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U.S. DISTRICT COURT
DISTRICT OF ALASKA

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Attorneys for the State of Alaska

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

STATE OF ALASKA,

Plaintiff,

v.

EXXON CORPORATION, and EXXON
SHIPPING COMPANY,

Defendants.

No. A91-083 CIV (HRH)

**SIXTH JOINT NOTICE
OF EXPENDITURES FROM
INVESTMENT FUND**

The State of Alaska and the United States (the "Governments") jointly provide notice of the expenditure of \$206,000 from the EXXON VALDEZ Oil Spill Investment Fund ("Investment Fund"). The Governments' natural resource trustee agencies will use these funds for purposes consistent with the Memorandum of Agreement and Consent Decree entered by this Court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991 ("MOA").

On September 25, 1991 the State of Alaska and the United States settled their claims against the Exxon Corporation, Exxon Shipping Company, Exxon Pipeline Company, and the T/V

EXXON VALDEZ arising from the EXXON VALDEZ oil spill. All funds resulting from these settlements were subsequently ordered by this Court to be placed in an interest-bearing account in the Court Registry Investment System ("CRIS") administered through the United States District Court for the Southern District of Texas.

On June 7, 2000 this Court entered its Third Amended Order for Deposit and Transfer of Settlement Proceeds ("Third Amended Order"). The Third Amended Order allows the Governments the option of investing the money in an account outside the United States Treasury. On September 29, 2000, upon application by the Governments, the Court entered an Order Re: Transfer of Funds from the Exxon Valdez Liquidity Account and the Reserve Fund to an Investment Fund Within the Alaska Department of Revenue, Division of Treasury, authorizing transfer of settlement proceeds to an account within the State. On October 5, 2000 all funds and securities were transferred from the CRIS to the Investment Fund. The Third Amended Order further allows the Governments to establish separate sub-accounts within the primary account "as the Trustee Council determines appropriate." On October 1, 2002 three sub-accounts were created in the Investment Fund, to wit: the Research Investment Sub-Account, the Habitat Investment Sub-Account, and the Koniag Investment Sub-Account. These sub-accounts were established to carry out the Trustee Council's decision in its Resolution of March 1, 1999 to separately manage the remaining assets of the Joint Trust Funds for the specific purposes of funding a long term research and monitoring program, the acquisition of lands along the Karluk River and the establishment of a fund to purchase small parcels of land that may become available in the future.

Paragraph 27 of the Third Amended Order provides that "funds in an Investment Fund shall remain on deposit in that Fund until such time as the Exxon Valdez Oil Spill Trustee

Council unanimously resolve to expend all or part of the funds.” The funds may then be expended, for purposes consistent with the MOA, upon the joint notification of the Governments to the Investment Fund and the Court.¹ The notification is to inform the Court of the proposed uses of the funds in the same manner and to the same extent as was the Governments’ practice when the funds were in the registry of the Court.

The Governments provide notice of the expenditure of \$206,000 from the Habitat Sub-Account of the Investment Fund for the acquisition of two small parcels of land on the Kenai Peninsula (KEN 295 and KEN 310).² The entire \$206,000 that is the subject of this notice will be provided to the United States.

A complete summary of the Council’s activities since approval of the settlement was appended to our Second Application, filed January 19, 1993, Attachment B, and interim updates of activities appeared as Attachments to each of the Governments’ Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, Twelfth, Fifteenth, Nineteenth, Twenty-First, Twenty-Second, Twenty-Fourth through Twenty-Ninth, Thirty-First, and Thirty-Third through Forty-Fifth applications for disbursement and the Fifth through Seventh and Tenth through Thirteenth Joint Notices of Expenditure From Settlement Account Monies Previously Disbursed, and the First, Second and Fourth Joint Notice of Expenditures From Investment Fund. Since the last summary provided to the Court, the Trustee Council has not met.

¹ A copy of the notice provided to the Investment Fund pursuant to paragraph 27 of the Third Amended Order for Deposit and Transfer of Settlement Proceeds is appended to this Notice as Attachment A, pp. 1 - 2.

² A resolution evidencing the Trustee Council’s approval for the purchase of these two small parcels is attached at Attachment A, pp. 3-7. The certification of the Executive Director of the Trustee Council that all terms and conditions in the second resolution as amended have been met can be found at Attachment A, p. 8.

RESPECTFULLY SUBMITTED this 11th day of June, 2003 at Anchorage, Alaska.

