89WG C 9.2.1

EXXON VALDEZ OIL SPILL RESTORATION AND DAMAGE ASSESSMENT TRUSTEE COUNCIL MEETING PUBLIC UTILITIES HEARING ROOM JANUARY 10, 1992 6:30 P.M.

#### **ATTENDEES:**

## Name

#### Affiliation

Barbara Iseah CACI W. Neil Anderson Chugach Alaska Corporation Jerry Dale Rusher Rusher Services Shep Dale DEC Howard Janneck Fisherman Blaine Hollis USCG Joe Sullivan ADF&G Sheila Bowe ADF&G Joe Westfall Anchorage Tami Mauro CACI Ken Yockey Eagle River Meredith Downing R & R Court Reporters Tom Starr Meadow Lakes Community Theresa Day Valdez Conrad Holler Wasilla Valerie Payne NPS Sue Lattin CACI Lisa Polisar U.S. DOJ Steve Rehnby Eyak Corporation Don Brovero U.S. DOJ Ken Chalk ADF&G Bob Guenther CACI Carrie Holba OSPIC Peg Thompson OSPIC Mary McGee OSPIC David Sale ADEC Ernie Piper ADEC John McMullen PWS Aquaculture Corporation Susan Bishop Anchorage Doug McBride ADF&G Kelly Hepler ADF&G Susan McCurron ADF&G Nancy L. Neslund USFWS Chip Thoma Juneau Terri Bristow CACI Darrell Totemoff Village of Chenega Bay Torie Baker Cordova Rebecca Williams CACI Philip Totemoff Chenega Bay Charles Totemoff Chenega Bay Ivan Nance Anchorage Louisa Rand Moore Jamestown, RI

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Bill Waller Anchorage Myron Rosenberg Anchorage Laura Mendola Anchorage Pamela Brodie Sierra Club Kathy Hess The Nature Conservancy Cliff Groh Ellamar Property, Inc. Steve Planchon The Nature Conservancy Alaska Center for the Environment Karen Wood James Winchisoen Radio KHLV Andree McLeod OSIAR Sandra King Cordova Mark King Cordova Kathryn Ändersen Cordova Eyak Bob Andersen Cordova Eyak Sam Shorr Cordova Rick Steiner Cordova Bud Stevan Cordova R. Meyer Homer M. Galginaitis Anchorage James Brady ADF&G Brian Bue Palmer Dean W. Haynes OSTAR Rita Miraglia Elmendorf Art Weiner Anchorage Carol Fries Anchorage Chris Woolery Anchorage Connie Taylor Anchorage Susan L. Ruddy The Nature Conservancy Doug Miller National Wildlife Federation Pam Miller Greenpeace Dorrie Smith Greenpeace Jeff Parker AK Sportfishing Association Chris R. Casati Alaska Newspapers, Inc.

## Trustee Council

Charles Cole	AK Attorney General
John Sandor	Commissioner, DEC
Steven Pennoyer	Reg. Director, NOAA
Carl Rosier	Commissioner, AK Fish and Game
Curtis McVee	Special Assistant, Dept. of Interior
Michael Barton	Reg. Forester, USDA Forest Service

#### **RRCG Members**

Ernie Piper Ken Rice Marty Rutherford Jerome Montague Cordell Roy Dave Gibbons Byron Morris

#### The following handouts were distributed:

Agenda

EVOS Trustee Council Operating Procedures Proposed Oil Year 4 Damage Assessment and Restoration Work Plan Memo re: Public Meetings on Exxon Valdez Restoration

## **Opening Statements**

Pennoyer - Trustee Council members were introduced

Gibbons - members of RRCG were introduced

Pennoyer - the agenda was read and any additions were requested; a public comment segment was added to the agenda; RRCG had been requested to do a lot of interim work; Dave Gibbons will lead through the agenda

Gibbons - minutes and transcripts are available at 645 G Street; items one and two on the agenda will be combined; Jerome Montague will discuss the Proposed Oil Year 4 Damage Assessment and Restoration Work Plan

## 1. NRDA Studies

#### 2. Restoration Projects for 1992

Montague - he prepared a revised program broken into two components, injury assessment activities and restoration activities; it contains projects that will be continued and ones that will be closed out; new damage assessment projects may be available in the future; 31 damage assessment projects are proposed for this year; these include: 9 bird, 8 subtidal, 8 fish and shellfish, 3 marine mammal, 2 coastal habitat and 1 archaeological; recovery monitoring includes ten projects proposed which cover subtidal, and coastal environments, anadromous fish, sea and river otters, sea birds and bald eagles at a cost of \$4.5 million; under restoration implementation, there are 7 projects at a cost of \$2.1 million including anadromous fish, rockfish, herring, archaeology, and harbor seals; under manipulation/enhancement, there are two projects proposed for pink and chum salmon at a cost of \$426,000; other projects now being developed may be added in the future

Pennoyer - what action is needed to go forward?

Gibbons - approval was requested for the development of detailed study plans for further analysis

Pennoyer - these will need further peer review Gibbons - we are getting more information and insight for the public's review Barton - the detailed study plans should be developed McVee - are there funds to prepare documents if the work was done in 1989? Montague - the projects presented are for 1992 Sandor - what is the timetable for getting this out for public review? Gibbons - we are shooting for the middle of March for public review; the detailed study plans will be available by the next meeting Sandor - how do you expect to integrate public comments? Gibbons - we are shooting for the middle of March to get the framework out and get full public involvement on it Piper - public meetings on participation should be complete by the first week of February; the goal is to have the public review body in place so the public isn't behind the curve Sandor - there should be a plan of action, specifically what time we might take action on restoration proposals Pennoyer - timing depends on how fast you get to work on them Cole - he would like more information on closeout studies - how long have the studies been going on, what work has been done on these projects in the last six months and has work been continuing on them or has effort been made to wrap them up Gibbons - most projects were started in 1989; activities have been going on constantly; he does not have the exact numbers but activities are continuing to occur; some activities proposed for closeout include data analysis and final reports; a few projects require additional field work Cole - have people been working on these studies this past week? Gibbons - yes Cole - \$5 million dollars seems like a lot of money to wrap up these studies; he would like to see why and what's been going on; also he would like to see hard numbers; to get his vote on the other studies, he would like to see some pretty hard numbers with some detail as to what the cost of the various projects is such as transportation, secretarial, etc.; why does each particular study need to be done at this time? some detailed information and hard data are needed

Gibbons - he expects to see this in the detailed studies; could we have a short break to check the problems with the electronic equipment?

