

**RESOLUTION 08-06 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING PORT GRAHAM 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.

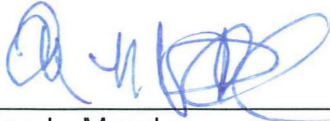
This resolution authorizes the distribution of \$32,700 of FY 08 funding for due diligence expenses in support of Port Graham Habitat Protection Efforts focusing on parcel PTG 01, as described in Attachment A, to be distributed according to the following schedule:

| | |
|---|-----------------|
| Department of Interior, National Park Service | \$32,700 |
| TOTAL APPROVED FOR DISTRIBUTION | \$32,700 |

Authorization of the approved funding shall run from March 17, 2008 to September 30, 2009.

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 \$32,700 from the appropriate account as designated by the Executive Director.

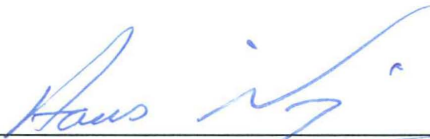
Approved by the Council at its meeting of March 17, 2008, held in Anchorage, Alaska, as affirmed by our signatures affixed below:



Joe L. Meade
Forest Supervisor
Forest Service Alaska Region
U. S. Department of Agriculture

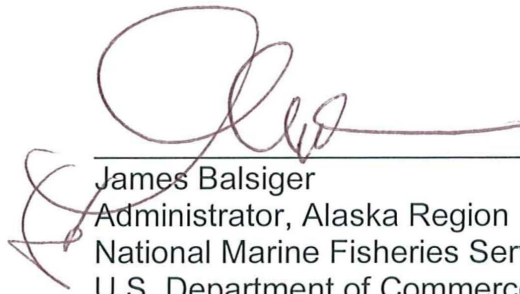


Talis J. Colberg
Attorney General
Alaska Department of Law

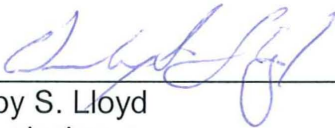


Randall Luthi
Director
Minerals Management Service
U.S. Department of Interior

HANS NEIDIG For
Randall Luthi



James Balsiger
Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce



Denby S. Lloyd
Commissioner
Alaska Department of Fish and Game



Larry Hartig
Commissioner
Alaska Department of Environmental
Conservation

Attachment A – Port Graham Estimate of Due Diligence Costs; Port Graham Benefits Report 1994; Parcel Maps

ATTACHMENT A

**Port Graham
Estimate of Due Diligence Costs**

Initial Costs

| | |
|--|-----------------|
| Appraisal | \$20,000 |
| Appraisal review | \$3,000 |
| Hazmat | \$4,250 |
| Subsurface Assessment | \$2,000 |
| Preliminary Commitment for Title Insurance | \$750 |
| Total Estimated Initial Costs | \$30,000 |

Budget Summary

| Budget Category | FY 08-09 |
|------------------------|-----------------|
| Personnel | \$0.0 |
| Travel | \$0.0 |
| Contractual | \$30,000 |
| Commodities | \$0.0 |
| Equipment | \$0.0 |
| Subtotal | \$30,000 |
| General Administration | \$2,700 |
| Total Request | \$32,700 |

Restoration Benefits Report for Habitat Acquisition
Port Graham Corporation
Parcels PTG 01 through 07

Region and Locale

Kenai Peninsula. Parcels are located on the southeast coastline of the peninsula within Kenai Fjords National Park.

Proposed Acquisition Description

Port Graham (PTG) parcels 01 through 07 are located along the deep water fjords of Kenai Fjords National Park. The park is characterized by a highly indented coastline, interspersed protected waters and extremely scenic uplands. The fjords support tide-water glaciers, many that have receded dramatically this century. Upland slopes are predominately steep, though there are relatively flat areas; soils are generally shallow. Coastal parts of the parcels are covered by a temperate rainforest dominated by Sitka spruce and western hemlock. Under story vegetation is typical of that found with this forest type. More inland parts of the parcels are covered with shrub and tundra vegetation types. Parcels PTG 05 and PTG 01 contain Delight, Desire and Addison Creeks that support commercial red and pink salmon fisheries.

Kenai Fjords National Park provides the most dramatic fjord system in the United States that is protected as a national park. Waters adjacent to the park are teeming with marine life and are often occupied with harbor seals, sea otters, Northern sea lions, porpoises and Minke, Humpback, Orca and Gray whales. Several species of salmon, including pink salmon and red salmon injured by the Exxon Valdez Oil Spill (EVOS), are supported by the park's upland habitat. Numerous species of marine and other birds, including harlequin ducks, marbled and Kittlitz's murrelets, pigeon guillemots, black oystercatchers, cormorants, common loons and bald eagles injured by the EVOS, are found throughout the area and use park uplands. The park is a birder's paradise. Upland areas also support black bear, moose, mountain goat, river otter, mink, marten, wolverine, coyote, snowshoe hare, and porcupine.

