoration Plan. (*emphasis added*)

Further, the Trustees in their November 1994 Restoration Plan state that:

"any restoration strategy that ...prevents further injuries will assist recovery...."

To the Coastal Coalition, all this language seems remarkably similar to Eyak's September 21, 1993 offer to the Trustees. Both the Trustees and Eyak seem to recognize that logging activities represent the most serious threat in perpetuity to these lands critically needed for restoration purposes, and indeed that logging operations are the only imminent threat to these lands.

Still, in the final week of the Moratorium, a deal did not come together because the Trustees, again in a reversal of their earlier position, now asserted they needed to acquire at Orca Narrows/Simpson Bay certain development rights beyond just timber rights in perpetuity. Attempting to accommodate this concern, Eyak first proposed offering to restrict all development on the 14,800 acre "Orca Revised" parcel to no more than 652 acres (2 acres for each of the 326 shareholders) the first 10 years after closure, and then an additional 652 acres from 11 to 35 years after closure. After 35 years, Eyak would retain industrial development rights on the 9,000 or so acres of the parcel potentially able to be developed. The Trustees, however, still asserted they needed to acquire some additional development restrictions in perpetuity. Subsequently, Eyak further proposed to limit in perpetuity all industrial development to no more that 25% of

the 9,000 developable acres, an amount equal to only 15% of the total 14,800 acre parcel.

Thus, at the Orca Revised lands, 100% of commercial timber rights and 85% of other industrial development rights were offered for sale in perpetuity. Eyak, in taking the notion of perpetuity seriously, felt it very important to retain at least some economic development rights for future generations, though it clearly wished to retire permanently from the commercial logging business.

Eyak's offer seems to us to be a fine and legitimate offer for restoration. The Trustees, again in contradiction to their assertions, stated that this offer was inconsistent with their restoration objectives, and despite overwhelming public support for a deal, including letters from former President Jimmy Carter and actor/director Robert Redford urging the protection of the forests in this area, the negotiations fell apart.

In a final attempt to resolve their differences three days before the Moratorium expired March 1, both parties entered into non-binding mediation.

On the day the Moratorium expired, following two days of mediation, Trustees announced they had entered into a most astonishing "agreement" with Eyak. Backing far, far away from their stated desire to substantially protect the Orca Revised area, the Trustees, in this agreement, would acquire no other industrial development rights whatsoever, and furthermore, would acquire only about 50% of the available timber rights in perpetuity!

In other words, the Trustees somehow completely failed to protect most of what they and Eyak actually agreed upon. Even more astonishing, the Trustees, in attempting to mitigate certain aspects of the logging which would be visible from Cordova, agreed to relinquish and trade to Eyak over half of the timber rights that the Trustees had just acquired "in perpetuity" in the 2052 acre parcel! This is amazing – the Trustee's only restoration acquisition in Prince William Sound to date was protected, not for perpetuity as promised to the public, but for only two months!

Evidently the Trustees, in holding out for a "perfect" deal, have closed on a disastrous deal completely inconsistent with their own asserted objectives and legal responsibilities. In so doing, the Trustees have abandoned extraordinarily valuable resources and services in the Orca Revised area, including Rude River/Nelson Bay, arguably Eyak's wildest and most pristine property, now scheduled for logging.

We wish to underscore one more time the fallacy of Trustees' logic in this agreement: in stubbornly negotiating to secure a better deal than 100% of the commercial timber rights and 85% of other industrial development rights offered

in perpetuity by Eyak, the Trustees wound up securing no industrial development rights at all, and only half of the available timber rights. And, in a shameful breach of the public trust, the Trustees reneged on half of the only protection they had to date acquired in Prince William Sound in the nearly 6 years since the oil spill.

They have, to borrow an apt and venerable expression, "thrown the baby out with the bath water." Both the public and Eyak are astonished at the Trustee's inability to meet their own clearly-stated restoration objectives. With their first deal in Prince William Sound, the Trustees claimed they wished to set a good precedent for ongoing negotiations with other landowners, but a poorer precedent is hard to imagine.

We applaud the Trustees' desire to protect Prince William Sound from some future threat, but what we cannot understand is that they refuse to protect Prince William Sound from its current and worst imaginable threat – clearcut logging. Instead of preventing new injury, they seem to be facilitating it.

