

Sample Trustee MOU
January 2003

Trustee Memorandum of Understanding

There is hereby established the [Project Name] Trustee Council (Trustee Council), which will be the mechanism through which the Trustees will coordinate their activities in connection with the _[Project Name].

The Trustee Council will be responsible for the following:

- 1) conducting natural resource damage assessment and restoration activities;
- 2) negotiating the terms of potential funding and participation agreements for natural resource damage assessment and restoration activities;
- 3) authorizing deposits to and disbursements from the account(s) in which joint funding may be deposited; and
- 4) developing joint Trustee assessment, negotiations, settlement, litigation, and restoration positions.

A Lead Administrative Trustee (LAT) will be appointed. The LAT will manage and coordinate natural resource damage assessment and restoration activities for the Trustees and serves as the Trustee Council's primary contact and representative on [Project Name] issues. The LAT will be the chair of the Trustee Council. The LAT for this incident will be _____.

The Trustee Council will consist of one member and one alternate from each of the Trustees. Other representatives of each Trustee may attend meetings and participate in the deliberations of the Trustee Council. However, decisions will be reached through consensus of the members of the council or their designees.

Meetings and Communications Among Trustees

Meetings: Any Trustee may, upon reasonable notice, call a meeting of the Trustees to be conducted either in person or by telephone conference call. The LAT will be the primary contact for the arrangement of Trustee meetings, will circulate, with adequate notice, a written agenda that identifies items upon which the Trustee council may take action, and will record and circulate minutes for Trustee review and approval. At all meetings, the Trustees may invite their respective staff to attend. In the interest of efficiency, Trustees should use their discretion to determine the necessary staffing for meetings.

Communications: Trustees will notify all other Trustees before engaging in oral or written discussions with the [PRP] or [RP] regarding settlement of any claim arising from injury to natural resources and their services caused by the [incident]. Each Trustee Council Member is responsible for distribution of written communications to appropriate persons within their organization.

Decisions and Dispute Resolution

All decisions of the Trustees under this MOU will be made by consensus of the members of the Trustee Council. Consensus will be considered to have been reached if at least a majority of the Trustee Council members are present, all have been provided reasonable notice of the meetings, and all members present have reached mutual agreement. In the event consensus is not reached by members of the Trustee Council, the Council should conduct extensive good faith discussions directed toward obtaining consensus among all Trustees. In the event consensus cannot be reached, at the request of any of the Trustees, a written presentation of the matter in dispute will be forwarded to progressively higher level officials of the Trustees for resolution. The Trustees may adopt further procedures for dispute resolution.

Notice of any decisions made by the Trustees will be given to any Trustee not in attendance at the meeting. Any Trustee not in attendance may object to a decision by the other Trustees if such objection is communicated to the LAT within 10 calendar days of the date of the non-attending Trustee receives notice of the decision. If such an objection is made, the Trustees will reconvene to consider such objection within 10 calendar days of the filing of the objection with the LAT. At the second meeting any consensus decision will be final. If consensus is not reached, the dispute resolution mechanism outlined above will be implemented.