

## **Montrose Settlements Restoration Program Trustee Council**

### **Meeting Summary**

May 23, 2001

Long Beach, California

10:00 a.m.

### **Attendance**

The following primary and alternate Trustee Council members were present: Bill Conner (National Oceanic & Atmospheric Administration), John Cubit (National Oceanic & Atmospheric Administration), Dan Welsh (U.S. Fish & Wildlife Service), Patty Velez (California Department of Fish and Game), Lance Kiley (California State Lands Commission), Suzanne Goode (California Department of Parks and Recreation), Tim Setnicka (National Park Service), Kate Faulkner (National Park Service). Also present were: Chuck McKinley (U.S. DOI, Office of the Solicitor), Katherine Pease (National Oceanic & Atmospheric Administration), Kolleen Bannon (National Oceanic & Atmospheric Administration), Greg Baker (National Oceanic & Atmospheric Administration), Jennifer Boyce (National Oceanic & Atmospheric Administration), Laura Valoppi (U.S. Fish & Wildlife Service), Michael Martin (California Department of Fish and Game), Andy Yuen (U.S. Fish & Wildlife Service), and Scott Sobiech (U.S. Fish & Wildlife Service).

### **Administrative Issues**

#### Cost Reimbursement

The Trustee Council approved the procedures for past and future costs proposed by Katherine Pease. The plan proposed that:

#### **Past Costs**

1. The Trustee Council adopt Bill Conner's January 18, 2001 proposed cost reimbursement guidelines. Those guidelines are:

- (1) cap costs at \$35 million
- (2) pro rate costs among trustees if past costs exceed \$35 million
- (3) include all assessment costs
- (4) exclude post-judgement interest
- (5) exclude litigation support costs
- (6) use NOAA's new (lower) overhead costs
- (7) include NPS vessel costs.

2. Any expenditure in the update Rubino cost report will be considered a reasonable cost without further examination.
3. Once the updated Rubino cost report is completed, each trustee council member and members of the cost reimbursement committee will given a copy of the report with two months from receipt of the report to determine whether other, legitimate costs were left out.
4. Any agency wishing to supplement its costs has an additional two months (which can be extended by the concurrence of all trustee council members) to provide the additional documentation. Additional documentation shall consist of time sheets, invoices, travel vouchers, etc. If the supporting documentation does not clearly indicate that the work was done for the Montrose damage assessment, there must be an accompanying affidavit so indicating. An affidavit without some form of supporting documentation may be considered insufficient. The additional documentation will be sent to the cost committee for its review. Should the cost committee disallow any cost, it will explain why the cost was disallowed and give the submitting agency an opportunity to provide additional justification for that cost.

#### Future Costs

1. In-house costs associated with preparing for and attending trustee council meetings or meetings of working groups or committees formed by the trustee council or costs associated with completing tasks assigned by the trustee council are reasonable costs related to restoration and are reimbursable.
2. If a trustee agency wishes advance funding to support in-house activities related to Montrose restoration, it will provide a projected budget for a set time period (not to exceed one year) for trustee council approval. The projected budget will consist of line item estimates. At the end of the budget time period approved by the trustee council, the trustee agency will provide cost documentation supporting the expenditure of the funds. If funds are not completely exhausted by the end of the time period, the money can be used to cover in-house costs for the next time period. There will be no limit on the number of advance funding requests that can be made during the time period required to complete restoration.
3. Each trustee agency will establish a system to track restoration related costs. Regardless of the system adopted, there must be some type of contemporaneous notation that the cost is for Montrose restoration. The goal is not to impose unnecessary paperwork on a trustee, but to permit an independent auditor to certify that such costs were Montrose related. If a trustee agency is unsure whether its proposed cost tracking system is acceptable, that trustee agency should contact the cost committee to discuss the system.
4. Agencies requesting reimbursement of past costs should submit such request at least once a

year, if not more frequently.