Although the park was established amidst great controversy in 1980, it is now the major attraction for the city of Seward's booming tourism economy. A 1996 MOU signed by the City, NPS, USFS, State Parks and the Chamber of Commerce supports the construction of an interagency, cooperatively run Visitor Center/Administrative Offices/Conference Center on City-owned land near the Seward Small Boat Harbor. Numerous businesses, related to the park, have been created in the city since that time. Several businesses, such as Kenai Fjords Tours, Major Marine Tours, and Mariah Charters, have matured into companies of significant size. Because of increased demand, companies are still adding capacity to carry more visitors to see the park, its magnificent landscape, and its wildlife. The Anchorage Daily News runs daily advertisements throughout the year for several commercial companies providing

boat tours of the park. The Alaska Railroad runs daily summer trains to Seward, which are scheduled to connect to these tours. National magazines carry monthly advertisements for guided trips to the park. Large cruise ship companies have discovered Seward (110 dockings in 1996) and their passengers fill the park's visitor center as they disembark into town and seek out points of interest. Many of the cruise ship tourists take flight-seeing tours of the park and have helped stimulate yet more jobs. Half the park's 1994 commercial use licenses were for flight-seeing businesses.

The parcels in this package contain most of the resources and services injured from the oil spill. By protecting the habitat upon which these resources depend, the Trustee Council's goal of providing restoration benefits through protective measures can be accomplished on the Kenai Peninsula.

Parcel Acreage and Ratings. All parcels have been appraised. Combined, the parcels total 46,621 acres, more or less. Parcels have been evaluated by the Trustee Council's Habitat Work Group (1993 & 1994) and score from high to low. High and moderate parcels comprise about 29,000 acres; low rated parcels comprise 18,000 acres.

Other Information

Most of these parcels were conveyed to Port Graham Corporation in 1995 and 1996 under the authority of the Alaska Native Claims Settlement Act. Port Graham's remaining acreage entitlement of 4,290 acres is scheduled to be conveyed in future years. All future conveyances will be within Kenai Fjords National Park. Habitat protection would include conveyed lands and future conveyances. The Port Graham Corporation has expressed willingness to negotiate sale of some or all of their lands within the park on a fee simple basis. The subsurface estate of these parcels has or will be conveyed to the Chugach Alaska Corporation. This subsurface estate has been appraised, but an offer will not be presented at this time.

A number of additional parcels have been rated by the Trustee Council's staff on the Kenai Peninsula near the villages of Port Graham and English Bay. Ratings were from moderate to low value. Lands within the boundaries of Kenai Fjords National Park represent the best potential to acquire lands which have the highest potential to contribute to the Trustee Council's restoration goals.

Restoration Benefits

Injured Resources and Services. Sixteen of the 19 listed injured resources and services used to rate the parcels are present on or directly associated with the lands in this package. The following list contains those rated by the Trustee Council staff as having high or moderate potential to benefit restoration.¹ Injured resources on or immediately adjacent to these lands

¹Rating done by the Habitat Protection Work Group (HPWG),

include: spawning pink salmon, spawning red salmon, feeding and likely spawning Dolly Varden, spawning Pacific herring, nesting bald eagles, feeding black oystercatchers, feeding and haulout areas for harbor seals, molting harlequin ducks, intertidal & subtidal biota (including some dense mussel beds, kelp and eelgrass areas), probable nesting marbled murrelets, feeding and probable nesting pigeon guillemots, high use areas and latrine sites for river otters, and feeding sea otters. Public services provided by these lands include: nationally known and advertised recreation and tourism destinations, pristine wilderness settings, and several archaeological and historic cultural resource sites. Additionally, commercial pink and red salmon fisheries are supported by Delight and Desire Creeks in PTG 05 and Addison Creek in PTG 01. Furthermore, these lands and adjacent coastal waters provide habitat for clams, common loons, cormorants, killer whales, Kittlitz's murrelets, mussels, rockfish, sediments, and passive use, injured resources and services added since the original ratings.

Acquisition of this package will result in habitat protection for not only the lands acquired, but for a much larger area. These lands are within the designated boundaries of Kenai Fjords National Park, an area comprised of 669,000 acres. As such, adding these lands back into park status will ensure that the thousands of acres of protected habitat in the park are not fragmented by various man-made developments and extractive activities. Both the lands acquired, and the lands in the park will provide protection for injured resources and services injured by the oil spill.