FOR THE STATE OF ALASKA
GREGG D. RENKES
ATTORNEY GENERAL

By:



CRAIG J. TILLERY
Assistant Attorney General
State of Alaska
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FOR THE UNITED STATES OF AMERICA
THOMAS L. SANSONETTI
Assistant Attorney General
Environment & Natural Resources Division

WILLIAM D. BRIGHTON, Asst. Chief
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

By:



REGINA R. BELT
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
801 B Street, Suite 504
Anchorage, Alaska 99501-3657
(907) 271-3456

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of June, 2003, copies of the foregoing document, attachment, and proposed order were served by U.S. mail, first class, postage prepaid, on the following:

Regina R. Belt
James F. Neal
Douglas J. Serdahely
Patrick Lynch
John F. Clough III

James F. Neal

6-11-03
Date

STATE OF ALASKA

FRANK H. MURKOWSKI,
GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907)269-5100
FAX: (907)276-3697

June 11, 2003

Gary Bader
Chief Investment Officer
Treasury Division, Dept. of Revenue
P.O. Box 110405
Juneau, AK 99811-0405

Re: Exxon Valdez Oil Spill Investment Fund

Dear Mr. Bader:

The Exxon Valdez Trustee Council has unanimously determined to expend \$206,000 in joint trust funds for restoration purposes consistent with the terms of the Memorandum of Agreement and Consent Decree entered by the federal district court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991. Of this amount, the entire \$206,000 will come from the Habitat Sub-Account. These joint trust funds are currently held by the State of Alaska in the Exxon Valdez Oil Spill Investment Fund and invested by the Treasury Division, Alaska Department of Revenue. Under the terms of the Reimbursable Services Agreement between the Alaska Department of Fish and Game and the Alaska Department of Revenue, please transfer the following amounts from cash held in the Exxon Valdez Oil Spill Investment Fund to the accounts described below:

United States

Amount: \$206,000

Beneficiary

account: 14X5198

name: Natural Resource Damage Assessment and Restoration Fund
(NRDAR)

Beneficiary

account: 14010001

name: Department of the Interior
Financial Management Services National Business Center

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Beneficiary Bank

account: 021030004
name: Treasury, NYC

OBI Text


Natural Resource Damage Assessment Restoration Fund 14X5198 EVOS
Exxon Valdez, Civil Settlement, FY03 Joint Funds


Beneficiary Reference

A91-082Civil

The transfer should take place when most financially advantageous, but no later than Wednesday, June 18, 2003 or as soon thereafter as possible. If you have any questions, please call Craig Tillery at (907) 269-5274.

Sincerely,


Craig J. Tillery
Assistant Attorney General
State of Alaska


Regina R. Belt
Environmental Enforcement Section
Environment & Natural Resources
Division
U.S. Department of Justice
United States of America

cc: Kevin Buckland

ATTACHMENT

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**RESOLUTION 03-03 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCELS KEN 295 AND KEN 310**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Council"), after extensive review and after consideration of the views of the public, find as follows:

1. By resolution adopted at its meeting on January 16, 2001, the Council implemented a small parcel acquisition program through identical grants to The Conservation Fund and The Nature Conservancy (the grant to The Conservation Fund is hereinafter referred to as the "Grant");

2. The Conservation Fund identified the Crowther small parcel, KEN 295 and the Swartz small parcel, KEN 310 as small parcels to be considered for acquisition under the Grant and consulted with the Council at its meeting on December 1, 2001 concerning the purchase of the Crowther and Swartz small parcels;

3. Appraisals of the parcels estimating the value of the Crowther parcel to be \$200,000 and the Swartz parcel to be \$6000 have been completed and are currently being reviewed;

4. As set forth in Attachment A, Restoration Benefits Report for KEN 295, and Attachment B, Restoration Benefits Report for KEN 310, if acquired, these small parcels have attributes which will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources, including important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. Acquisition of the Crowther small parcel will assure protection of approximately 46 acres

including shoreline of the lower Anchor River. The shoreline to be acquired provides rearing habitat for salmon and dolly varden. The parcel is easily accessed by the public and will provide important access to the Anchor River for sport fishing. Acquisition of the Swartz small parcel will assure protection of approximately .185 acres bordering the Ninilchik River. The parcel is adjacent to several parcels owned by the state and managed by the Department of Fish and Game for sport fishing as well as small parcel KEN 309, which has been approved by the Trustee Council for acquisition and shortly will be acquired by the state.

5. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources;

6. There has been widespread public support for the acquisition of lands within Alaska as well as on a national basis;

7. The purchase of these parcels is an appropriate means to restore a portion of the injured resources and services in the oil spill area. Acquisition of these parcels is consistent with the Final Restoration Plan.