5. Whether an agency is justifying expenditures of advanced money or seeking reimbursement of costs, it must submit specific supporting documentation such as time sheets, travel vouchers, invoices, etc. The cost committee will review that documentation within one month of receipt. Should the cost committee disallow any cost, it will explain why the cost was disallowed and give the submitting agency an opportunity to provide additional justification for that cost.

Katherine Pease will include a list of acceptable costs to the above procedures.

The Trustee Council signed Resolution 01-03 approving the reimbursement of past damage assessment costs for NOAA. The Trustee Council recognized that NOAA established a reimbursable account and has expended at least \$26.5 million (reimbursable account costs) from that account and expected repayment of reimbursable account past costs upon successful conclusion of the litigation. The Resolution authorizes the following payment schedule for NOAA's reimbursable account past costs:

- (a) \$4 million on January 2, 2002;
- (b) \$4 million on January 2, 2003;
- (c) \$4 million on January 2, 2004;
- (d) \$4 million on January 2, 2005;
- (e) \$4 million on January 2, 2006;
- (f) \$4 million on January 2, 2007;
- (g) \$2.5 million on January 2, 2008

### Restoration Planning

The Trustee Council agreed to attempt to follow the following schedule:

- issuing a "public scoping document" during the week of July 16, 2001;
- holding public meetings during the months of September and October; and
- making the Draft Restoration Plan available for public review and comment in March, 2002.

Bill Conner will arrange a meeting with the EPA to discuss how the Trustee Council might coordinate restoration efforts with the EPA. Patty Velez, Chuck McKinley, and Lance Kiley expressed that they would like to attend the meeting.

### Outreach Strategy

Trustee Council members will review the initial fact sheet and give their comments to Greg Baker by Wednesday, June 6.

Trustee Council members will review the test web page and give their comments to Kolleen Bannon or Greg Baker by Wednesday, June 13.

Greg Baker asked Council members to contact him with suggestions regarding parties to place on the distribution mailing list and any mediums where the fact sheet may be distributed.

Lance Kiley will look into the possibility of utilizing the State Lands Commission automated mailing system to distribute the fact sheet and/or future mailings.

Program Staffing

Bill Conner reported that NOAA will be advertising for a GS level 13/14 program manager through the Commerce Opportunities On Line (COOL) system on or around May 29. The position will be open to both Status and Non-Status applicants. The position will be advertised for 45 days as a non-supervisory physical scientist. The chosen program manager will report to Bill Conner at NOAA. Applicants will be asked 22 yes or no questions and then ranked by a scoring system. Four certificates (highest ranking applicants and their application package) will be presented to Bill Conner by mid-late July. There will be a 30 day period to make a decision once the certificates are received. The Trustee Council will meet on August 1, or alternatively, on August 22 to review the certificates and suggest a preferred applicant to fill the position.

The following council members expressed that they would like to be involved in the selection process: Dan Welsh; Patty Velez; Tim Setnicka; Suzanne Goode; and Bill Conner

Bill has asked Council members for suggestions to advertise the position beyond the COOL system.

Additional Staffing

The Trustee Council agreed on the following initial staffing plan for the restoration team:

<u>Position</u>	<u>Hiring Agency</u>	<u>Location</u>
Program Manager	NOAA	LB
Wildlife Biologist	FWS	Carlsbad (1-2 days/wk in LB)
Marine Biologist	Cal. Fish & Game	LB
Senior Administrative Officer	NPS	LB
Part Time Secretary	NOAA	LB

It was agreed that the hiring of all staff members will be a joint decision between the program

manager and the contributing agency.

Note: See appendix:

-Dan Welsh's email, subject: May 23 Meeting Summary, June 15, 2001

-William Conner's email, subject: May 23 Meeting Summary, June 15, 2001

The Agencies will begin their hiring process immediately.

Tim Setnicka will approach the CINPS administrative officer about commencing work for the MSRP by August 1, 2001.