Pennoyer - we will take a five minute break

McVee - some of the closeout costs appear to be pretty substantial; he assumes this includes something more than writing a report; is there some lab analysis?

Montague - there is a lot of comprehensive assessment of coastal habitat; closeout on this involves analysis of a large number of samples

Gibbons - this is contracted to the University of Alaska Fairbanks and is probably the largest project attempted; data needs to be sorted and analyzed; they gave us a report that was about 900 pages long; there is no field work but they are trying to wrap this up into a useful package

Cole - if there is \$18 million dollars in a study, completion is pretty far along; he would like justification for why a study must be "completed" and how much further does the study have to go before we can effectively utilize it

Pennoyer - do we need a review of individual studies? need to know the framework and will determine what the studies have and haven't shown

Gibbons - we have the criteria by which they were reviewed

McVee - we need to think where in this process we can make a general notice to the public of anything that we haven't been doing; it may not be timely in terms of the 1992 field season, restoration year 1

Pennoyer - the RRCG was asked to develop the detailed study plans

Cole - will this information be available to the public for their comments on these proposed completions?

Gibbons - that is a difficult sequence of events; we are getting detailed study plans for review and then will come back to the council; some of this information could be involved in litigation so the presentation may have to be tailored

Cole - a presentation should be made to the public so we can

## reach a final decision

#### 3. Fiscal Issues

Summary of Status of the Joint Fund

McVee - he has a short presentation and felt it would be worthwhile to present information from a federal prospective on the joint fund; Exxon deposited \$90 million dollars into an escrow; in mid-December the money left escrow; \$29 million went to the State of Alaska and \$25 million to federal government for cost reimbursement; on December 6, Judge Holland directed funds be placed in the court registry investment system, Dallas-Houston Branch; settlement monies are in a separate account; weekly reports are made; Judge Holland's order is needed to remove funds; a minimum of five days is needed for withdrawal of funds; Judge Holland has to determine that the terms of the MOA have been complied with; by request of the court a breakdown should be provided of where the money goes; Congress has required the appropriations committee be given 30 days advance notice of any withdrawal of monies

Cole - it should be made clear that when reference is made to the federal funds and congressional veto, it deals with only monies which go to the United States or any federal agencies; are there any records of how much interest we are getting?

## 4. Organization

Administrative Structure Financial Management/Process

Pennoyer - Dave Gibbons will make comments regarding structure

Gibbons - approval was requested for a small staff for the restoration process and he would like to have authority to establish the administrative record in one central location; it was found that the dispersed method was not as efficient as evidenced by the RPWG; he would like to get a centralized working record and a place where NRDA and restoration materials can be found without having it scattered all over; greater public access would be gained and it would provide some financial control such as teleconferencing; he would also like to create a small staff to respond to letters from the public

Pennoyer - how do the issues of the Simpson Building relate to the support staff?

Gibbons - the Department of Justice wants to step away from the Simpson Building; he suggests remaining on the 4th floor of the Simpson, otherwise the work may be delayed

Pennoyer - does this give us step one?

Gibbons - yes, which is to get the plan out to the public for review; this staff would be a mixture of new hires and Simpson support staff; he has a person in mind for public information officer, L.J. Evans

McVee - new hires would require several processes such as resolving where the staff will be based

Gibbons - he is not proposing the RRCG be housed there

Cole - where is the money currently coming from?

Gibbons - it is presently coming from the agencies; the Simpson Building is under the DOJ

Pennoyer - you need support staff; what is the size?

Gibbons - some support staff is at CACI; he would like to develop the whole picture at the next meeting; DOJ is going to move away from this process and we will be faced with a dilemma

Barton - will the contract be out in February?

Craig O'Connor - this issue has more to do with Justice involvement and state funding; Justice feels it doesn't have a direct role until something else is put into place that is more acceptable

Pennoyer - how many additional positions do you need?

Gibbons - the support is already there and the Public Information Officer needs to be moved there

Sandor - we are going through a transition period; we are not sure what our budgets will be; he is opposed to hiring any new people; people should be used who have worked on this project for some time; suggests that you give executive director the authority to utilize people from other agencies

McVee - he can appreciate mobilizing a new organization; we should try to find some support necessary to get the job done

Barton - we need to get on with getting a permanent organization established; he thinks there is a 90 day charge in the MOA; some options should be laid out for a permanent organization; this group has been working day and night to put this together and they need some help; letters from the public are piling up; we should offer Dave the opportunity to identify individuals who can be detailed in the short term and identify others for long term needs Pennoyer - Dave has indicated a short term need for support; what action is needed? Cole - what is the need for a Public Information Officer? Gibbons - part of the duties are development of a public participation chart and activities; this person would also conduct scoping sessions in January, February and March Sandor - DEC has mechanisms in place to detail someone; it would be premature to permanently detail someone Gibbons - funding runs out the end of February Pennoyer - is the DEC individual adequate to cover short term needs? Gibbons - if we could stay in the Simpson Building, he thinks there is some carry over funding to cover support staff Lisa Polisar - funding would run out sometime in February, some additional funding is needed to allow more development Cole - consideration should be given to drawing down some money from the registry Barton - he agrees that this would be a perfectly legitimate use of funds Piper - he has authorization to keep some layoffs on and can reassign some people if it is acceptable to cover the support needs Sandor - he moved that this be a short-term, temporary arrangement Barton - we should authorize Dave to use his own good judgement and agree that we remain in the Simpson Building during this interim situation and go to the court registry to remain in the Simpson Building Cole - how long are we talking about remaining in the Simpson Building? Barton - we could make that decision when permanent organization is decided Cole - how much money will be drawn down? we should approach the economic problems directly and get this on a sound keel Pennoyer - what would be an interim timetable?

