

**RESOLUTION OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING KEN 309**

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. The Conservation Fund has purchased the Ninilchik small parcel, KEN 309, in anticipation that it will sell the parcel to the State of Alaska for \$113,000;
2. An appraisal of the parcel approved by the federal review appraiser determined that the fair market value of the parcel is \$113,000;
3. As set forth in Attachment A, Restoration Benefits Report for KEN 309, if acquired, this small parcel has 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 this small parcel will assure protection of approximately 4.2 acres including approximately 800 feet of linear shoreline along each bank of the Ninilchik River. The parcel supports a popular king salmon fishery each spring and Dolly Varden, silver salmon and steelhead fisheries later in the season. In addition, harlequin ducks, mergansers, mink, otter, black and brown bears, and moose utilize this area as well. The parcel is important to the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill ("EVOS").
4. 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;

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

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

THEREFORE, we resolve to provide funds for the State of Alaska to purchase all the seller's rights and interests in the small parcel KEN 309 and to provide funds necessary for closing costs recommended by the Executive Director of the Trustee Council ("Executive Director") and approved by the Trustee Council and pursuant to the following conditions:

(a) the amount of funds (hereinafter referred to as the "Purchase Price") to be provided by the Trustee Council to the State of Alaska shall be one hundred thirteen thousand dollars (\$113,000) for small parcel KEN 309;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 30, 2002;

(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;

(d) a title search satisfactory to the State of Alaska and the United States is completed, and the seller is willing and able to convey fee simple title by warranty deed;

(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;

(f) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;

(g) compliance with the National Environmental Policy Act; and

(h) a conservation easement on parcel KEN 309 shall be conveyed to the United States which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law.

It is the intent of the Trustee Council that the above referenced conservation easement will provide that any facilities or other development on the foregoing small parcel 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 prefill 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 Restoration Plan as approved by the Trustee Council.

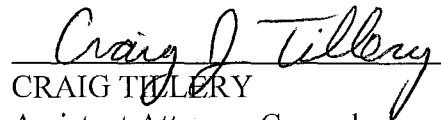
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the 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 parcel from the appropriate account designated by the Executive Director.

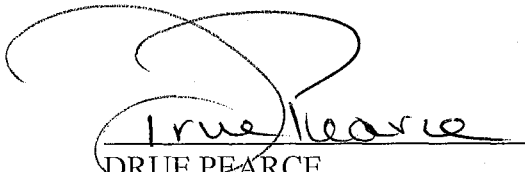
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

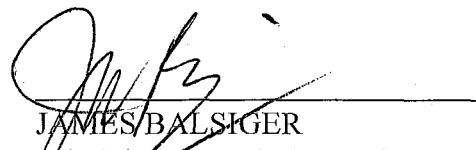
Approved by the Council at its meeting of February 25, 2002 held in Anchorage, Alaska, as

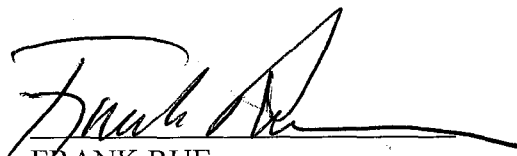
affirmed by our signatures affixed below:

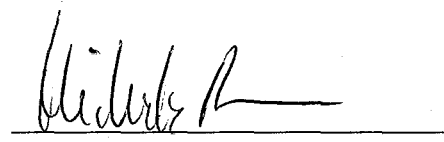
  
DAVE GIBBONS  
Forest Supervisor  
Forest Service Alaska Region  
US Department of Agriculture

  
CRAIG TILLEY  
Assistant Attorney General  
State of Alaska

  
DRUE PEARCE  
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U.S. Department of the Interior

  
JAMES BALSIGER  
Administrator, 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

# **Attachment A**

**Resolution 02-05  
Small parcel – KEN 309**

## KEN 309: Icicle Seafoods

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Acreage: 4.17 acres, 18 lots

Sponsor: ADNR & ADF&G

Appraised Value: \$113,000

Owner: The Conservation Fund (former owner Icicle Seafoods, Inc.)

Location: Mission Avenue, near intersection with Sterling Highway, Ninilchik, AK.

Legal Description: Lots 1 – 11, 15 – 19, 21 & 22, Block 8, Ninilchik Townsite.

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**Parcel Description.** This collection of small parcels, including 18 platted lots, is downstream and immediately adjacent to a large parcel owned by the Alaska Department of Fish and Game. The ADF&G parcel is located mostly on the downstream side of the Sterling Highway bridge. These lots border, or are near the Ninilchik River, one of south central Alaska's most important sportfishing rivers. These lots are part of the original Ninilchik Townsite subdivision, with roads and lots platted with no logical relationship to the terrain. Some small lots within this batch of parcels straddle the Ninilchik River, or may be nearly entirely occupied by the river, while the platted roads do not have any logical possibility for reasonable construction without extensive fill and bridge construction. The parcel is subject to periodic flooding during high water events such as fall rainstorms, and is generally wet and brushy. The parcel contains approximately 1,600 linear feet of shoreline.

The lands are characterized by their river valley riparian habitat, with willows, scattered spruce and small cottonwoods and other floodplain vegetation. Wildlife species that commonly use this area include harlequin ducks, mergansers, mink, otter, black and brown bears, and moose. This is an important winter feeding area for moose and often 8-12 moose can be counted in or near the subject property on a winter day. During the early summer, harlequin ducks are commonly viewed in the downstream portion of this property, and the other wildlife species can be seen occasionally throughout the year.

**Restoration Benefits.** The public has used this area of the Ninilchik River for decades, while pursuing the popular king salmon fishery each spring, and later in the season for Dolly Varden, silver salmon and steelhead angling. Although private land, the landowners have never posted this land and most anglers are not aware that the land is not publicly owned. Anglers primarily access this parcel on foot, following traditional fishing access trails along the river banks. There is no development on the land at this time.

The Ninilchik River supports an enhanced hatchery-supported and native run of king salmon, providing outstanding sport fishing opportunities for anglers. It is one of the finest bank-accessible sport fisheries for king salmon on the Kenai Peninsula, and is extremely popular and productive. The area owned by Icicle Seafoods supports a great deal of the angler activity on this river as the fishing is particularly productive here.

Support of the sportfishing industry is the most important basis of the Ninilchik community's economy. A large number of businesses cater to anglers, and include B &

B's, lodges, restaurants and cafes, taxidermy shops and other retail businesses. These businesses depend upon having predictable fishing destinations available for prospective clients and customers. The Icicle Seafood parcel provides one of the important destinations that support the area's tourism economy.

Should the parcels be sold as individual lots or as a bulk sale to another private property owner, the public could lose forever one of Alaska's premier king salmon sportfishing locations. The loss of access to the public would be significant enough, but a sale would also mean that a sensitive riparian section of the Ninilchik River would be subject to development pressures. This could result in the deterioration of important riparian fish habitat, loss of important winter moose feeding habitat, loss of harlequin duck nesting and rearing habitat. Social conflicts with the new owners and anglers wishing to continue to fish traditional fishing holes would emerge and tax local and state government. Acquisition of this parcel would protect approximately 1,600 linear feet of shoreline, important riparian habitat.

**Appraised Value.** \$113,000, sold as a single cash transaction.

**Proposed Management.** ADF&G will manage the parcel in a manner consistent with its management of the adjacent parcel and will maintain public access to the river and protect riparian habitat.



Icicle Seafoods Parcel  
KEN 309

# Neighborhood Map

