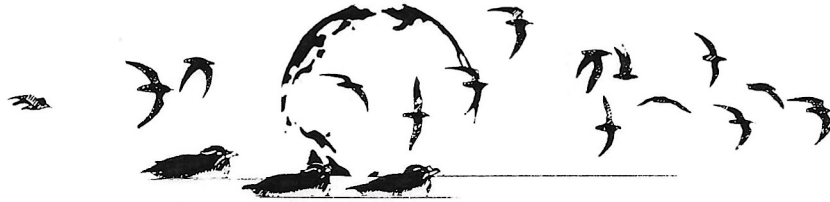


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# Pacific Seabird Group



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DEDICATED TO THE STUDY AND CONSERVATION OF PACIFIC SEABIRDS AND THEIR ENVIRONMENT

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Craig S. Harrison  
Vice Chair for Conservation  
4001 North Ninth Street #1801  
Arlington, Virginia 22203

August 10, 1995

BY FAX (hard copy to follow)  
Molly McCammon  
Exxon Valdez Oil Spill Trustee Council  
645 G Street, Suite 401  
Anchorage, Alaska 99501-3451

Re: Comments on Draft 1996 Work Plan

Dear Ms. McCammon:

This letter contains the Pacific Seabird Group's (PSG) comments on the draft 1996 Work Plan. PSG is an international organization that was founded in 1972 to promote knowledge, study and conservation of Pacific seabirds. PSG draws its members from the entire Pacific Basin, and includes biologists who have research interests in Pacific seabirds, state and federal officials who manage seabird populations and refuges, and individuals with interests in marine conservation. PSG has hosted symposia on the biology and management of virtually every seabird species affected by the Exxon Valdez oil spill, and has sponsored symposia on the effects of the spill on seabirds.

As you know, the Trustee Council has provided a grant to PSG to host a workshop on the science of seabird restoration, and that a group of international experts will make recommendations of seabird restoration this autumn. The following comments are made on behalf of PSG, and should not be considered to be part of the workshop unless the workshop participants independently make similar recommendations.

## I. General Comments

### A. List of Injured Species

The draft work plan states that the Trustee Council is reviewing a recommendation to add Kittlitz's Murrelets, four species of loons and three species of cormorants to the list of injured seabirds. PSG welcomes a wholesale reappraisal of the list of injured seabirds, and recommended such an approach in its comments on the draft restoration plan and the draft Environmental Impact Statement.<sup>1/</sup>

The only official federal estimates that we know of regarding numbers and species of birds that were damaged by the spill is to be found in 56 Federal Register 14687 (April 11, 1991), which lists 35,000 dead birds. If the Trustee Council (or any member agency of the Trustee Council) has converted the list of dead seabirds into estimates of population losses for each species, we would appreciate receiving a copy of those estimates. We could not find any specific estimates by the Trustee Council, FWS, or ADF&G in the 1994 draft or final environmental impact statements, or the draft or final restoration plans. There are, however, references to estimates by Piatt et al. (1990) and Ecological Consulting, Inc. (1991).<sup>2/</sup> We do not understand that either of these estimates have been endorsed by the Trustee Council.

To date, the Trustee Council has considered restoration projects only for five species that account for about 21,000 (60%) of the oiled birds. Restoration should be considered for the other 14,000 dead birds, including dozens of species. The Trustee Council stated "in general, the number of dead birds recovered probably represents only 10-15% of the total numbers of individuals killed."<sup>3/</sup> We concede that this is a crude method of assessing damage, but it leads to a conclusion that the Trustee Council has failed to consider restoring the 90,000 to 140,000 seabirds that were killed that are not common murrelets, harlequin ducks, marbled murrelets, black oystercatchers or pigeon guillemots. The draft environmental impact statement concedes injuries for a long list of seabird species for which no restoration whatsoever seems to be considered, and the draft Restoration Plan acknowledges that the current population status for many of those species is "unknown" and "has not been

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<sup>1/</sup> Letter to EVOS Trustee Council from PSG (August 6, 1993); Letter to EVOS Trustee Council from PSG (July 29, 1994).

