

Exxon Valdez Oil Spill Trustee Council

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Erratum Notice

Resolution 08-02 of the *Exxon Valdez* Oil Spill Trustee Council Regarding Small Parcel KEN 3002 dated March 17, 2008 was erroneously number using a previously assigned resolution number. Resolution 08-02 is renumbered Resolution 08-08 *Exxon Valdez* Oil Spill Trustee Council Regarding Small Parcel KEN 3002.

A handwritten signature in green ink that reads "Michael Baffrey". The signature is written in a cursive, flowing style.

Michael Baffrey
Executive Director

March 19, 2008

Date

**RESOLUTION 08-02 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCEL KEN 3002**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council (“Trustee Council”), after review and consideration of relevant information regarding restoration of resources injured by the Exxon Valdez Oil Spill (“EVOS”) find as follows:

1. The owners of small parcel KEN 3002 have indicated an interest in selling said parcel.
2. An appraisal of the parcel approved by the state review appraiser determined that the fair market value of the parcel is \$629,000.
3. As set forth in Attachment A, 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. Parcel KEN 3002, because of its location, on the river near the Soldotna Visitor’s Center, adjacent to the previously acquired Shilling/Roberts parcel where the Sterling Highway crosses the Kenai River, provides highly visible and convenient access to recreational anglers and residents utilizing Centennial Park and the Soldotna Fish Walk. Acquisition of this parcel will protect approximately 250 linear feet of riverfront and provides an important connection between public riverfront lands. Public ownership of this parcel will allow for managed access to the Kenai River and thereby protect habitat for pink salmon and Dolly Varden and enhance the recovery of recreational services such as sport fishing, commercial fishing and tourism.
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 *Exxon Valdez* oil spill (“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 within Alaska as well as on a national basis, for the acquisition of lands.

6. The purchase of small parcels is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

7. 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 small parcel KEN 3002 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 six-hundred twenty-nine thousand dollars (\$629,000) for small parcel KEN 3002;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 30, 2009;

(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 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 Investment Fund to the State of Alaska Department of Natural Resources;

(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 of this parcel;

(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 3002 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 Trustee 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



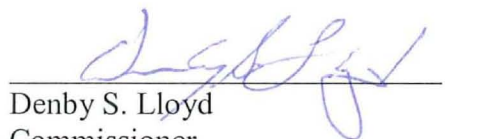
Talis J. Colberg
Attorney General
Alaska Department of Law



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 - Restoration Benefits Report and Map

ATTACHMENT A

KEN 3002, Russell/Long Parcel

Owner:	Alex B. Russell, Jr. and William E. Long
Physical Location:	The parcel is located on the Kenai River adjacent to the previously purchased Roberts parcel near the Soldotna Visitors Center at the intersection of the Sterling Highway and Kalifornsky Beach Road.
Acreage:	3.04 acres
Description	450 Centennial Park Road, Soldotna, AK
Legal Description:	T5N, R10W, Sec 32, KM, that portion of Government Lot 8 as per WD 102@274 lying north of Kalifornsky Beach Road. Lot 1 of Russell Subdivision.
Agency Sponsor:	ADNR and ADF&G
Appraised Value:	\$629,000.

Parcel Description. This parcel is located on the Kenai River between the Roberts parcel previously purchased by EVOS, and the City of Soldotna’s Centennial Park. The Roberts/Shilling parcel is adjacent to the Kenai Peninsula Visitors Center. The parcel slopes from Kalifornsky Beach Road to the Kenai River, is vegetated with spruce and birch trees, and has approximately 250 feet of Kenai River frontage.

Linkage to Restoration:

Restoration Benefits. Public ownership of this parcel will allow for managed access to the Kenai River and thereby protect habitat for pink salmon and Dolly Varden and enhance the recovery of recreational services such as sport fishing, commercial fishing, and tourism.

Key habitat and other attributes of the parcel include the following:

- *Pink salmon, sockeye salmon, and Dolly Varden.* Pink salmon spawn and Dolly Varden spawn and rear in this stretch of the Kenai River. The streamside vegetation afforded by this and other parcels along the Kenai River stabilize riverbanks, protect water quality, moderate temperatures and provide cover for fish. Unfortunately, increasing bank fishing along the Kenai River is destroying riverside brush and grasses.
- *Recreation/tourism.* This parcel has the potential for increasing levels of use for recreational fishing because of its location near the Kenai Peninsula Visitors Center, its gentle slope toward the Kenai River, and the existence of a public use “fishwalk” on a 10-foot easement along the river on the EVOS purchased Roberts/Shilling parcel.

This parcel connects to the larger Kenai River ecosystem and contributes to previous Council and State efforts focused on the health of the Kenai River, its riparian habitat and the various species of fish, such as pink, sockeye, and king salmon and Dolly Varden, that commercial and sport fishing industries depend upon. Acquisition of this parcel will provide restoration benefits to Dolly Varden, subsistence, commercial fishing, passive use, and recreation and tourism.

Potential Threats. This parcel has the potential to be converted to profitable commercial use or multi-family housing development. In addition, a significant threat to restoration results from

uncontrolled access to the Kenai River, which damages habitat by trampling streambanks and denuding them of vegetation. Similar habitat on adjacent parcels has been protected through acquisition and on-the-ground restoration efforts including bank stabilization and the construction of elevated light penetrating gratewalk and access stairs designed to provide fishing access while minimizing bank trampling and destruction of riparian habitat. Acquisition of this parcel provides ADF&G/ADNR with the ability to protect contiguous riparian habitat, and if warranted, through bank stabilization and managed recreational access, to contribute to the restoration of pink salmon and Dolly Varden.

Proposed Management. The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of the subject property for the benefit of fish and wildlife resources and services that were injured in the *Exxon Valdez* oil spill. If this parcel is acquired, ADNR, in cooperation with ADF&G, will manage it to protect environmentally sensitive river frontage and provide recreational opportunities for the public as appropriate on the remainder of the parcel. The parcel will probably be classified Habitat/Public Recreation Land. The seller has specified “This parcel is to be managed by Alaska State Parks in the interest of maintaining riverine habitat in a natural state on the Kenai River.” It is possible that this parcel will be considered for inclusion in the Kenai River Special Management Area providing additional focused management.

Appraised Value. The parcel has been subdivided to provide the State with an opportunity to purchase the undeveloped portion of the original five-acre parcel. Lot 1, the parcel being considered by the Trustee Council, is appraised at \$629,000 based upon a highest and best use of single or multi-family residential development. The remaining parcel, Lot 2, provides the seller with 1.24 acres of marginally improved property suitable for commercial use.

Public Comment. The Restoration Office has received letters of support for acquisition of this parcel from the Kenai River Sportfishing Association, the City of Soldotna and Kenai Peninsula Borough.