### Contracting

The Trustee Council agreed that outside support is needed to convene the Scientific Review Boards, obtain public outreach and education assistance, and produce the draft restoration plan. NOAA will issue a Statement of Work requesting Industrial Economics to prepare a work plan and cost estimate for these activities. The Council will review the work plan and cost estimate prepared by Industrial Economics before giving its final approval.

The Trustee Council agreed that there will be a \$100.00 hourly rate ceiling for all Scientific Review Board members. The ceiling may be exceeded with the consent of the Trustee Council.

### NCI Eagle Pilot Project

Kate Faulkner will distribute the NCI eagle reintroduction feasibility study invitation for public input letter to the Trustee Council after it is reviewed by Chuck McKinley. Once the letter is made available to the public there will be a 60 day comment period.

The Trustee Council unanimously agreed to reimburse the FWS who will provide funding to convene a five to six member Scientific Review Board to meet for an initial session to review the feasibility study. The Council further agreed that there will be a \$5,000.00 cap per member with a total authorization of \$30,000.00.

### **Next Council Meeting**

The next Montrose Settlements Restoration Program Trustee Council meeting will be held in Long Beach on Wednesday, August 1, 2001 to review the certificates received for the program manager position. If the certificates are not available on August 1, the Trustee Council will alternatively meet on Wednesday, August 21, 2001.

**Subject: Re: May 23 meeting summary**

**Date:** Fri, 15 Jun 2001 10:45:29 -0700

**From:** <Daniel\_Welsh@fws.gov>

**To:** "Kolleen Bannon" <Kolleen.Bannon@noaa.gov>

**CC:** Chuck Mckinley <Chuck\_Mckinley@ios.doi.gov>, Greg Baker <Greg.Baker@noaa.gov>, jdecker@dfg.ca.gov, Jennifer Boyce <Jennifer.Boyce@noaa.gov>, John Cubit <John.Cubit@noaa.gov>, "Kate Faulkner@nps.gov" <Kate\_Faulkner@nps.gov>, "KileyL@slc.ca.gov" <KileyL@slc.ca.gov>, "Laura\_valoppi@fws.gov" <Laura\_valoppi@fws.gov>, "pvelez@ospr.dfg.ca.gov" <pvelez@ospr.dfg.ca.gov>, "sgoode@csp-angeles.com" <sgoode@csp-angeles.com>, "tim\_setnicka@nps.gov" <tim\_setnicka@nps.gov>, William Conner <William.Conner@noaa.gov>, Andy\_Yuen@r1.fws.gov, Scott\_Sobiech@r1.fws.gov, MaryEllen\_Mueller@fws.gov

Kolleen,

Thanks for preparing the meeting summary. I still have concerns about the language used to describe the process for hiring restoration program staff, which reads: "It was agreed that the hiring of all staff members will be a joint decision between the program manager and the contributing agency." My concern is that the term "joint decision" is not well defined. This may merely reflect the fact that we had limited time to discuss the subject at the meeting and did not define the term. If so, go ahead and keep the language the way you have it with the understanding that the FWS would like further discussion of what is involved in a joint hiring decision. Below I describe our hiring process and the way we would expect to involve the project manager in the hiring decision for the Wildlife Biologist position at Carlsbad.

Our suggestion on alternative language was: "It was agreed that the program manager will assist the hiring agency in reviewing applications and will have input in the selection of personnel hired for the restoration team." We offered this alternative language because we think it is less vague and better reflects the Federal hiring process that we are likely to follow, which involves the following steps:

- the field office develops a Position Description and gets it approved by the Regional Office (this step is in progress per the agreement reached at the Trustee Council Meeting to proceed with hiring staff);
- the vacancy is announced through the Office of Personnel Management;
- the personnel office does the initial screening and ranking of applications and transmits approved applications to the field office;
- the field office reviews the approved applications, interviews applicants and checks references, and then makes a selection (at this step the project manager could be involved in the review of applications, could participate in interviews and could provide input on which candidate to select, but the final decision would be made by the field office management);
- the selection is reviewed by the personnel office, and if approved, the selected candidate is notified and given an opportunity to accept or decline the job offer.