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THEREFORE, we resolve to provide funds to the United States Department of Interior for the State of Alaska to acquire all the sellers' rights and interests in small parcel KEN 295 and small parcel KEN 310 pursuant to the following conditions:

(a) the amount of Grant funds (hereinafter referred to as the "Purchase Price") to be provided by the Council shall be two hundred thousand dollars (\$200,000) for the Crowther small parcel, KEN 295, and six thousand dollars (\$6000) for the Swartz small parcel, KEN 310;

(b) authorization for funding for the acquisitions described in the foregoing paragraph shall terminate if a purchase agreement is not executed or purchase of the parcel completed by December 30, 2003;

(c) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and, if necessary, with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund") and transfer of the necessary monies from the appropriate account designated by the Executive Director of the Trustee Council ("Executive Director");

(d) conservation easements on parcel KEN 295 and KEN 310, which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed to the United States;

(e) no timber harvesting, road development or any alteration of the land will be initiated on the land without the express agreement of the State of Alaska and the United States prior to purchase; and

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(f) completion of the following to the satisfaction of the State of Alaska and the

United States for each parcel:

- (i) title search;
- (ii) a determination that the seller is willing and able to convey title in a form satisfactory to the State of Alaska and Bureau of Land Management of the Department of the Interior of the United States
- (iii) an executed purchase or option agreement and conveyance documents that are ready for execution;
- (iv) hazardous materials survey;
- (v) statement of compliance with the National Environmental Policy Act; and
- (vi) approval of the appraisals by the review appraiser(s).

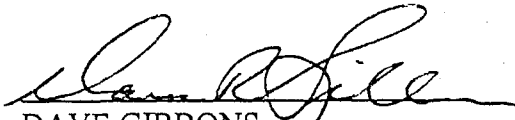
It is the intent of the Trustee Council that the above referenced conservation easements will provide that any facilities or other development on the foregoing small parcels shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to prespill conditions of any natural resource injured, lost, or destroyed as a result of the EVOS, and the services provided by that resource or replacement or substitution for the injured, lost or destroyed resources and affected services, as described in the Memorandum of Agreement and Consent Decree between the United States and the State of Alaska entered August 28, 1991 and the Final Restoration Plan as approved by the Council.

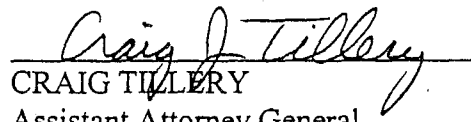
By unanimous consent, following written notice from the Executive Director that the terms and conditions set forth herein have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of

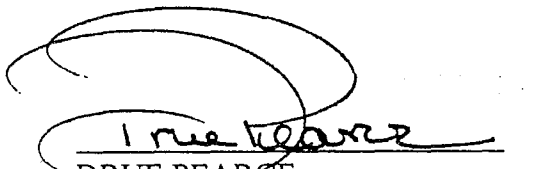
the Purchase Price for the above-referenced parcels from the appropriate account designated by the Executive Director.


Such amounts represents the only amounts due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

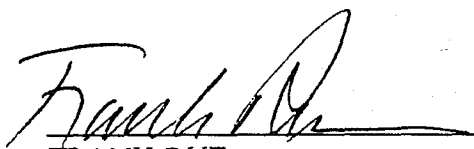
Approved by the Council at its meeting of November 25, 2002 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

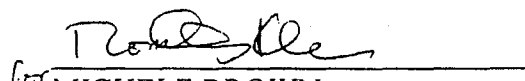

DAVE GIBBONS
Forest Supervisor
Alaska Region
USDA Forest Service


CRAIG TILLEY
Assistant Attorney General
State of Alaska


DRUE PEARCE
Senior Advisor
to the Secretary for Alaskan Affairs
U.S. Department of the Interior


JAMES BALSIGER
Director, Alaska Region
National Marine Fisheries Service


FRANK RUE
Commissioner
Alaska Department of
Fish and Game


MICHELE BROWN
Commissioner
Alaska Department of
Environmental Conservation

Attachment A - Restoration Benefits Report, KEN 295
Attachment B - Restoration Benefits Report, KEN 310

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Exxon Valdez Oil Spill Trustee Council

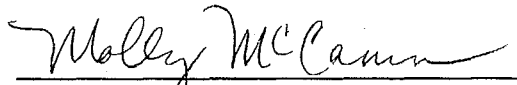
441 W. 5th Ave., Suite 500 • Anchorage, Alaska 99501-2340 • 907/278-8012 • fax 907/276-7178



June 5, 2003

I certify that the terms and conditions of the *Exxon Valdez* Oil Spill Trustee Council's Resolution 03-03 (dated November 25, 2002) have been met. I hereby request that the Alaska Department of Law and U.S. Department of Justice notify the U.S. District Court of the following disbursements from the EVOS Habitat Investment Sub-Account:

<u>Parcel Number</u>	<u>Landowner</u>	<u>Purchase Price</u>
KEN 295	Crowther	\$200,000
KEN 310	Swartz Enterprises	\$ 6,000


Molly McCammon
Executive Director

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ATTACHMENT

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Federal Trustees
U.S. Department of the Interior
U.S. Department of Agriculture
National Oceanic and Atmospheric Administration

State Trustees
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