Currently, this area is receiving steadily increasing recreational visitation. Both large commercially-operated and small privately-owned boats ply the fjords in greater numbers. The area is well known by sport fishermen who seek out salmon and halibut. Kayakers, campers, photographers and birders from around the world have discovered the park and use it regularly.

Flight-seeing is increasingly popular, and a growing number of tourists see the park in this way. The number of commercial users in the park is on a steady upward trend; between 1995 and 1996 the number of businesses operating in Kenai Fjords with a Park Service commercial use license increased from 34 to 43.

Park management will maintain habitat acquired in its natural condition, thereby protecting injured resources and services from further injury. Park rangers, other park staff and volunteers in the park will regularly patrol the park to ensure a high level of compliance with park regulations and Trustee Council restoration goals. At the same time, services like recreation and tourism can continue to occur and increase, in balance with restoration needs. The park already provides some remote visitor cabins. Cultural sites of particular importance to the Native community will be protected consistent with state and federal laws. The commercial red and

"Comprehensive Habitat Protection Process: Large Parcel Evaluation & Ranking," as presented to the Council November 30, 1993, The list of injured resources and services has been expanded to 30 as of the Trustee Council meeting on 8/29/96.

pink salmon fisheries associated with Delight, Desire and Addison Creeks will be maintained by protection of spawning and rearing habitat.

Should the parcels not be acquired, private management would determine the nature and rate of change to the land. Development could take many forms. While the unspoiled and wild landscape of the park provides protection for injured resources and services and is a prime visitor attraction, the same landscape could be severely altered with lodges, cabins and docks in bays with greatly increased boat and aircraft traffic. Developed parcels would fracture habitat into smaller blocks, and protection for injured resources and services would be diminished. Most biologists agree that large, protected natural areas provide better habitat for populations of animals, such as those injured by the EVOS, than parcels interrupted by human developments.

In future years forested areas of the park could be logged. Logging would begin to impact the habitat of injured resources and services on lands logged and possibly on surrounding lands. Even small logging operations would severely impair the scenic, wilderness and recreational qualities of the otherwise undisturbed area.

Proposed Management Structure. Lands acquired would be managed by the National Park Service pursuant to the National Park Service's Organic Act, 16 USC 1, and the Alaska National Interest Lands Conservation Act (ANILCA), 16 USC 3101. These two laws provide the key legislative mandates for management. For Kenai Fjords National Park, ANILCA section 201 (5) says,

Kenai Fjords National Park... shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Ice Field, its outflowing glaciers, and coastal fjords and islands in their natural state; and to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes....

These mandates from Congress mesh well with the Trustee Council's restoration goals for the injured resources and services. The very core of the Park Service mission is both protection and use. On the one hand, most areas will be left in their natural state thus providing undisturbed habitat for the many species that will benefit from such protection. On the other hand, services like recreation and tourism can continue to occur. People from Alaska, from the rest of the USA, and from around the world could visit the park, marvel at its scenery, and learn about its natural resources.