Since we have started the hiring process, I need to know right away if anyone on the Trustee Council is uncomfortable with the process outlined above to the point where you would vote not to allocate funding this position with Montrose settlement money.

Thanks, Dan

"Kolleen  
Bannon"  
<Kolleen.Bannon  
@noaa.gov>

06/07/2001  
08:28 AM

"KileyL@slc.ca.gov"

"sgoode@csp-angeles.com"

jdecker@dfg.ca.gov,

To: William Conner  
<William.Conner@noaa.gov>,  
"tim\_setnicka@nps.gov"  
<tim\_setnicka@nps.gov>,  
"Kate\_Faulkner@nps.gov"  
<Kate\_Faulkner@nps.gov>,  
"pvelez@ospr.dfg.ca.gov"  
<pvelez@ospr.dfg.ca.gov>, Daniel\_Welsh  
<Daniel\_Welsh@fws.gov>,

<KileyL@slc.ca.gov>

<sgoode@csp-angeles.com>, John Cubit  
<John.Cubit@noaa.gov>, Jennifer Boyce  
<Jennifer.Boyce@noaa.gov>, Chuck Mckinley  
<Chuck Mckinley@ios.doi.gov>, Greg Baker  
<Greg.Baker@noaa.gov>,

"Laura\_valoppi@fws.gov"  
<Laura\_valoppi@fws.gov>


cc:

Subject: May 23 meeting summary

MSRP Trustee Council,

Attached please find the final version of the May 23 Trustee Council meeting summary.

(See attached file: montroseminutesmay23.wpd)

 <a href="#">montroseminutesmay23.wpd</a>	<p><b>Name:</b> montroseminutesmay23.wpd  <b>Type:</b> WordPerfect Document  (application/wordperfect5.1)  <b>Encoding:</b> base64  <b>Download Status:</b> Not downloaded with message</p>
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**Subject: Re: May 23 meeting summary**

**Date:** Fri, 15 Jun 2001 14:12:41 -0400

**From:** "William Conner" <William.Conner@noaa.gov>

**To:** Daniel\_Welsh@fws.gov

**CC:** Kolleen\_Bannon <Kolleen.Bannon@noaa.gov>, Chuck\_Mckinley <Chuck\_Mckinley@ios.doi.gov>, Greg Baker <Greg.Baker@noaa.gov>, jdecker@dfg.ca.gov, Jennifer Boyce <Jennifer.Boyce@noaa.gov>, John Cubit <John.Cubit@noaa.gov>, "Kate\_Faulkner@nps.gov" <Kate\_Faulkner@nps.gov>, "KileyL@slc.ca.gov" <KileyL@slc.ca.gov>, "Laura\_valoppi@fws.gov" <Laura\_valoppi@fws.gov>, "pvelez@ospr.dfg.ca.gov" <pvelez@ospr.dfg.ca.gov>, "sgoode@csp-angeles.com" <sgoode@csp-angeles.com>, "tim\_setnicka@nps.gov" <tim\_setnicka@nps.gov>, Andy\_Yuen@r1.fws.gov, Scott\_Sobiech@r1.fws.gov, MaryEllen\_Mueller@fws.gov

From what I can see, Dan's characterization is appropriate. The selecting official will make the decision in hiring -- our minutes should not reflect otherwise. As a matter of courtesy, and in the interest of forming a well functioning team, the selecting official will consult with the program manager before he/she makes a selection.

Daniel\_Welsh@fws.gov wrote

> Kolleen,  
>  
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> which reads: "It was agreed that the hiring of all staff members will be a  
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> the selection is reviewed by the personnel office, and if approved, the  
> selected candidate is notified and given an opportunity to accept or



