

**RESOLUTION 07- 04 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
CHOKWAK II SMALL PARCEL, KAP 3001**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Council") do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after public meetings, unanimous agreement has been reached to expend funds received in settlement of State of Alaska v. Exxon Corporation, et al., No. A91-083 CIV, and United States of America v. Exxon Corporation, et al., No. A91-082 CIV, U.S. District Court for the District of Alaska, for necessary natural resource damage assessment and restoration activities for fiscal year 2007, as described in Attachment A.

This resolution authorizes the distribution of FY 07 funding for the purchase of the above-referenced property totaling \$160,000, to be distributed to the State of Alaska according to the following schedule:

Department of Natural Resources	\$160,000
<b>TOTAL APPROVED FOR DISTRIBUTION</b>	<b>\$160,000</b>

The Council further finds as follows:

1. An appraisal of the parcel completed by the Department of Natural Resources and approved by the Bureau of Indian Affairs of the United States Department of the Interior determined that the fair market value of the parcel is \$160,000;

2. As set forth in Attachment A, Restoration Benefits Report for KAP 3001 and Parcel Map, 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 160 acres located on the north shore of Kiliuda Bay on the east side of Kodiak Island. The parcel is east of the Chokwak I parcel acquired in 2002, and surrounded by lands the State recently received through a land exchange between the State and Old Harbor Native Corporation. The parcel includes Anadromous Stream #258-20-100 4 0, valuable

riparian and intertidal habitat, as well as access to the adjacent state-owned uplands. The parcel is important to the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill (“EVOS”).

3. 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;

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

5. 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 to the State of Alaska, Department of Natural Resources for the State of Alaska to acquire all the seller’s rights and interests in the small parcel KAP 3001 pursuant to the following conditions:

(a) the amount of funds (hereinafter referred to as the “Purchase Price”) to be provided by the Council shall be one hundred sixty thousand dollars (\$160,000) for small parcel KAP 3001;

(b) authorization for funding for the acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed or purchase of the parcel completed by July 15, 2008;

(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) a conservation easement on parcel KAP 3001 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;

(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

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

(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; and

(v) statement of compliance with the National Environmental Policy Act.

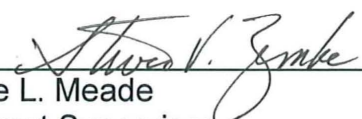
It is the intent of the Trustee Council that the above referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent 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 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

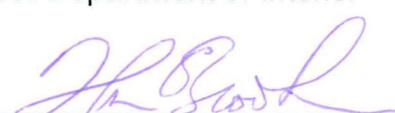
Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Price for the above-referenced parcel from the appropriate account designated by the Executive Director.

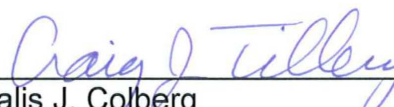
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

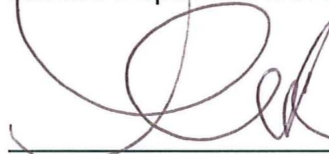
Approved by the Council at its meeting of June 27, 2007, held in Anchorage, Alaska, as affirmed by our signatures affixed below:

*for*   
\_\_\_\_\_  
Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

  
\_\_\_\_\_  
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

  
\_\_\_\_\_  
Denby Lloyd  
Commissioner  
Alaska Department of Fish and Game

*for*   
\_\_\_\_\_  
Talis J. Colberg  
Attorney General  
Alaska Department of Law

  
\_\_\_\_\_  
Craig R. O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

  
\_\_\_\_\_  
Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A – Restoration Benefits Report for KAP 3001 and Parcel Map

## KAP 3001, Chokwak II Parcel

<b>Owner:</b>	Heirs of Phillip Chokwak
<b>Location:</b>	Kiliuda Bay, Shearwater Peninsula, Kodiak Island
<b>Legal Description:</b>	U.S. Survey 8981, T33S R23W, Sections 5 and 8, Seward Meridian.
<b>Acreage:</b>	159.97 acres
<b>Agency Sponsor:</b>	DNR
<b>Appraised Fair Market Value:</b>	\$160,000
<b>Total Cost to EVOS:</b>	\$185,000 (estimated)
<b>Cost Breakdown:</b>	\$160,000 fee simple; \$15,000 estimated for title, hazmat, and appraisal review and other tasks as necessary to meet State due diligence requirements.