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Gibbons - April; he would like to lay that out in a package covering the whole organization

Pennoyer - can the Simpson Building question wait?

Gibbons - hopefully, this will carry through February

Pennoyer - the council should let Dave use his good judgement and prepare a more detailed organization structure at the next meeting

McVee - we should clarify that we mean the Fourth floor of the Simpson Building?

Gibbons - that is correct; the fourth floor

Pennoyer - it will continue through April

Gibbons - we developed an interim subgroup on financial management and are requesting authorization to proceed; people should be brought up to speed and the interim budgetary group be expanded

Pennoyer - you may proceed

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Gibbons - the public participation plan has been revised

Piper - (he decided to stand and face the audience to present the plan directly to the public)

- 1. Schedule and conduct public meetings 90% are scheduled; meetings will begin the 20th in Cordova; a list has been prepared of all the meetings; the goal is to get these done before the middle of February; we want to make sure we have everyone ready to review by the middle of March
- FACA there doesn't appear to be anything difficult about 2. complying with this act; it doesn't appear to hamper abilities to get something into place quickly; a charter needs to e filed; open meetings and paperwork regarding federal register notice are needed; the important thing in reading the act is most of the time it applies; a charter should be drafted but doesn't see this as a problem; there is a three month plan for public participation and approval; comment should be solicited both through meetings and in written form in January and February; we need to make sure we have the capabilities to answer replies and that records are being kept properly; people should be reassigned from the oil spill group and other agencies; concurrent with this request is authorization to seek nominations for the public advisory group, possibly 10 to 15; a list of criteria should be adopted; nominations should be solicited and then personnel reassigned; staff work has been done in terms of

goals and how the group would work; public needs to be consulted to see what models work for them; the public has no shortage of views of how they would like to see things; it is clear that a public advisory group is not necessarily going to serve all of the needs of the public; there needs to be a way to make sure comments get to trustees and are tracked; a charter should be developed and a process by which members would be selected; some drafts currently exist; in general, the criteria for selection would be:

- 1) knowledge of the region
- 2) knowledge of areas affected by cleanup
- 3) affiliation
- 4) expertise
- 5) credibility
- 6) ability to analyze restoration information
- 7) ability to communicate information clearly both ways

this group needs to be given the access that the trustees have to the RRCG; a liaison might be needed; how much would all this cost -- currently they are covered out of existing agency budgets; we are looking at \$12,000 for travel for 8 or 10 meetings; overall budget depends on components and staff in terms of public information in each of the first two years; the interim expense should not be looked at as an annual expense and will probably decrease over time

McVee - he has questions regarding the charter and recommends keeping the charter very simple; the roles and responsibilities should be discussed; regarding the resource center, is there some relationship?

Piper - regarding the resource center, with this type of operation the cost involved is mostly people; Dave will have more detail at the next meeting

Barton - how does the restoration resource center relate to OSPIC?

Piper - some of the things they do now are the same

Barton - does your proposal essentially just rename the OSPIC?

Piper - this will be part of Dave's plan

Gibbons - we will analyze the needs of the group

O'Connor - he is concerned about disenfranchising the public in the lower 48; it might be appropriate to expand the scope of the meetings to include those living outside the State of Alaska who have an interest in the restoration plan Cole - it has been his observation that outsiders always find a way to tell us how to manage our affairs; he is not overly concerned; he is concerned about the \$50,000 per month; it sounds like a lot of money; we should get a sharp pencil and scale the numbers down; the money should be put back into the restoration of the damaged resources; we have to scale back to a leaner operation to be more productive

McVee - he is confused; is the Public Information Officer a short term answer to the need?

Gibbons - there is some duplication between the people Ernie refers to

Pennoyer - there is tremendous interest outside Alaska and he presumes mailouts will encompass a larger distribution

Barton - we could look at covering this through the register

Cole - he received a call from the Attorney General of Louisiana and doesn't see those people giving us public notice of what is going on with their oil spill; this process should be rooted in equity

Pennoyer - this issue may be discussed at some point later

Sandor - appreciation was expressed for the presentation by Mr. Piper

Gibbons - he will identify the needs and have that in the plan at the next meeting

McVee - some expenses could be decided now; it is not necessary to wait until next meeting to decide on possibilities for the OSPIC collection

Barton - he is confused about location of OSPIC or the new center; analysis of that has been done; he thought it was concluded to place the OSPIC collection in several other libraries across the state or with the Department of Interior

McVee - this should be pursued in some detail

Barton - he recalls that cost was looked at which is what led to the conclusion to put the collection with interior

Gibbons - our proposal will not be for a library

Barton - is it a public resource center or OSPIC?

Gibbons - a public resource center

Pennoyer - some clarification is needed; OSPIC contains a lot of information Piper - we are not proposing picking up OSPIC and slapping a new name on it, but clearly the public receives a lot of benefits; it is not being proposed to expand this into another state library; some functions of OSPIC are useful and should be continued Barton - what are the materials being considered? Piper - we expect that we would keep the materials Barton - do you envision picking up that body? Piper - we propose putting them under the executive director so that this body of knowledge will not be lost Barton - is the existing OSPIC being dealt with? Piper - this is correct McVee - we will see the next chapter at the next meeting Pennover - we would like to deal with the OSPIC issue Montague - is there any guidance on keeping the existing facility or moving? McVee - this is just part of the natural resource information in the area; this collection might be consolidated with other information Sandor - these papers need professional attention Cole - a place should be found which is convenient to the public and where you don't have to spend \$10,000 to \$15,000 to house it Barton - he thought this is what we had gone through previously; the earlier decision should be followed through on which places the OSPIC collection with the Department of Interior in the Anchorage Federal Building; he suggests writing a letter with a proposal McVee - a letter should be drafted to BLM to find out how they feel and to get their technical people to take a look at it Gibbons - if those are the wishes, he will proceed with that Craig Tillery - unanimous agreement is needed to take money out for the fourth floor but what about the first floor Barton - Piper and Gibbons will get back with information on this

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Cole - we should draw down extra money and establish a bank account to use for necessities as they arise or we will have to constantly go to Judge Holland

#### 7. Permanent Executive Director

Gibbons - should we initiate recruitment for a permanent executive director?

