

24.12.02

Exxon Valdez Oil Spill Trustee Council

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



January 18, 2005

The Honorable Tim Joyce
Mayor, City of Cordova
P.O. Box 1210
Cordova, Alaska 99574

Dear Mayor Joyce:

The *Exxon Valdez* Oil Spill Trustee Council has reviewed your December 2, 2004 proposal seeking funding for the proposed Cordova Center and obtained advice from both the Alaska Department of Law and the United States Department of Justice on its consistency with the legal constraints under which we expend funds from our natural resource damages settlement with Exxon.

Our highest priority is the restoration of those natural resources and services that were injured, to the extent that such restoration is feasible and not disproportionately expensive. Neither the construction of facilities nor the implementation of public education projects *per se* constitutes restoration of natural resources and proposals for such projects therefore demand close scrutiny. Thus, when the Trustee Council was approached about funding the Institute of Marine Science (as the Alaska SeaLife Center was known in its developmental stages), the Trustee Council was cautioned that proposals for construction of facilities whose primary function will be something other than the restoration of natural resources demand close scrutiny. As a result of such scrutiny, the Trustee Council funded only the research and wildlife rehabilitation components of that facility and then only after satisfying itself that the research needs of the Trustee Council could not be met by either existing or planned programs and facilities and that construction of the Institute of Marine Science would be cost-effective compared to expansion of existing facilities. The Trustee Council was advised not to, and did not, fund the education and tourism components of that facility.

The Cordova Center's connection to restoration appears to be less closely linked to restoration than the Institute of Marine Science. According to the City's proposal, the Cordova Center's primary spill-related function would be education of the public about the *Exxon Valdez* oil spill (EVOS) generally and the Trustee Council's program in particular. Plans for the Cordova Center include conference space, in which EVOS-related meetings and symposia could be held; a library in which the results of Gulf Ecosystem Monitoring (GEM) studies could be made available; display space that could house EVOS history exhibits and information about advances in technology spawned by the spill; a center for oil spill response training; an area where public involvement opportunities in the GEM program could be published and a visitors' center that would support recreation and tourism services affected by the spill. The Trustee Council is already engaged in extensive public outreach –

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through its public meetings, the annual symposium in Anchorage, visits by staff to spill-affected towns and villages, contributions to ARLIS (the research library) and its website. Some of the spill-related elements of the Cordova Center which were designed to make it a centrally located facility for the Trustee Council's public outreach program pertaining to the GEM program are duplicative of ongoing activities of the Council and therefore would not be a wise expenditure of our limited resources.

To the extent that the City is relying on education of resource managers as a basis for obtaining restoration monies, we note that the dissemination of information obtained from the restoration process for use in the management of natural resources is a normal agency management function and therefore not a basis for expending settlement funds. Similarly, to the extent that the City is relying on the Cordova Center's support of tourism and recreational opportunities in the spill area as a basis for seeking settlement monies, the Trustee Council, in restoring services interrupted by EVOS, has been advised to make expenditures that are aimed at restoring the natural resources on which those services depend, rather than on subsidizing the services themselves.

In short, it is highly questionable whether investing \$6.8 million in a facility in Cordova would be an appropriate use of settlement monies.

Beyond the legal concerns associated with the funding of the Cordova Center, there are fiscal concerns. As you may know, the Trustee Council resolved in 1999 to limit its expenditures for non-habitat-related projects to approximately \$5 million each year. For fiscal 2005, which began in October of 2004, the Trustee Council has already committed to expend more than \$4 million. Similarly, the Trustee Council has committed to expend \$2,200,000 in fiscal 2006 on multi-year projects, plus an additional \$1,800,000 on internal projects and costs, thereby limiting discretionary funding to approximately \$600,000. The results of scientific studies conducted during 2001 have led the Council to re-orient its priorities to address unexpected lingering oil issues. As a consequence, the Trustee Council may spend additional monies on restoration activities associated with lingering oil and a review of the injured species list, thereby reducing even further the monies available for other projects, such as the Cordova Center, during this fiscal year and next.

Both legal and fiscal concerns make it unlikely that the proposal would be adopted by unanimous vote of the Trustee Council. If you feel that it would be worthwhile to make a presentation at our next meeting, which is set for February 4, 2005, please contact me to ensure that an appropriate time slot is included on the agenda for this purpose.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gail", with a stylized flourish extending from the end.

Gail Phillips
Executive Director

Cc: Trustee Council

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Trustee Council Members -

Enclosed are several items for your information:

① A proposal from Cordova for building a new Center. They are seeking funding from EVOS for this;

② The video that was created for the 10-year anniversary of the Spill; and

③ a copy of the draft final report for a plan for community involvement. This will be discussed during our C.I. meeting on the 11th.

Thanks - Gail