**Background:** This 160-acre Native allotment is located on the north shore of Kiliuda Bay on the east side of Kodiak Island. The Chokwak II tract is surrounded by lands the State recently received through a land exchange between the State and the Old Harbor Native Corporation, a component of the larger Old Harbor acquisition package acquired by USFWS. Before undertaking the exchange, the state identified the inholdings on the north shore of Kiliuda Bay as priorities under the small parcel program. The Old Harbor Exchange has been completed. The objectives of the Old Harbor exchange and subsequent acquisition of inholdings were to improve public access to state acquired lands and protect and restore species and associated services injured by the oil spill.

The Chokwak II tract is east of the Chokwak I parcel acquired in 2002 through the EVOS Small Parcel Grant. The owners of the Chokwak II property have listed the parcel for sale after completing BIA requirements. Mr. Chokwak has approached the State on behalf of the heirs many times in the past in hopes of having the State purchase the property.

The following comment received, and response provided, are part of the public record created during the public comment period relative to the Old Harbor Land Exchange:

*Comment:*

The Alaska Department of Fish and Game (ADF&G) commented that the most used access points in the lands to be acquired by the State were native allotments that would remain in private hands. ADF&G requested that efforts be undertaken to acquire these in holdings.

*Response to the comment:*

Owners of two of the allotments have already approached the state to sell their allotments. The allotments could be purchased using funds from the *Exxon Valdez* oil spill Trustee Council or other sources. The State would like to acquire the other native allotments if they become available.

**Physical Description:** The Chokwak property is located in Kiliuda Bay just north of Old Harbor. The bay has notable wilderness qualities and the parcel is in its natural condition absent permanent buildings or continuous human habitation. Anadromous Stream #258-20-100 4 0 flows through the parcel to a rich intertidal, providing valuable riparian and intertidal habitat as well as important access to the adjacent state owned uplands.