<sup>2/</sup> Final Environmental Impact Statement, chapter 3, p. 11.

<sup>3/</sup> Draft Restoration Plan, p. B-16.

studied."<sup>4/</sup> We suggest where we know any species was injured but we do not know its population status, the Trustee Council should consider spending funds to restore it. We do not know of any reasoned basis in law, policy or biology for ignoring them. For populations that were injured but have returned to baseline levels naturally, we agree with NOAA's proposed natural resource rules.<sup>5/</sup> Under those rules, the goal of restoration is to make the environment and the public whole for injuries to natural resources. They contemplate compensating the environment and the public for interim lost use of resources pending recovery from injury, including replacement projects to compensate for uses lost during the recovery period.

As a reference point for an oil spill that resulted in 14,000 oiled seabirds, the federal government settled the Apex Houston case in 1994 concerning a spill that may have damaged about 4,200 seabirds (the actual number being an unknown multiple of 4,200) for about \$6 million. If Alaska seabirds are worth as much as California seabirds, the Trustee Council should spend at least \$18 million of the trust funds to restore seabirds that to date have been ignored.

#### **B. Predator Removal From Present and Former Seabird Colonies**

We understand the overall goal is to restore all injured resources and services,<sup>6/</sup> and that multi-species restoration is favored. However, the Trustee Council has proceeded since its inception to attempt to restore seabirds on a species by species basis, and has ignored all but five injured species. As we have suggested repeatedly, a proven means of increasing most of the seabird populations damaged by the spill would be to remove rats, foxes and other alien creatures from colonies and former colonies to allow the islands to regain their natural biodiversity. This multi-species approach would benefit the entire injured community of seabirds that would satisfy the Trustee Council's own unimplemented goals. The Canadian Wildlife Service is using funds from the Nestucca oil spill to restore seabird habitat in the Queen Charlotte Archipelago, British Columbia, by removing introduced rats and raccoons.

The Trustee Council has acknowledged that seabirds wintering in Prince William Sound died as a direct result of the spill, stating "perhaps as many as 25 percent of the total birds wintering in the oiled zone of PWS were killed directly by the

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<sup>4/</sup> Draft Restoration Plan, pp. B-41 to B-42.

<sup>5/</sup> 60 Fed. Reg. 39804-34 (August 3, 1995).

<sup>6/</sup> Restoration Plan, p. 25.

spill . . . ."<sup>7/</sup> Moreover, the Executive Director notes that Project 96021 will "establish wintering areas of common murres, which could lead to the identification of restoration measures to maintain and protect this injured species."<sup>8/</sup> The Trustee Council acknowledges that wintering and breeding areas for murres (and other seabirds) may not coincide, and that birds wintering in PWS (but possibly not breeding in the "spill zone") were killed by the spill. It seems that if the breeding areas of wintering murres are not necessarily known, it is premature to state that the benefits of predator removal at Segum Island "to spill-affected populations is weak."<sup>9/</sup> In other words, the Trustee Council does not use consistent logic in stating that wintering birds died as a result of the spill, but makes no effort to restore those populations.

The consent decree contemplates enhancement or compensatory restoration in areas that may be far from the spill area. The techniques are proven and have an extremely high benefit/cost. Kaligagan Island's seabird population increased by 125,000 burrowing birds after foxes died out. Project 95041 has demonstrated the capacity for restoration by removing introduced foxes. Bird populations dramatically increased at Nizki-Alaid Island in the western Aleutians after foxes were removed, including particularly impressive increases for loons, Pelagic Cormorants, Aleutian Green-winged Teal, Common Eiders, Glaucous-winged Gulls, and Tufted Puffins.<sup>10/</sup> One reason that the harm caused by the oil spill is biologically important is because the intentional introduction of foxes on other seabird colonies during the past 150 years has greatly diminished the baseline population of seabirds in Alaska.