Sandor - he moves that we do so

## 8. Formal Adoption of the Operating Procedures

Gibbons - changes have been incorporated into the procedures document and he moves that it be adopted

Pennoyer - he motioned to adopt operating procedures

McVee - another set of operating procedures was suggested for the RRCG, such as when agendas will be developed

Cole - he suggested that the group change the name from RRCG; it could be called the restoration group

Pennoyer - a simpler more concise name was suggested

Gibbons - the Chief Scientist issue needs to be discussed; he has been very valuable to the group in providing unbiased review of the proposals and in the synthesis phase of the reports; we need the chief scientist past February 8; an analysis of the needs of the chief scientist need to be provided to the Trustee Council

Cole - he is concerned about negotiations; a series of options should be used; this will be much cleaner

Barton - is there a termination clause in the current contract?

O'Connor - the contract is currently held by NOAA and can be terminated at the convenience of the government; we do not have the option to extend; we could on an incremental basis go through the negotiation process; there would potentially be termination costs prior to expiration such as severance pay to employees retained by Dr. Spies; there are certain obligations

Cole - does this contract expire in February?

O'Connor - if not funded by the end of this month, it will expire

Cole - why don't we go to Dr. Spies with some four month options?

O'Connor - if it is in the interest that the contract does not lapse, a decision has to be made

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McVee - there is a need through the remainder of the 1992 programs; beyond that it is not known what will be needed from Dr. Spies Rosier - regarding the contract extension, is that a fixed cost? O'Connor - it is a payment for services contracted and what is necessary is to provide sufficient resources for the balance of the term of the contract; he doesn't know if all the money has been fully utilized; one chunk is \$190,000 for Dr. Spies and his staff and expenses Cole - he proposes Mr. Tillery calling Dr. Spies to see what can be negotiated Pennoyer - we don't want to preclude our options with Dr. Spies; he believes Dr. Spies is needed and should proceed on an interim basis Gibbons - he moves to modify the agenda by adding the Chief Scientist issue Sandor - it should be discussed how we are dealing with restoration suggestions Gibbons - he proposed that letters be addressed to 645 G Street, Anchorage, Alaska; if there are specific questions to Trustee Council members, then they should be addressed to the council directly Sandor - regarding specific projects proposed by public entities, he proposes that the restoration group evaluate the proposals and set up a process Gibbons - there are two he is aware of and this issue needs incorporation McVee - regarding taking proposals from the public, we need to get word out that we are considering this; the Attorney General was asked to give some guidance on open meetings so that we don't make any major errors Cole - the Department of Law will furnish a memo to the council on the open meeting law and how it applies; regarding the call to Dr. Spies, Mr. O'Connor should also participate in this Pennoyer - we will take a short break before the public comment segment

# 9. Public Comment

Pennoyer - there was a request to start the public comment

segment in the field; is Chenega Bay on line?

L.J. Evans - no

Pennoyer - Cordova?

Jack Lamb - he is speaking on behalf of the Cordova Fishermen United regarding 1) purchase of three year options on timber assets, negotiating a timber buy back agreement and making sure that existing fisheries are not jeopardized 2) would like to propose a subgroup under the RRCG similar to the one proposed by the Nature Conservancy Group

Pennoyer - Homer?

Doug Hill - he would like to encourage efforts in acquisition of habitat and buying back timber rights; it seems there are a lot of hidden agendas being addressed

Pennoyer - he hopes that all concerns are satisfied as we go

Doug Hill - he would like to see information regarding break down of monies and the public information center location

Comment - he is in favor of land acquisition; money should be funded for general ocean studies and breakthroughs in technology should be used

Pennoyer - Kodiak?

Jerome Selby - mayor of Kodiak Island Borough, he looks forward to the meeting there and hopes we can move ahead and get some meaningful results; a working group of resource managers was suggested; agencies sitting down at the local levels will get a lot more input and will insure that what we do helps address the effects of the spill; he is of the opinion that those that can get us the most distance for the dollars are the people down there who have the first hand working knowledge; guidelines are requested for suggestions for things that are going to be funded

Pennoyer - these suggestions will be taken into account

Sandor - the mayor was asked for his suggestions on restoration proposals

Kelly Shockler - seine permit holders - one area of concern is the Fognak Island; agrees with Mr. Lamb regarding the restoration subgroup establishment and realizes defining restoration might be difficult; too many requests for funds are blatantly self-serving; increasing wildlife and fisheries habitats are important

Cole - regarding the suggestion that habitat be purchased, would

you favor purchasing standing timber or the land itself? Shockler - the land itself would be best

Comment - the three month fishing season was canceled and he would like appropriations to be made; timber buy backs or purchased timber land should be looked at; it is better to look at acquisition of land itself; there is the possibility of pollution; he would like decisions reflecting fairness in appropriations; there is some dismay on the unanimous decision clause in the decision to appropriate; this may cause some back room politicking

Cole - the unanimous requirement was designed to protect the state and it is a fine provision

Gibbons - it should be clarified that public meetings will be performed by members of the restoration group and not the Trustee Council

Pennoyer - we will attend some meetings as time allows

Trisha Garland - she would like to express where money should be directed and thinks the lack of training and equipment contributed to spill; the greatest tragedy would be not to come out with a program to protect the coastline; Alaska has a great opportunity; money could change our ability to respond to a spill; it is recognized that the response improvements are taking place in PWS and all the attention is being focused there; what about the other areas? it is now almost three years and the only training on water was considered a joke; maintaining preparedness will ensure that the coastal areas are ready to respond to any spill; the concept is the development of the Alaska Coastal Communities Cooperative and will build on existing people and training them to deal with the every day Alaska spill

Sandor - regarding the need for local preparedness, some groups are being formed for emergency planning to develop a concept to see that oil spills are properly handled; this is another mechanism being explored

Pennoyer - are there any other Kodiak comments?