The Trustees, after allowing significant sacrifices to be made on the Copper River Delta solely to protect the Orca Revised land, now are unbelievably asking citizens to accept the sacrifice of the Orca Revised lands. This is a complete abandonment of Trustee restoration commitments. It is ludicrous for the Trustees, in trying to prevent all imagined and imaginary future problems, to completely fail to prevent obvious and greater immediate problems. The public will not condemn the Trustees for failing to acquire, in this case, those development rights that were not for sale from Eyak. But the public most certainly will harshly judge the Trustees' failure to acquire what was for sale—most important of all— the immediate protection of the coastal forest. Apparently the Trustees' fear of looking bad in the future consigns the forests to death today.

In summary, the Trustees have failed to prevent ongoing injury to their patient—the ecosystem—by worrying obsessively about possible future injury. This is like an emergency-room physician who fails to stop the bleeding of her patient's severed artery because she is more concerned with preventing the patient from catching pneumonia 35 years in the future. Both are admirable objectives, but at the very least, the bleeding must be stopped now.

We do not expect the Trustees to foresee and prevent every future threat to Prince William Sound. We find it inexcusable that the Trustees would fail to protect Prince William Sound from the most obvious current threat to its recovery.

The Trustees, who have been given the money and sacred responsibility to protect and restore Prince William Sound, can solve the Eyak problem immediately. Even if, because of the appraisal process, they have to pay 90% or more of the value of all commercial development rights to secure only timber rights in perpetuity, so be it. The people of the region will hardly accuse the Trustees of making a bad bargain.

Unfortunately, the facts are clear – since the establishment of the Trustee Council in May, 1989, several hundred million dollars have been drained to non-emergency ends while several hundred thousand acres of further injury to the oil spill region has occurred.

In approving the agreement and consent decree referred to above, Judge Holland made the following warning:

"I want you all to know that I, you know, am not able to monitor this kind of thing, but I expect you all to do the monitoring; and quite frankly, I expect to see people back here if the money that flows from these three cases is not going where I expect it to go, based upon the terms of these agreements."

It is our position that the money collected by the Trustee Council as a result of these cases is not being used in the maximum interest of environmental recovery. As such, we believe the Trustee Council has failed to fulfill its obligations to the Court, the public, and the injured resources.

PROBLEMS AND PROPOSED SOLUTIONS

1. PROBLEM: The Trustee Council, by failing to provide any significant protection to coastal habitat in Prince William Sound in the almost six years since the grounding of the Exxon Valdez, has allowed further significant, irreparable injury to occur to an ecosystem already severely stressed by the oil spill, and has relinquished some of the most valuable opportunities to replace lost or injured resource services such as "the appreciation of the aesthetic and intrinsic values of undisturbed areas" (Exxon Valdez Oil Spill Restoration Plan, Nov. 1994). While the Trustees are now doing a good job in acquiring habitat in areas of the oil spill region not immediately threatened, they have clearly failed to offer protection in most areas that are immediately threatened or continue to be injured. The most important responsibility of the Trustees is to first minimize further injury to the oil spill-damaged ecosystem. In this responsibility they have failed tragically.

SOLUTION: We ask that the Trustee Council appoint a Master to review the Habitat Acquisition and Protection Program and to submit within one month a plan to expand and expedite the acquisition and protection of imminently threatened habitat in the oil spill region, particularly Prince William Sound.

In the review, the Master should consult with Trustee Council habitat staff, resource owners in the region, and the public to identify existing problems and to recommend immediate solutions, both administrative and financial.

2. PROBLEM: The Trustee Council's refusal to acquire the highest level of protection offered by Eyak Corporation at Orca Narrows/Simpson Bay has exposed these lands to industrial activities highly detrimental to the restoration and recovery of Prince William Sound. While the Eyak proposal fell somewhat short of the full protections desired by the Trustees, their current rejection of the offer essentially eliminates one of the Trustee's most important restoration opportunities, and is completely inconsistent with the Trustee's oft-stated desire to protect the area.

We find unacceptable the Trustees' excuse that they will protect the area only if the price is a good bargain. The Trustees' job is not to be "bargain shoppers" at the expense of further Prince William Sound habitat destruction.

SOLUTION: We ask the Trustee Council to accept the Eyak Corporation's counter proposal (December 12, 1994) to the Council's Dec. 2, 1994 resolution - referred to as the "Orca Revised Tract Development Rights Offer Concept Change -- with an additional provision that limits industrial development on the Orca narrows Revised parcel in perpetuity to no more than 25% of the total

developable acreage. Rather than allow additional injury to coastal habitat in the region, we ask in this specific case that the Trustees, at a minimum, acquire the highest level of protection that Eyak is willing to sell. This is entirely consistent with the Trustees' Restoration Plan which, again, states: "Any restoration strategy that aids recovery of injured resources, or prevents further injuries (*emphasis added*), will assist recovery..." and is consistent with the Trustee Council Feb. 11, 1995 resolution which, again, states: "Acquisition of any interests in these lands is consistent with the Final Restoration Plan."