### C. Genetic Studies to Identify Geographic Area of Restoration

Virtually all the bird species killed in the spill are migratory. We have long objected to limiting seabird restoration to the geographic area that the Trustee Council has identified as the spill area. We believe that common murres throughout their range in the Gulf of Alaska and the Aleutian Islands are

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<sup>7/</sup> Final Environmental Impact Statement, Chapter 3, p. 11 (emphasis added).

<sup>8/</sup> Draft Fiscal Year 1996 Work Plan, p. A-29.

<sup>9/</sup> Draft Fiscal Year 1996 Work Plan, p. A-30.

<sup>10/</sup> Byrd, G.V., J.L. Trapp and C.F. Zeillemaker. 1994. Removal of introduced foxes: A case study in restoration of native birds. Trans. 59th No. Am. Wildl. and Nat. Res. Conf. 317-321.



genetically linked, and perhaps should be considered to be a single population. Colonies in the Aleutian Islands are a source of birds that can and will recolonize damaged colonies further east. As discussed above, the Trustee Council acknowledges that wintering birds in Prince William Sound could come from colonies elsewhere.

The Trustee Council has used questionable assumptions about the nature of the murre population(s) in the Gulf of Alaska to limit the geographic area of seabird restoration. We suggest the Trustee Council issue a request for proposals asking geneticists to study murres in the Gulf of Alaska to determine whether they should be considered to be one or more populations. This study would assist in determining whether murres outside the spill area are sources of recruits to damaged colonies within the oil spill area. Similar issues have also been raised concerning murre restoration from California to Washington, and a study of all common murre populations in the North Pacific, perhaps funded jointly by several oil spill trustee councils, would be welcome.

#### **D. Habitat Acquisition**

We have long supported purchasing the habitat of seabirds and other injured species, and have provided a list of seabird colonies that should be considered for purchase.<sup>11/</sup> We are particularly interested in the on-going small parcel (under 1,000 acres each) habitat acquisition process, and hope that many of the parcels eventually purchased will be seabird colonies. We are concerned that much of the funds to purchase large parcels have been spent to purchase habitat of species that were not damaged by the oil spill. For example, the recent press release by the Secretary of the Interior concerning land purchases on Kodiak focused on brown bears. We are unaware that brown bears were harmed by the spill, and question whether such purchases are legal under the consent decree.

#### **II. Comments on Proposals**

For the most part, we base the following comments on the draft Fiscal Year 1996 Work Plan, which has only brief summaries of the proposed projects. Given our limited amount information, we focus primarily on policy and general issues, and cannot comment on issues such as study design.

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<sup>11/</sup> Letter to EVOS Trustee Council from PSG (February 10, 1994).

**Project 96101 (Removal of Introduced Foxes From Islands)**

We strongly believe that this project should be funded. While Seguam Island may be some distance from the furthest extent of the spill in Invenof Bay, South Alaska Peninsula, it would restore black oystercatchers, pigeon guillemots and common murres and probably many other species that were oiled. We believe this project falls within the policy that allows restoration of migratory seabirds when the most effective restoration actions for an injured population are in a part of its range outside the spill area.

The Trustee Council has spent considerable effort and funds on monitoring seabird colonies within the spill area. The fact that there remains at least four species that have not recovered indicates that existing restoration efforts have met with little or no success. Because predator removal activities is a technique that has produced definitive positive results, it seems unwise to terminate a project that may ultimately restore murre colonies both within and outside the narrowly defined "spill zone."

**Project 96159 and 96144 (Monitoring of Seabirds)**

While believe that monitoring is an important component of restoration, especially to monitor the progress of active restoration activities, we take no position on these projects. We are somewhat confused by the statement that Project 96144 is rated a "lower priority" but nevertheless will receive all of the \$101,700 it requested for FY 96.