Mike Milligan - due to the activities of Exxon, there was great risk to archaeological sites; there was a great amount of exposure to these sites; we should not forget the value of these sites; they are totally irreplaceable; cultural resources can not be replaced; this body should continue to consider this and the importance of these sites

Tracey Akers - regarding Trustee Council members not coming to the public meetings but sending the RRCG, would like to see

council at some point and some face to face meetings

Pennoyer - decisions have not be made regarding this

Jerome Selby - he officially invited the council

Pennoyer - Seward?

Operator - Sharon Anderson had to leave but will mail her comments

Christopher Gates - Seward would also like to invite the council; Mr. Piper has had some excellent input such as public comment being taken; regarding project funding, he encourages a process being put in place for expenditures of funds and everyone should be acting with the same ground rules; we have a very valuable piece of land called the Kenai Fjord National Park and there are holdings that need to be addressed; local Alaskans can do an excellent job in response action; support of nearshore response is encouraged in addition to training; there are rumors that the trustees will be focusing on PWS as opposed to the impacted areas; he would like some thought on the impacted areas

Charlie Krangle - his concern is about the public meeting process and feels very concerned that there was not adequate lead time; in Seward it was not advertised until yesterday; Friday night is not a good night for meetings; Monday through Thursday night were suggested; regional trustee meetings would be very helpful as face to face contact is needed; regarding science data, Cole's comments regarding money being spent on the studies was very disturbing; he favors raw science data being interpreted; regarding Kenai Fjord Park, we should be sensitive that Kenai National Park is trying to restore some cultural resources; it is his belief that we settled too quickly and feels we are moving too quickly in expending these monies and should insure quality suggestions are considered for their merits to get the best use of our dollars

Pennoyer - more attention will be paid to time in noticing for meetings; Valdez?

David Jenko - he looks forward to input on public participation; the acquisition question is very complicated and will be very difficult; he suggests along with the other subgroups that a land subgroup be formed to decided some acquisition questions; some quick action to protect habitat will go a long way to heal; the goal is to examine how does it help the damage that was done, while other damage is happening to these lands

Nancy Lethco - Alaska Wilderness and Tourism Association - their purpose is to promote the recognition of tourism; she would like to comment on the public advisory group draft interest list; recreation is not mentioned on the list and she feels they should have representation; the tourism industry should be split between developed tourism and dispersed tourism; she supports acquisition of habitats; regarding restoration projects, long term studies should be continued; criteria for selecting advisory groups should be mailed out for review and comment by the participants before the council comes down; she is concerned about topics the RRCG would like to hear about when they visit; local advisory committees worked well during the spill and felt they benefitted from the opportunity to discuss with the agencies their concerns and the pros and cons of various approaches; she is concerned about so many groups

Pennoyer - the initial concerns regarding tourism on the list may have been taken care of; Whittier?

Kelly Carlyle - mayor of Whittier - scientific studies need to be released; would like to know who determines what studies should be closed?

Linda Hines - she requested having handouts mailed to those on teleconference so they could follow along with what is happening and also requested that the speakers identify themselves; she agrees with the mayor that decisions should be based on good sound judgement and studies should be released

Pennoyer - someone tried to fax the handouts

Cole - he thought the mayor had a legitimate inquiry regarding the closeout of studies

Montague - six members representing restoration are needed to vote on which studies to continue and which are recommended for closeout; the council makes the final decision whether to accept their recommendation

Pennoyer - Anchorage?

Dr. John Piatt - he is upset with Mr. Cole regarding cutting back; the process has been hashed out; his main concern is the delays and not knowing if the project will be fielded; some accounting of the administrative costs is needed and it would be appropriate to consider a ceiling on the cost to see that the majority of the money goes to restoration; there should be some range of cost; it is important that data already collected should be released to the public and it might be appropriate for various agencies to put their information out

Bob Anderson - Cordova - substantial timber owner, commercial fisherman, participated in land selections, founding member of the Aquaculture Corporation - his affiliations demonstrate his experience and commitment to Cordova and PWS; it came to his

attention that there was no framework to address proposals; he appreciates the benefits of the moratorium concept, but wants to stress that due to prior obligations, they cannot delay; he requested this be addressed immediately

Sandy King - Cordova - regarding money for contingency plans, Alyeska has already set in motion financing for early response teams; she is for habitat acquisition and it is good news that the corporation is willing to listen to the public; there is a cry for the well-being of PWS from all Alaskans who find it as a refuge; tourists do not like to come into a place and see cuts; logging practices are detrimental to the tourist trade

Pamela Brodie - Sierra Club - she appreciates the concern for the importance of keeping down administrative cost but is concerned about cutting the science; it is important that decisions about cutting be peer reviewed; regarding is it enough to just buy timber rights, often timber is owned by a separate corporation from the land; if we just buy timber rights, we only have it for a few years; she would like to see total acquisition; however, this depends on the owners; there are other options; regarding some money up front for options, it would be good use of early money; species and recreation values are existing beyond where the oil hit the beaches; the RRCG should have a special subcommittee for land acquisition

Cole - installments by Exxon will be \$90 million; how much should be spent for land acquisition?

Brodie - The Sierra Club doesn't have a policy but would like to see a large amount spent for land acquisition

Cole - how much is for sale?

