

**RESOLUTION 07- 05 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING NORTHERN AFOGNAK HABITAT PROTECTION**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee 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 \$174,000 of FY 07 funding for due diligence expenses in support of Northern Afognak Habitat Protection Efforts, as described in Attachment A, to be distributed according to the following schedule:

Department of Natural Resources	\$174,000
<b>TOTAL APPROVED FOR DISTRIBUTION</b>	<b>\$174,000</b>

Of the \$174,000 approved for distribution, \$160,000 is directed to the Rocky Mountain Elk Foundation specifically for due diligence requirements consistent with State and Trustee Council requirements. Authorization of the approved funding shall run from July 1, 2007 to September 30, 2008.


By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make funds available in the amount of \$174,000 from the appropriate account as designated by the Executive Director.


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 S. 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 – Northern Afognak Habitat Protection Efforts; Northern Afognak, Perenosa Bay, Estimate of Due Diligence Costs; Parcel Maps

*DRAFT***Northern Afognak Habitat Protection Efforts**

**Goal:** Further Trustee Council restoration objectives for Northern Afognak Island by protecting lands previously identified as being of high restoration value for resources and services injured by the Exxon Valdez Oil Spill consistent with Trustee Council Resolutions of December 11, 2001 and November 8, 2002.

**Benefits:**

- Protection of habitat for injured resources: pink salmon, Dolly Varden, Pacific herring, bald eagles, black oystercatchers, harbor seals, harlequin ducks, marbled murrelets, pigeon guillemots, river otters, and sea otters.
- Protection of habitat benefiting additional species such as bear, deer, and elk.
- Protection of contiguous tracts of land provides further protection of wildlife movement corridors, consistency in land management strategies, and facilitates public recreational use in concert with protection of injured species and supporting habitats.
- Protection of documented anadromous streams supporting populations of pink salmon, coho salmon, sockeye salmon, rainbow trout and steelhead which have significant importance to commercial fishing, subsistence fishing, sportfishing, guiding, as well as bears, eagles, and marine mammals.
- Minimizing disturbance to nearshore habitats where Pacific herring spawn and feed.
- Six species of birds injured by the Exxon Valdez oil spill – marbled murrelet, pigeon guillemot, black oystercatcher, harlequin duck, bald eagle and common murre – use northern Afognak and the protected offshore waters for all or parts of the lifecycles.
- Maintaining water quality and riparian habitat for anadromous fish, river otters and harlequin ducks, maintaining nesting opportunities for bald eagles, marbled murrelets, and pigeon guillemots, minimizing disturbance to nearshore and intertidal habitat used by a variety of species and maintaining opportunities for recreational use by Alaskans and tourists alike.<sup>1</sup>
- Protection of the northern tier of Afognak provides for uninterrupted public access, minimizing the potential for trespass and facilitating consistent management of human use of the area.
- Protection of cultural resources including nine identified sites on Portage River.

**Background**

In 1993 the Trustee Council purchased the Seal Bay and Tonki Cape parcels, totaling 41,549 acres on the eastern side of Northern Afognak. In 1994, the Alaska Legislature designated these lands as Afognak Island State Park. In November 1998, AJV transferred to the state and federal governments surface title to approximately 41,376 acres located to the west of the Seal Bay and Tonki Cape transactions. There remains however, significant acreage separating the acquisitions. In 2005, the Conservation Partners purchased 2,185 acres in this area as well as the remaining timber rights on 2,258 acres of the original Afognak Joint Venture acquisition using grant funds and private donations.

Access from the eastern side of northern Afognak Island to the western side of northern Afognak Island is not possible without trespass, securing a permit, or using a boat. The lands surrounding Perenosa Bay are owned by a variety of Native corporations and include lands conveyed to the Native Corporations under ANCSA and ANILCA. ANCSA lands do not provide for public access. Natives of

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<sup>1</sup> Trustee Council Resolution 02-02, December 12, 2001.

**DRAFT**

Kodiak own lands located just to the south of the areas previously considered for acquisition by EVOS. The lands (approximately three and a half sections) surround Portage Lake and the stream leading into the lake and, in conjunction with a trail easement would secure public access from Afognak Island State Park on the east to the western portion of Afognak Island. In addition, Shuyak Natives, Inc. and Uganik Natives, Inc. are interested in selling their lands located adjacent to previously acquired EVOS parcels and the recently acquired Little Waterfall parcel.