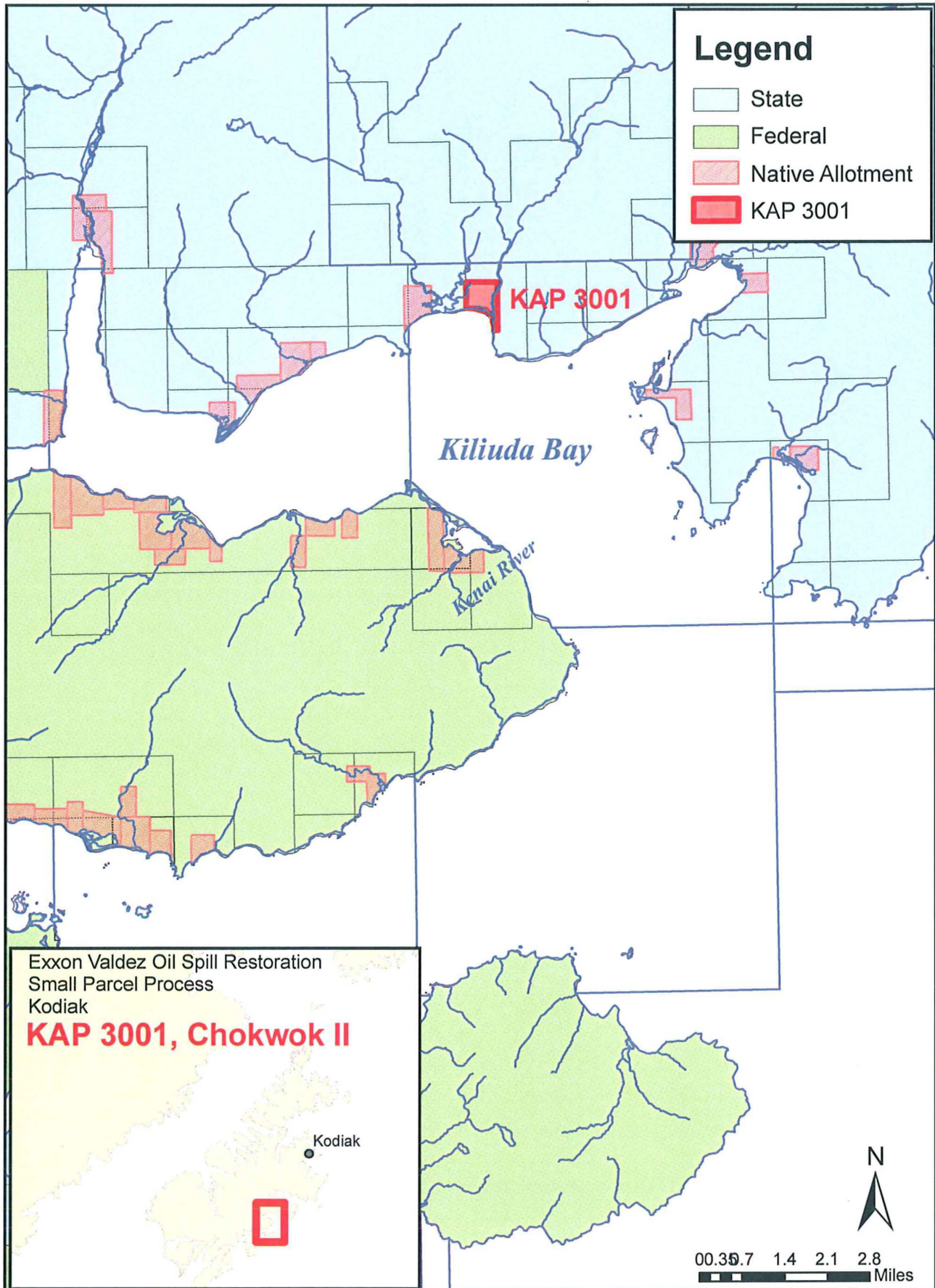
**Linkage to Restoration:** The property has particular habitat value to injured species and services including bald eagles, harlequin ducks, pink salmon, Sockeye salmon and Dolly Varden, as well as herring that spawn in Kiliuda Bay. Marine bird nesting colonies of cormorants and pigeon guillemots are found in Kiliuda Bay and likely utilize this area for feeding. The parcel is an important access point for sport hunting, sport fishing, camping and bear viewing. This area is also important for subsistence use by residents of Old Harbor. The wildlife and habitat values of the Chokwak parcel support subsistence, recreation, sport fishing, passive use, and wilderness services impacted by the Exxon Valdez Oil Spill.

**Proposed Management:** Acquisition of this parcel will enhance access to state lands acquired through the Old Harbor Exchange and enhance the protection of important intertidal and riparian habitat in this area. This parcel should it be acquired, will be managed consistent with the management of the lands acquired by the State through the Old Harbor Exchange and the Chokwak I small parcel previously acquired.