Brodie - only in Katchemak Bay; prices would vary tremendously; there is such a wide range that she does not know

Cole - would you give us a sense of how much money we are talking about at the next meeting?

Brodie - Rick Steiner could answer, but it depends on the owners of the land

Jerry Rusher - Rusher's Services - he would like to introduce a pamphlet on restoration which has been out for two years; Ernie Piper was asked what has been the amount of public participation generated by the pamphlet

Gibbons - this pamphlet was incorporated into another document Rusher - we are talking about duplication of a lot of dollars Jeff Parker - Alaska Sport Fishermen Association - he supports using money from the settlement to endow the trust fund; the fundamental question is what sort of lands to acquire in terms of equivalent resources, such as: 1) equivalent in ecosystem type 2) equivalent in non-use value 3) equivalent in use value (recreational use value); The following are ways to avoid wasting money: 1) excessive studies that are narrowly focused 2) excessive attempts to restore what can't be restored (intertidal zone); The areas to spend money should be standard to acquire valuable habitat lands for resource use purposes and where those lands bear some relationship to the injuries occasioned by the spill; Some items for discussion are: 1) what areas are reasonable for spending money for acquiring lands? 2) what is the area affected by the spill? the critters affected are migratory in nature 3) what does restoration mean? 4) if you should spend money early, what should you spend it on? 5) timber rights - \$1,000 to \$2,000 per acre; regarding spending for resource acquisition, he would spend more than \$75 million; 6) how do you make decisions when science and economics are not public?

Sandor - he would appreciate the specificity of the thought that went into this; regarding the endowment of the trustee fund, can you elaborate?

Parker - a level of endowment would be anything we don't need urgently to spend

Sandor - what is your definition of urgent?

Parker - the thing continually held up to the public is timber harvest; where the resource conservation issue is being threatened, you should go out and buy fast; the process of negotiations is one that intimidates government

Cole - how many acres would you get for 90 million?

Parker - 45,000 at \$2,000 per acre; buying trees that provide habitat is more expensive than buying other lands that are untreed

Susan Ruddy - The Nature Conservancy - she believes in establishing the process, developing the information and taking action within that context; she suggests establishing a subgroup; some threats are very imminent to logging and a subgroup needs to be established to deal with this; their charge might include the immediate development of a framework to buy time, the establishment of procedures for restoration on private lands, and determination of types of information for the trustees to make these kinds of decisions; the subgroups should take the form of a hit team in that the best of the best should be brought in; expertise should include an appraiser, attorney, realty specialist, biologist, and an economist; a message should be sent to the people by

## taking immediate action

Barton - we should either establish a subgroup or a project within restoration; a deliberative process needs to be established; prior work needs to be recognized and built on; he is confused regarding private land which became private within the last 20 years and we are now talking about making it public again; we need to reconcile all this; critical spots need to be identified and how best to protect them

McVee - some type of habitat acquisition subgroup needs to be mobilized; criteria needs to be developed to be used in the acquisition program

Gibbons - the formation of a restoration habitat subgroup has been discussed; is there direction to do this?

Pennoyer - the previous statement to use good judgement encompasses this as well

Gibbons - it might be appropriate to look at the oil spill area first

Rosier - there were a lot of ideas put on the table regarding land acquisition; effort should be focused on the spill area itself

Cole - if we are going to look toward spending most of this money on habitat acquisition, we should give ourselves cause to spend money for these studies

Dr. Petit - he was talking about restoration studies; what are the critical habitats?

Cole - we should take a hard look at the studies we want to go forward with

Rosier - people have to realize we have to spend money on areas directly impacted

Comment - the concern is are we trying to restore PWS back to what it was before the spill or into a state park

Tom Starr - it is amazing that oil was spilled in PWS; restoration is very important; the importance is not how we accomplish it but that we do accomplish it; this is not just an impactedarea spill; this impacted everyone; we have to protect the areas that have already been impacted; we have to listen to Alaskans and ask their opinion about what should be done about restoration

Pennoyer - we need to discuss the time and location of the next meeting, possibly February 5th and 6th, to discuss closeout

plans, in addition to restoration projects and other projects assigned to the RRCG Cole - out of deference to the people, the meeting should be held here Sandor - we should consider Kodiak's invitation Pennoyer - what is the group consensus? Sandor - he moves that the meeting be held in Anchorage Pennoyer - meeting schedule will be set at a later date Meeting was adjourned at 11:00 p.m.

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AGENDA EXXON VALDEZ OIL SPILL SETTLEMENT TRUSTEE COUNCIL

Alaska Public Utilities Commission 1016 West 6th Avenue Suite 305 Anchorage, Alaska January 10, 1992 6:30 p.m.

TRUSTEE COUNCIL MEMBERS:

Charles Cole, Attorney General State of Alaska

John Sandor, Commissioner Department of Environmental Conservation, State of Alaska

Carl Rosier, Commissioner Department of Fish and Game State of Alaska Michael A. Barton, Regional Forester USDA Forest Service

Steven Pennoyer, Regional Director National Oceanic & Atmospheric Administration

Curtis McVee, Special Assistant to the Secretary for Alaska Department of the Interior

Opening Statements

- 1. NRDA Studies
- 2. Restoration Projects for 1992
- Fiscal Issues Summary of the status of the Joint Fund
- 4. Organization Administrative Structure Financial Management/Process
- 5. Public Participation 3 Month Plan Advisory Group - Charter & Membership Process Public Information Center Future Status
- 6. Simpson Bldg. with support staff (CACI)
- 7. Permanent Executive Director
- 8. Formal Adoption of the Operating Procedures

9. Public Comment

#### EXXON VALDEZ OIL SPILL SETTLEMENT

#### TRUSTEE COUNCIL

## OPERATING PROCEDURES

## 1. BASIC GOVERNING PROCEDURES:

The current edition of <u>Roberts Rules of Order Revised</u> will be used as the basic governing procedures of the Council. All provisions of these rules of order will apply to Council deliberations except when they are amended by unanimous agreement of the Council.