The American Land Conservancy (ALC) and Rocky Mountain Elk Foundation (RMEF), representing the conservation partners, have consulted with state and federal land managers and habitat professionals to identify agency priorities and secure guidance in the development the conservation partners' overall strategy on Northern Afognak and this proposal. The current proposal includes a combination of six parcels owned by three Native corporations in the Perenosa Bay area. All parcels are proposed for fee simple acquisition, with an additional area included for a proposed trail easement to ensure connectivity.

<b>Landowner</b>	<b>Parcel Name</b>	<b>Acres</b>	<b>Status</b>	<b>Mgr.</b>
Natives of Kodiak, Inc.	Portage Drainage	2,240	ANCSA	ADNR
Natives of Kodiak, Inc.	Trail easement	~300	ANCSA	ADNR
Shuyak Natives, Inc.	Little Waterfall Lake (2A)*	1,678	ANILCA	ADNR
Shuyak Natives, Inc.	Delphin Pt (2B)*	439	ANILCA	ADNR
Uganik Natives, Inc.	Big Waterfall Lake (3A)*	1,606	ANILCA	ADNR
Uganik Natives, Inc.	Delphin Pt (3B)*	147	ANILCA	ADNR

\*Parcel identifiers on attached map.

In addition, the partners in consultation with the State and USFWS, are considering the purchase of approximately 2,000 acres in the Thorsheim drainage located on the south side of Paramanoff Bay from Uyak Native Corporation using a mix of EVOS criminal funds and possibly civil funds. USWS would be the logical land manager for this effort. All the lands targeted for acquisition have been discussed with the Alaska Department of Natural Resources and US Fish and Wildlife Service. The Native corporation landowners above have signed option agreements or letters of intent with the Conservation Partners.

The Conservation Partners have successfully brought additional funds to the table and recently purchased 2,200 acres in fee in the Perenosa Bay area and 2,258 acres of timber rights in a previously acquired EVOS parcel using a combination of grant funds and private sector donations. The Conservation Partners have secured additional grant funds to continue their efforts in this area working with State, federal and native landowners.

The Conservation Partners were recently awarded, through the Department of Natural Resources, two additional National Coastal Wetlands grants totaling \$1,805,000 based upon an evaluation of the Portage Lake area. The partners will be utilizing private sector donations, donated timber rights in the Paul's and Laura Lake area, and two smaller Coastal grants to leverage Trustee Council funding.

**Funding Summary:**

National Coastal Wetlands Grants

*Phase I*            \$1,000,000  
*Phase II*            \$1,000,000  
**Phase III**        \$ 888,000  
**Phase IV**        \$ 917,000

Purchase or Targeted Area:

*Little Waterfall and Timber Rights*  
*Little Waterfall and Timber Rights*  
 Portage Lake, Perenosa Bay  
 Portage Lake, Perenosa Bay

Small USFWS Coastal Grants

**Phase III**        \$25,000  
**Phase IV**        \$25,000

Private Sector Donations/Matching funds: *Phase I and II* = \$2,500,000

**NOTE:** *Italicized text indicates funds already secured and expended on Phase I and II for acquisition of the Waterfall parcel and retained timber rights. BOLD text indicates grant funds awarded and available.*

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The Conservation Partners include The American Land Conservancy, The Rocky Mountain Elk Foundation, The Kodiak Brown Bear Trust, The Paul Allen Foundation, National Fish and Wildlife Foundation, Thorsen Foundation, Vital Ground Foundation and Johnny Morris Creel Foundation.

**Phase III and IV Potential Funding**

The conservation partners are pursuing a variety of funding sources to complete the purchase of the identified parcels. The Perenosa Bay proposal was submitted to the Forest Legacy Program for consideration in the FFY 2008 competition. The proposal, identified as a high priority for the State, ranked 25<sup>th</sup> at the national competition. Funding is dependent on the amount allocated to the Forest Legacy Program in the Federal budget. Remaining oil spill dollars, congressionally appropriated funds, additional government grants such as Forest Legacy and National Coastal Wetlands, and private donations are being sought to complete the purchases, the cost of which could exceed \$12,000,000.

**Current Status**

The Conservation Partners working in conjunction with the Department of Natural Resources and the US Fish and Wildlife Service, through the National Coastal Wetlands Grant program, have partnered successfully on two previous National Coastal Wetlands grants and are building on the State/Federal/Private working relationships previously established.

The Partners are moving forward with due diligence requirements in order to take advantage of the summer field season. RMEF/ALC have negotiated with the landowners to identify an appraisal process consistent with federal grant requirements and EVOS requirements. RMEF/ALC are contracting with appraisers and other experts to address State and Federal due diligence requirements.