**Attachments:**

Parcel Map, KAP 3001

Map of the Old Harbor Land Exchange

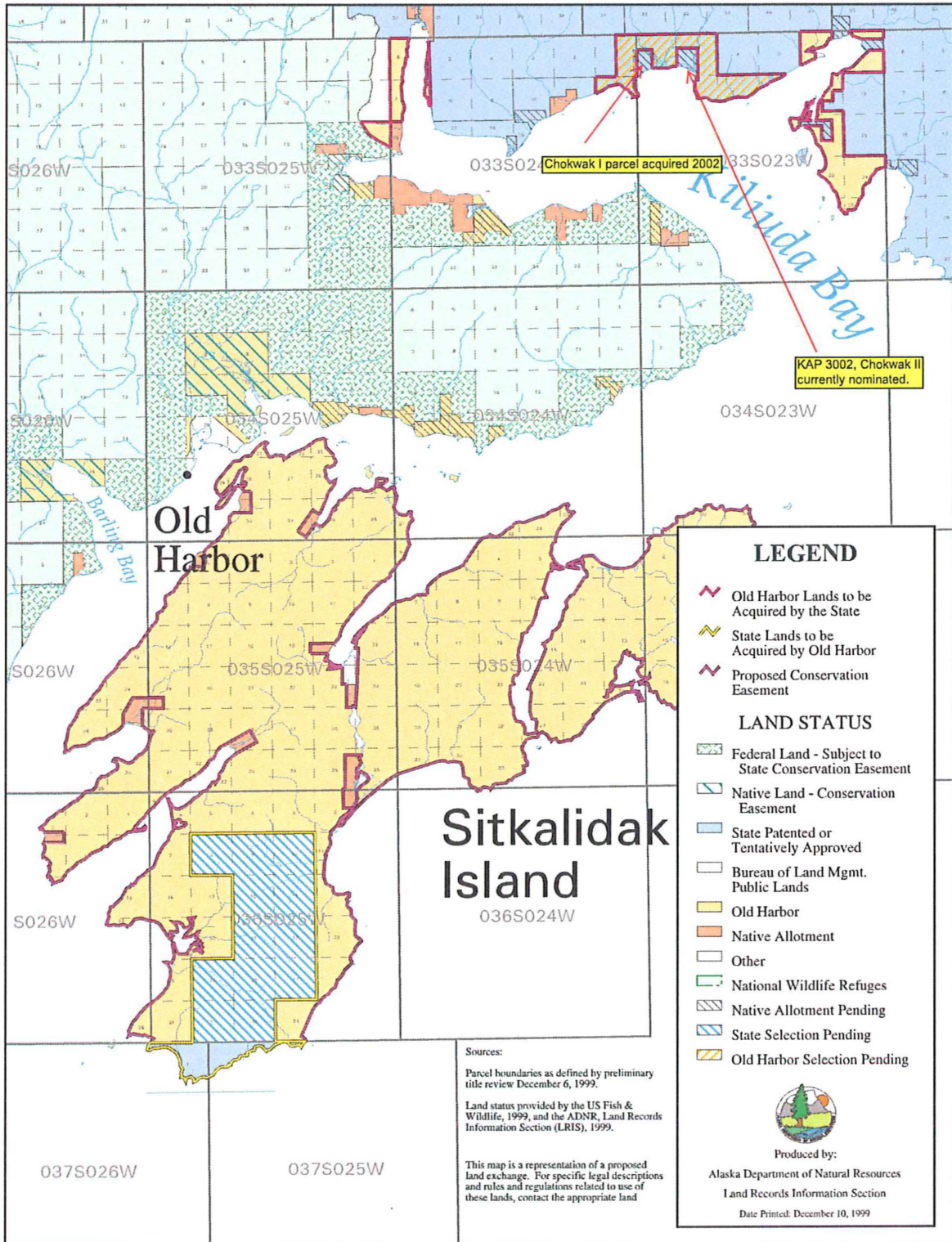


# EVOS TRUSTEE COUNCIL OLD HARBOR EXCHANGE

Scale 1:150,000



Albers Equal-Area Projection



## LEGEND

- Old Harbor Lands to be Acquired by the State
- State Lands to be Acquired by Old Harbor
- Proposed Conservation Easement

## LAND STATUS

- Federal Land - Subject to State Conservation Easement
- Native Land - Conservation Easement
- State Patented or Tentatively Approved
- Bureau of Land Mgmt. Public Lands
- Old Harbor
- Native Allotment
- Other
- National Wildlife Refuges
- Native Allotment Pending
- State Selection Pending
- Old Harbor Selection Pending

## Sources:

Parcel boundaries as defined by preliminary title review December 6, 1999.

Land status provided by the US Fish & Wildlife, 1999, and the ADNR, Land Records Information Section (LRIS), 1999.

This map is a representation of a proposed land exchange. For specific legal descriptions and rules and regulations related to use of these lands, contact the appropriate land



Produced by:

Alaska Department of Natural Resources  
Land Records Information Section

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