## 2. <u>MEMBERSHIP</u>:

The Council will consist of one member to be designated from each of the following agencies: the United States Departments of Interior, Agriculture and Commerce (National Oceanic and Atmospheric Administration) and the Alaska Departments of Fish and Game, Environmental Conservation, and Law. It is the intent of these procedures that the member designated by each agency shall sit at Council meetings. Each agency shall designate an alternate member to sit at Council meetings and exercise voting privileges on behalf of the agency's Council member in the event a vacancy in the position designated as Council member, illness, or other reason precludes a member from attending. Such designation shall be made in writing delivered to the Co-chairs.

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#### 3. <u>QUORUM</u>:

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A quorum of two-thirds (2/3) of the total Council membership, i.e. four Council members, including two state members and two federal members, shall be required to convene a meeting and conduct business. Provided, that all decisions as described in section 5, shall be made by the unanimous agreement of the Trustee Council members or their properly designated alternates who have not abstained.

#### 4. <u>PRESIDING OFFICER:</u>

The presiding officer of Council meetings shall alternate between two Co-chairs, one selected by the federal Council members and one selected by the state Council members. The Co-chairs, including the Co-chair presiding at a meeting, may participate in discussion and debate at Council meetings and shall vote on all questions coming before the Council.

## 5. ACTION/RULES OF VOTING:

All matters coming before the Council which require a vote of the Council to take an action, make a recommendation, approve or disapprove an item or otherwise render a decision shall require the unanimous approval of all of the Council members or their properly designated alternates who have not abstained pursuant to this paragraph. Council action shall be taken at a duly convened meeting, except as provided in Paragraph 11.

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Abstaining from voting shall not be permitted by any Council member unless there is an affirmative vote of all members of the Council and either of the following conditions exists: (a) there is an apparent, or declared, conflict of financial interest on the part of a Council member or (b) voting by the member would constitute a violation of applicable federal or state law. In the event a Council member believes he or she must abstain from participating in a Council decision, the Council member may request that the decision be deferred until that member has an opportunity to designate an alternate who is eligible to vote.

## 6. <u>MEETINGS:</u>

Meetings of the Council shall be held at times and locations determined by the Council.

The Council Co-chair who will chair the next meeting shall prepare a proposed agenda and circulate it to the Council at least three weeks prior to the meeting. The final agenda for the meeting will be determined at the meeting by the Council. The agenda for each meeting will include a reasonable opportunity for public comment.

Notice of each meeting and the proposed agenda shall be given to the public prior to the meeting by publication of a notice and the proposed agenda in one or more newspapers of general circulation in at least the following cities: Anchorage, Chenega, Cordova, Fairbanks, Homer, Juneau, Kenai, Kodiak, Seward, and Valdez and

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Whittier and by distribution of the notice and proposed agenda to one or more radio stations in each of these cities.

Meetings of the Council shall be open to the public, except for matters considered in executive session. Teleconferencing will be used to the extent feasible to allow public participation in the cities listed above.

## 7. EXECUTIVE SESSIONS:

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Executive sessions shall be kept to a minimum and shall be used only for discussion of matters concerning confidential personnel issues, litigation or legal advice, confidential archaeological information, confidential fisheries information or such other matters included under AS 44.62.310(c) or other applicable laws.

## 8. <u>COUNCIL MINUTES:</u>

Council minutes shall be maintained by the Co-chairs, at the direction of the Co-chair who chairs a particular meeting. All meetings of the Council shall be recorded electronically or by court reporter, and said recordings shall, along with the written, approved minutes, constitute the official record of the Council's actions.

## 9. MAILING LIST AND PUBLIC NOTIFICATION:

The Council shall maintain a basic mailing list including each member of the Council, each Council staff member and each member of the Public Advisory Group. In addition, the Co-chairs shall

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develop a listing of other interested government agency officials, Native organizations, private and public interest groups, and individuals. This general mailing list shall be organized and used to facilitate participation in Council decisions and recommendations by those parties who are directly affected by Council decisions and actions.

## 10. WORK ASSIGNMENTS:

The Co-chairs, with the unanimous consent of the Council, shall determine appropriate means of accomplishing the work of the Council and shall employ its resources accordingly.

## 11. INTERIM EMERGENCY ACTION:

In the event of an emergency requiring Council action before a meeting can be held in accordance with the procedures described herein, the Co-chairs may poll the Council and take action by unanimous agreement. This shall be done jointly by the Co-chairs and may be accomplished by teleconference or other method of contacting each member.

## 12. JOINT TRUST FUND PROCEDURES:

A joint trust fund shall be established and administered by the Council. All settlement monies designated for the joint trust fund shall be deposited in the Court Registry Investment System (CRIS) and otherwise handled in compliance with applicable court orders.

## 13. <u>RESOURCE RESTORATION COORDINATION GROUP:</u>

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There is established a Resource Restoration Coordination Group (RRCG). Each Council member shall designate one member of the RRCG. The duties of the group shall include:

- a. Restoration planning, including plan development and evaluation;
- b. Facilitation of public participation in planning and plan implementation;
- Oversight of scientific needs and scientific content of restoration, including peer review as needed;
- d. Through agency counsel, identification of legal requirements for project completion;
- Implementation, oversight, evaluation and monitoring of restoration activities;
- f. Oversight of Oil Spill Information Center (OSPIC), including, if appropriate, the transfer to an alternate facility;
- g. Maintenance of necessary administrative records;
- Budgetary assistance to the Council, including tracking internal and project costs and expenditures;
- i. Interaction and coordination with pertinent state and federal financial teams and agencies regarding fiscal matters; and
- j. Such other duties as are assigned by the Council.

The Council shall appoint an administrative director of the RRCG. The duties of the administrative director of the RRCG shall include:

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- a. Coordination of budgetary and contractual matters with financial teams and the Council;
- Acting as liaison with the Council and the Public Advisory Committee;
- c. Supervision of administrative staff;
- d. Participation on the RRCG as non-voting chair;
- e. Interaction with the public and public officials; and
- f. Such other duties as are assigned by the Council.