**Project 96163, 96021 (Seabird/Forage Fish; Seasonal Movements)**

Because bird populations may be depressed due to disruptions in food supplies, we support studies of the influence of forage fish and other prey on injured species. We believe that the project to determine the foraging locations of murres and tufted puffins to be directed related to the forage fish issues. This is an expensive project, and we believe that the Trustee Council is wise to assess the results this fall before agreeing to long-term funding. We especially support monitoring the movements of wintering populations, especially because we believe this is an activity that agencies have rarely, if ever, conducted in the past.

One question that should be addressed in the forthcoming comprehensive review is what restoration or management actions might be taken if this study concludes that forage fish populations are limiting recovery of murres or other seabirds. We are unaware of any potential or proven techniques that would increase forage fish populations. If forage fish are the limiting factor near Prince William Sound, would the Trustee

Council then determine that restoration techniques that are known to be effective might be funded outside of the narrowly defined spill zone?

**Projects 96142 and 96148 (Basic Biology of Kittlitz's Murrelet)**

We strongly support investigating the status and ecology of this species. A recent article in Pacific Seabirds suggested that Kittlitz's Murrelet may be the most damaged seabird. We understand that little work has been done on this species, and that perhaps even its distribution is poorly known. We defer to the Chief Scientist's recommendation regarding which of the two proposals is best, since we have read neither.

**Projects 96161 and 96427 (Harlequin Duck Recovery)**

We take no position regarding these studies. We understand that there is some question whether harlequin duck populations were damaged by the oil spill.

**Projects 96031 and 96122 (Marbled Murrelets)**

We support restoration efforts for this species, which is threatened in the lower 48 states and western Canada. Without more information, we defer to the Chief Scientist's concerns about the quality of the murrelet habitat model.

We believe that the Trustee Council should fund a two-year study on the extent to which marbled murrelets are drowned in the net fisheries offshore the Copper River Delta and in Prince William Sound. A better understanding of this problem would assist federal and state authorities in crafting reasonable area and temporal closures for the fisheries that drown marbled murrelets. Option 9 of the Restoration Framework (April 1992) seeks to "minimize incidental take of marine birds by commercial fisheries" and suggests the Trustee Council "design and implement a sampling program throughout the spill area to obtain data on the significance, level and distribution of annual driftnet mortalities." PSG previously stated the following:

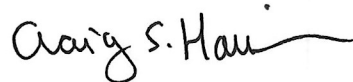
PSG strongly agrees that federal and state management authorities should use their regulatory powers to modify human uses of resources or habitats that the spill injured. We note that such efforts would not exhaust any of the restoration trust fund but would merely require that the state and federal natural resource agencies enforce the laws or redirect their programs. For example, we agree that . . . authorities should manage commercial fisheries to reduce the incidental mortality of Marbled Murrelets in drift gillnets (Option 9). We note that taking Marbled

Murrelets without a permit violates the Migratory Bird Treaty Act.<sup>12/</sup>

In written testimony to the House Merchant Marine Committee in its oversight of Prince William Sound Restoration, PSG stated "the National Marine Fisheries Service should enforce the Migratory Bird Treaty Act to protect marbled murrelets in Prince William Sound that drown in gillnets."<sup>13/</sup> It seems anomalous to spend tens or even hundreds of millions of dollars to purchase the nest sites of marbled murrelets while fishermen drown them offshore in nets. A project to learn how many murrelets are drowning in net fisheries would shed a great deal of light on why this species is apparently not recovering.

PSG thanks the Trustee Council for this opportunity to provide its views and expertise on these important issues.

Sincerely,



Craig S. Harrison

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<sup>12/</sup> Letter to EVOS Trustee Council from PSG (June 3, 1992).

<sup>13/</sup> Letter to Gerry E. Studds, Chairman Committee on Merchant Marine and Fisheries, from PSG (March 19, 1993).