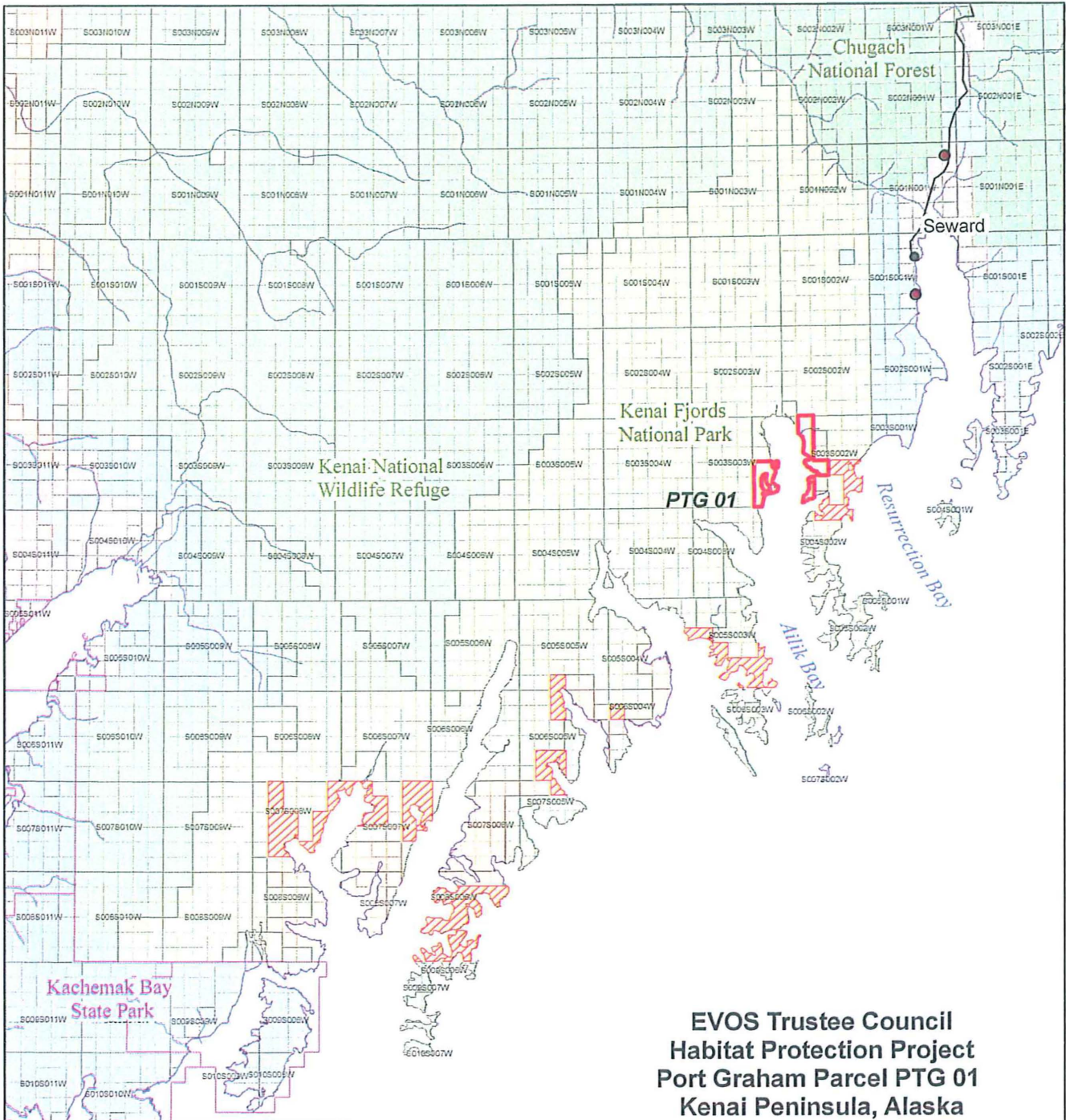
Terms and Conditions

Fee simple acquisition of all parcels.

Sources of Revenue. Civil restoration fund monies.

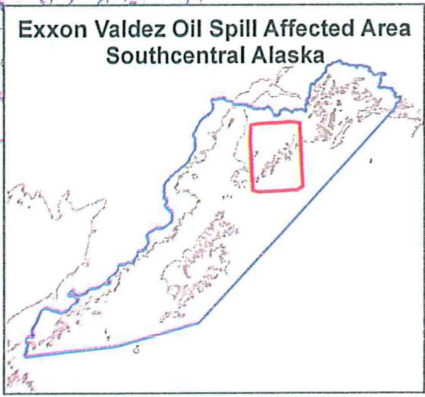
Recommendation


Fee simple acquisition of all parcels.



**EVOS Trustee Council
Habitat Protection Project
Port Graham Parcel PTG 01
Kenai Peninsula, Alaska**

This map is a representation of habitat protection activities. For specific legal descriptions and regulations related to use of these lands contact the appropriate land manager.




 0 3 6 12 Miles
 Produced by:
 Alaska Department of Natural Resources
 February 29, 2008

EVOS Acquisitions & Land Status

| | | | |
|---|--------------------|---|--------------------------|
|  | EVOS Small Parcels |  | US Forest Service |
|  | EVOS Large Parcels |  | National Park Service |
|  | Port Graham PTG 01 |  | National Wildlife Refuge |
| | |  | Native Lands |
| | |  | State Lands |
| | |  | Other Lands |

Land Status is generalized the section level. Other Lands include sections with both state and native land, municipal lands, or private lands.

HABITAT PROTECTION ACQUISITION PARCELS






KENAI PENINSULA, ALASKA

Parcel: **PTG01**

0 2.0 4.0 miles

Universal Transverse Mercator Projection

LEGEND

- | | | | |
|---|--|---|------------------------------|
|  | National Parks, Monuments, or Preserves; or BLM |  | English Bay Corp Selected |
|  | National Wildlife Refuges |  | Port Graham Corp Selected |
|  | State Patented or Tentatively Approved | | |

SOURCES:
Land status provided by the
Department of Natural Resources,
Division of Land and Land Records
Information Section, 1993, and
US National Park Service, 1993.