## 14. AMENDMENT OF PROCEDURES:

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These operating procedures may be modified by unanimous agreement of the Council at any time.

## PROPOSED OIL YEAR 4 (March 1992 - February 1993) DAMAGE ASSESSMENT AND RESTORATION WORK PLAN

Our first formal meeting to begin decide on the contents of an oil year (OY) 4 work plan occupied two weeks in early December 1991. During that meeting a proposed list of projects totaling approximately \$30 million was reviewed. Some projects were eliminated or reduced in scope so that by the end of the meeting the proposed plan was reduced to about \$25 million. This figure was presented to the Trustee Council on December 19, 1991. Our interpretation of the Council's guidance was that the cost of the proposed OY4 program needed to be reduced further. On January 2 and 3, 1992, the group met to reevaluate the proposed plan. After many hours of intense review and discussion, we reduced the scope and eliminated projects resulting in a total of about \$17 million.

#### INJURY ASSESSMENT ACTIVITIES

## Continuation

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Full evaluation of the injuries to resources necessitates additional field efforts this year and will require closeout activities in 1993. Nine injury assessment projects are proposed to be continued with field and laboratory work costing \$2.8 million. These include projects on sockeye and pink salmon, mussels, shrimp, river otters, hydrocarbon contamination, with associated technical support for data base management and geographic information systems.

#### Closeout

Injury assessment studies need to be closed out to provide the results of multiyear studies to the public and the scientific community and to provide the basis upon which to plan and implement a restoration program. Thirty-one damage assessment projects are proposed to be completed, at a cost of \$4.9 million, with final reports due this year. These require analyzing existing data and writing reports. A few will need additional fieldwork. These projects include 9 bird, 8 subtidal, 8 fish and shellfish, 3 marine mammal, 2 coastal habitat and 1 archaeology study.

The costs reflect a concerted effort to conclude injury assessment and to synthesize the results of the approximately \$100 million in research into a form useable by the public, the scientific community, and management agencies.

## **RESTORATION ACTIVITIES**

Restoration projects have been subdivided into the following categories: (1) monitoring recovery of injured resources; (2) providing information that will improve management of injured resources; (3) manipulating species populations and/or habitats to enhance recovery or productivity, and (4) identifying habitats that

require protection either through acquisition or changes in agency management action.

## Recovery Monitoring

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> Monitoring includes those projects that monitor species or environments for which injury has been established and recovery or lack thereof can be measured. Ten projects have been proposed at a cost of \$4.5 million. These cover subtidal and coastal environments, anadromous fish, sea and river otters, sea birds, and bald eagles.

## Restoration Implementation

## A. Management Actions

These projects involve changes in management actions to restore injured resources. There are 7 projects at a cost of \$2.1 million cover anadromous fish, rockfish, herring, archaeology, and harbor seals.

## B. Manipulation/Enhancement

These projects are intended to increase in rates of production or total population size above that which would occur in an entirely natural environment. Two projects are proposed for pink and chum salmon at a cost of \$426,000. Additional implementation proposals are being developed and will be added in the near future.

## C. Habitat Acquisition and/or Protection

These projects provide information on high-value habitats and habitat needs for injured resources. They will provide information needed to plan and implement habitat protection measures. Four projects at a cost of \$1.8 million are proposed to provide information on marbled murrelet, harlequin duck, anadramous fish, and general upland habitat to support restoration decisions.



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645 G Street # Anchorage, Alaska 99501 # (907) 278-8008 # Fax: (907) 276-7178

# Date:January 10, 1992Subject:Public Meetings on Exxon Valdez RestorationContact:L.J. Evans at 563-1126 or Mary McGee at 278-8008

# Exxon Valdez Restoration Meetings Planned

A series of public meetings about restoration of natural resource damage from the Exxon Valdez oil spill will be held in January and February. The meetings will be led by staff to the Trustee Council, established to manage Exxon Valdez oil spill restoration programs following the settlement among Exxon and the state and federal governments.

The meetings will focus on development of a public participation program that optimizes the ability of the public to understand and provide comments regarding restoration program development and implementation. Among specific items on the agenda are the development of a charter for a public advisory group to the Trustees, which is required by the settlement.

Meetings are scheduled in Chenega Bay, Cordova, Homer, Kodiak, Seward, and Valdez, with teleconferencing to English Bay, Port Graham, Tatitlek, Seldovia, Whittier, and villages on Kodiak Island. A meeting is also scheduled in Juneau to facilitate input by state legislators, and meetings will be scheduled in Anchorage and Fairbanks for those who do not live in the spill area.

An initial series of meetings, concentrating on general restoration information, was held in 1990. The third round of meetings, scheduled for spring 1992, will be on the restoration programs themselves.

The meeting schedule:

Cordova	Monday, January 20, 7:00 p.m.
	Council Chambers, Cordova Public Library

Juneau Wednesday, January 22, 7:00 p.m. Centennial Hall, Egan room

- More -

Toll-free (800) 478-SPIL (Alaska residents) = (800) 283-SPIL (outside Alaska)

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Chenega Bay	Monday, January 27, 11:00 a.m. Chenega Community Center
Kodiak	Thursday, January 30, 7:30 p.m. Borough Assembly Chambers
Homer	Monday, February 3, 7:00 p.m. City Council Chambers
Valdez	Tuesday, February 4, 1992 7:00 p.m. Civic Center Conference Room
Seward	<b>Thursday, February 6, 7:00 p.m.</b> City Council Chambers

Meeting dates and times in Anchorage and Fairbanks will be made public as soon as details are complete. For more information, please contact L.J. Evans at 563-1126 or Mary McGee at 278-8008.

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Toll-free (800) 478-SPIL (Alaska residents) = (800) 283-SPIL (outside Alaska)

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