URGENT

Because timber harvesting operations at Orca Narrows/Simpson Bay are set to begin any day, we respectfully ask that the Trustees on an emergency basis consider this proposal. We wish to strongly state our desire that this proposal in no way prejudice any other Trustee Council acquisition negotiation. We support these negotiations and applaud the Trustees in their efforts at restoration.

3. PROBLEM: The Restoration Reserve, into which the Trustees have been depositing \$12 million each year from annual Exxon payments, and which would accumulate by the year 2001 to \$108 million, is an illegal encumbrance of funds that were intended to be made available for Restoration as they are paid by Exxon.

It was clearly the intent of the Court's approval of the consent Decree and MOA that these monies were needed for environmental recovery on an expedited basis and should not be arbitrarily withdrawn from their present availability, as long as they are needed for environmental recovery. The Trustee Council must have immediate access to sufficient funds to fulfill their primary restoration obligation of habitat acquisition and protection. Any funds expected from each annual payment by Exxon can remain in an interest-bearing account.

The Court, in its wisdom, has already provided for the availability in the year 2002 of a \$100 million reopener in order to carry on restoration activities beyond the last scheduled payment from Exxon. The Restoration Reserve is clearly duplicative, and is an inappropriate drain on settlement dollars.

SOLUTION: We ask the Trustee Council to abolish the Restoration Reserve account, and to make all monies in the account to date - (\$24 million) - and all proposed future deposits into the account - (\$88 million) - to be made available on an as-needed basis for habitat protection.

4. PROBLEM: The Trustee Council's Science and Monitoring Program has, since its inception, lacked coherence, direction, and a clearly-defined link to Restoration. About \$200 million has been spent to date on science, and the

Restoration Plan envisions an equivalent expenditure on science through the remainder of the settlement. A science program of this magnitude deserves thorough, independent scrutiny and review. Science for science's sake does nothing to actually assist the recovery of the injured ecosystem. While science and monitoring may be important, far too much emphasis has been placed on them in the name of restoration. As Al Gore stated in his book Earth in the Balance, "Research in lieu of action is unconscionable.... We need to act now on the basis of what we already know."

SOLUTION: We ask the Trustee Council to commission the National Research Council to conduct a thorough independent review of the Trustee Science and Monitoring Program from 1989 to date and report within 6 months its findings and recommendations as to:

- a. How best to organize and conduct other NRDA programs in the future.
- b. What size, scope, organization, facilities and administrative management of the existing Trustee Science and Monitoring Program would best support the mandate of the Consent Decree and M.O.A. to restore, replace, rehabilitate and acquire the equivalent of injured resources and services.

5. PROBLEM: The Trustees and their council designates lack current, intimate familiarity with the oil spill region and this unfamiliarity seriously handicaps their ability to make appropriate decisions concerning restoration of the area.

SOLUTION: We ask the Trustees and their Council designates to, within 5 months, conduct thorough site visits in all areas of the oil spill region significant to their Restoration Objectives, and to avail themselves of guides with local knowledge. Trustees should also visit the many coastal areas that, since the establishment of the Trustee Council in May of 1989, have been destroyed and essentially lost as restoration opportunities.

SUMMARY: In light of the foregoing problems, we believe the Trustee Council is in violation of the consent Decree and M.O.A. referred to above.

POST SCRIPT

The concept of Natural Resource Damages as a substantial compensable loss in the case of oil spills and other industrial disasters is unique to the legal system of the United States.

The level of environmental damage mitigation proposed by the Consent Decree and MOA approved by this Court is entirely unprecedented in history.

As such, the way in which the Exxon-Valdez Oil Spill natural resource damage settlement is used for restoration is enormously important in assessing society's genuine commitment to redress environmental damage caused by industrial disasters.

The Coastal Coalition is an informal coalition of concerned citizens that formed in 1989 to assist in expediting restoration of the oil spill region. The Coalition helped create a regional consensus for the notion of settling the natural resource damage case out-of-court and formally proposed such to the State of Alaska, the United States, and Exxon on July 4, 1990. Since the settlement, the Coalition has been concerned that all natural resource damage recoveries be expended in the maximum interest of environmental recovery, and in a timely manner.

Coastal Coalition members Rick Steiner and David Grimes are residents of Prince William Sound, and this paper is written out of love for their home.