**Request:**

Based upon the information presented above and the fact that Rocky Mountain Elk Foundation and American Land Conservancy have initiated negotiations with the landowners and begun due diligence efforts in support of this project, the partners are requesting that the EVOS Trustee Council consider authorizing \$174,400 as a contribution toward due diligence expenses related to Trustee Council interests on Northern Afognak to be distributed to The Department of Natural Resources with \$160,000 of that amount directed to The Rocky Mountain Elk Foundation specifically for due diligence requirements consistent with State and Trustee Council requirements with the authorization of these funds to run from July 1, 2007 to September 30, 2008.

**Budget:**

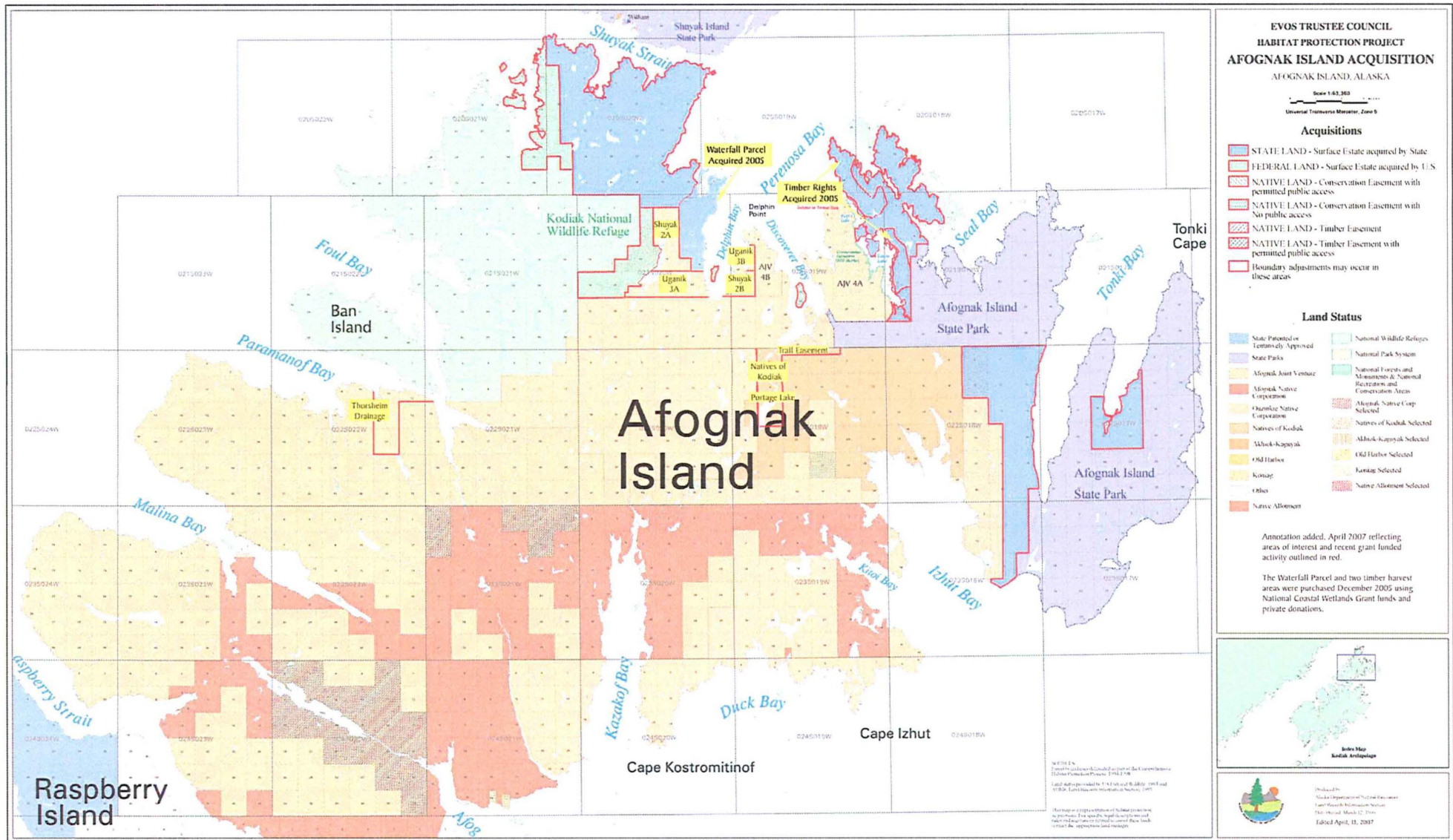
Contractual	\$160,000
G&A	\$ 14,400
<b>Total</b>	<b>\$174,400</b>

Attachments: Map of Project Area  
Estimated Project Budget

**Northern Afognak, Perenosa Bay  
Estimate of Due Diligence Costs**

<b>Initial Costs</b>	<b>Cash</b>	<b>In kind Costs</b>	
Appraisal	\$52,000		
Timber Appraisal	\$125,000		
Appraisal Review	\$10,000		
Timber Review	\$15,000		
Hazmat Assessment	\$15,000		
Surveys (two potential areas)	\$3,500		
Subsurface Assessment	\$2,000		
Partners Expenses: Legal, negotiation and contract support		\$100,000	
<b>Intermediate Costs</b>			
State Expenses	\$25,000	\$25,000	
		\$2,000	
<b>Final Costs</b>			
Title Insurance estimate, actuals tied to parcel cost	\$26,000		
Parcel cost based upon appraisal	TBD		
	\$273,500	\$127,000	\$400,500
<b>Direct Expenses</b>			
Initial Due Diligence, June 2007	\$222,500		
<b>Request from EVOS</b>			
Initial Due Diligence, June 2007	\$160,000		
<b>Potential Future Requests</b>			
October 1- Sept 30 2008	\$25,000		
Title Insurance/Escrow	\$26,000		
	\$211,000	\$50,000.00	\$261,000

Budget Category:	FY07-08	FY 08
Personnel	\$0.0	\$0.0
Travel	\$0.0	\$0.0
Contractual	\$160.0	\$51.0
Commodities	\$0.0	\$0.0
Equipment	\$0.0	\$0.0
Subtotal	\$160.0	\$51.0
General Administration	\$14.4	\$4.6
Project Total	\$174.4	\$55.6



**EVOS TRUSTEE COUNCIL  
HABITAT PROTECTION PROJECT  
AFOGNAK ISLAND ACQUISITION**  
AFOGNAK ISLAND, ALASKA

Scale 1:63,300  
Universal Transverse Mercator, Zone 5

**Acquisitions**

- STATE LAND - Surface Estate acquired by State
- FEDERAL LAND - Surface Estate acquired by U.S.
- NATIVE LAND - Conservation Easement with permitted public access
- NATIVE LAND - Conservation Easement with No public access
- NATIVE LAND - Timber Easement
- NATIVE LAND - Timber Easement with permitted public access
- Boundary adjustments may occur in these areas

**Land Status**

- |  |   |
|--|---|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> State Protected or Tentatively Approved | <span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> National Wildlife Refuges  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> State Parks                             | <span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> National Park System   |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Afognak Joint Venture                   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> National Forests and Management & National Recreation and Conservation Areas |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Afognak Native Corporation              | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Afognak Native Corp Selected   |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Ozunkee Native Corporation              | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Natives of Kodiak Selected   |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Natives of Kodiak                       | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Alchuk-Kapuyak Selected  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Alchuk-Kapuyak                          | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Old Harbor Selected  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Old Harbor                              | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Farang Selected  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Koonag                                  | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Native Allotment Selected  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Other                                   | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black; margin-right: 5px;"></span> Native Allotment   |

Annotation added, April 2007 reflecting areas of interest and recent grant funded activity outlined in red.

The Waterfall Parcel and two timber harvest areas were purchased December 2005 using National Coastal Wetlands Grant funds and private donations.



Produced by:  
Evos Trustee Council  
Land Status Information System  
This report March 17, 2006  
Edited April 01, 2007

NOTES:  
1. This map is a derivative of the data provided by the Corporation of Afognak, Kodiak, Alaska, and the Kodiak Native Corporation.  
2. Land status provided by the U.S. Fish and Wildlife Service, 1995 and 1998. Land status may have changed since then.  
3. This map is a derivative of the data provided by the Corporation of Afognak, Kodiak, Alaska, and the Kodiak Native Corporation.  
4. Land status provided by the U.S. Fish and Wildlife Service, 1995 and 1998. Land status may have changed since then.  
5. This map is a derivative of the data provided by the Corporation of Afognak, Kodiak, Alaska, and the Kodiak Native Corporation.  
6. Land status provided by the U.S. Fish and Wildlife Service, 1995 and 1998. Land status may have changed since then.