

**RESOLUTION 13-02 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING SMALL PARCEL KAP 3000 (TORSEN)**

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 as follows:

1. The owner of small parcel KAP 3000 (Torsen or Seller) Lot 1 U.S. Survey 13916, as described in Attachment A, has indicated an interest in selling this small parcel.

2. KAP 3000 has attributes that, if it is acquired and protected, will restore, replace, enhance and rehabilitate injured 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 *Exxon Valdez* oil spill (EVOS) has been documented.

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 Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects caused by 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 laws and regulations to protect resources, scientists and other resources 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 within Alaska, as well as on a national basis, for the acquisition of lands within the oil spill area.

5. The purchase of small parcel KAP 3000 is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

6. Acquisition of the parcel is consistent with the Final Restoration Plan.

THEREFORE, we authorize the transfer of \$107,600 to the United States Fish and Wildlife Service: \$7,600 to conduct due diligence activities and up to \$100,000 to purchase all of the Seller's rights and interests in small parcel KAP 3000, as described in Attachment A. The purchase of this small parcel is subject to the following conditions:

- a. The fair market value of the parcel as established by an appraisal satisfactory to the State of Alaska and United States must fall within the range of \$60,000 - \$100,000;
- b. Authorization for the purchase of this small parcel shall terminate if a purchase agreement is not executed by February 21, 2015;
- c. A title search satisfactory to the State of Alaska and the United States will be completed, and the Seller shall be willing and able to convey fee simple title by warranty deed;
- d. No timber harvesting, road development or any alteration of the land will be initiated on KAP 3000 prior to the purchase of this parcel without the express written agreement of the State of Alaska and the United States;
- e. A hazardous materials survey satisfactory to the State of Alaska and United States will be completed;

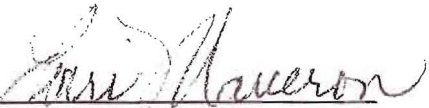
- f. An appropriate federal agency will undertake any necessary environmental compliance measures;
- g. Purchase of the parcel is otherwise consistent with any other applicable federal requirements; and
- h. A conservation easement on parcel KAP 3000 will be conveyed to the State of Alaska that is satisfactory to the United States and the State of Alaska Departments of Law and Natural Resources. It is the intent of the Council that the conservation easement will provide:
  - 1. that any development on parcel KAP 3000 shall be of limited impact and consistent with the goals of restoration; and
  - 2. that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to pre-spill 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 Council.

The funds authorized above are to be distributed as follows:

U.S. Fish and Wildlife Service	\$107,600
<b>TOTAL APPROVED TO UNITED STATES</b>	<b>\$107,600</b>

By unanimous consent, we hereby 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 to make available \$107,600, for the purposes noted above, from the appropriate account(s) designated by the Executive Director.

Approved by the Council at its meeting of February 21, 2013 held in Anchorage, Alaska, as affirmed by our signatures affixed below.



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TERRI MARCERON  
Forest Supervisor  
Chugach National Forest  
U.S. Department of Agriculture

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MICHAEL C. GERAGHTY  
Attorney General  
Alaska Department of Law

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PAT POURCHOT  
Special Assistant to the Secretary of the  
Interior for Alaska Affairs  
Office of the Secretary  
U.S. Department of the Interior

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JAMES BALSIGER  
Administrator, Alaska Region  
National Marine Fisheries Service  
U.S. Department of Commerce

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CORA CAMPBELL  
Commissioner  
Alaska Department of Fish and Game

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LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A - Restoration Benefits Report and Maps for Torsen Parcel, Shasta Creek, Kodiak

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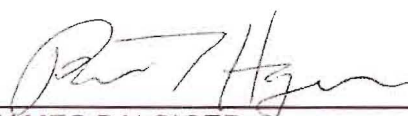
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for JAMES BALSIGER  
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### **Torsen Parcel, Shasta Creek, Kodiak**

<b>Owner:</b>	Ernest Torsen
<b>Physical Location:</b>	This parcel is located on Shasta Creek, a tributary of the Karluk River, Kodiak Island, Alaska.
<b>Acreage:</b>	87.99 acres
<b>Brief Description:</b>	Native Allotment on Shasta Creek
<b>Agency Sponsor:</b>	U.S. Fish and Wildlife Service
<b>Appraised Value:</b>	

**Parcel Description.** This parcel, aka Lot 1, U.S. Survey 13916, is a Native allotment comprising 87.99 acres granted to Mr. Torsen by the Bureau of Land Management (BLM). It is located on Shasta Creek a tributary to the Karluk River on Kodiak Island, Alaska. The parcel is located in Section 28, T. 30 S., R. 31 W. of the Seward Meridian. It is bounded by BLM lands to the east, west and south and Koniag lands to the north. Originally this parcel was BLM land. Lands were conveyed to Mr. Torsen under provisions of the Alaska Native Veterans Allotment Act. The parcel is in a natural condition at this time. The parcel is composed of a low tundra mountain which slopes into Shasta Creek.

The Torsen Native allotment was nominated under the *Exxon Valdez* Oil Spill Trustee Council (Council) Small Parcel program in July of 2011 and has been under consideration by the U.S. Fish and Wildlife Service (Service) for several years. This nomination was deferred from Council consideration until approximately 2,082 acres of federal lands managed by the BLM that surround the allotment could be incorporated into the Kodiak National Wildlife Refuge (Refuge), consolidating land ownership. The BLM has recently concurred with the Service's proposal, pursuant to Alaska National Interest Land Conservation Act Section 103(b), to make a minor adjustment to the Refuge boundary that formally incorporates these lands in to the Refuge. Acquisition of the Torsen Native allotment would complete the consolidation of these lands under a single management regime to facilitate the preservation and effective management of water quality, fish and wildlife habitats in this area.

#### **Linkage to Restoration:**

#### **Restoration Benefits.**

Shasta Creek is a main tributary of the Karluk River, Kodiak's largest river. The Karluk River supports one of only two freshwater king fisheries on Kodiak Island. The king fishery has seriously declined over the past 20 years to the point that sport fish opportunities, once a significant activity on the river, are almost non-existent. The reasons for the decline of the run have not been identified and maybe a result of several factors including bycatch from off shore fisheries, ocean warming and lack of primary food sources. King salmon on Kodiak Island rely on Pacific Herring as a primary food source. Pacific Herring are also known to spawn in the nearshore waters of the Karluk

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River Lagoon. The 2010 Injured Resources & Services Update (adopted in May 2010) by the Council lists Pacific Herring as “not recovered”. The Karluk drainage is also known to provide critical winter feeding habitat for pigeon guillemots, a species also listed as “not recovered” in the 2010 Injured Resources & Services Update. Acquisition of the Torsen parcel would help support recovery of these injured resources. Shasta Creek is also used by resident Dolly Varden.

The area also supports recreational use by kayakers, nature viewers, fishers, birdwatchers and hikers, particularly those floating down the Karluk River, which Shasta Creek flows into. Shasta Creek is one of the designated campsites on the Karluk River downstream of the Kodiak National Wildlife Refuge. So anyone floating the Karluk River and staying at the campsite would likely notice development on the Torsen parcel.

**Potential Threats.**

Under private ownership, uses that would be incompatible with Kodiak Refuge management are allowable. Such uses include subdivision, development, limited timber cutting, and denial of public use and access. These uses would change the character of the land and would adversely affect natural resources and visitor experiences.

**Proposed Management.**

Upon acquisition, this parcel will be managed by the Kodiak Refuge consistent with applicable federal laws and policy.

**Request.**

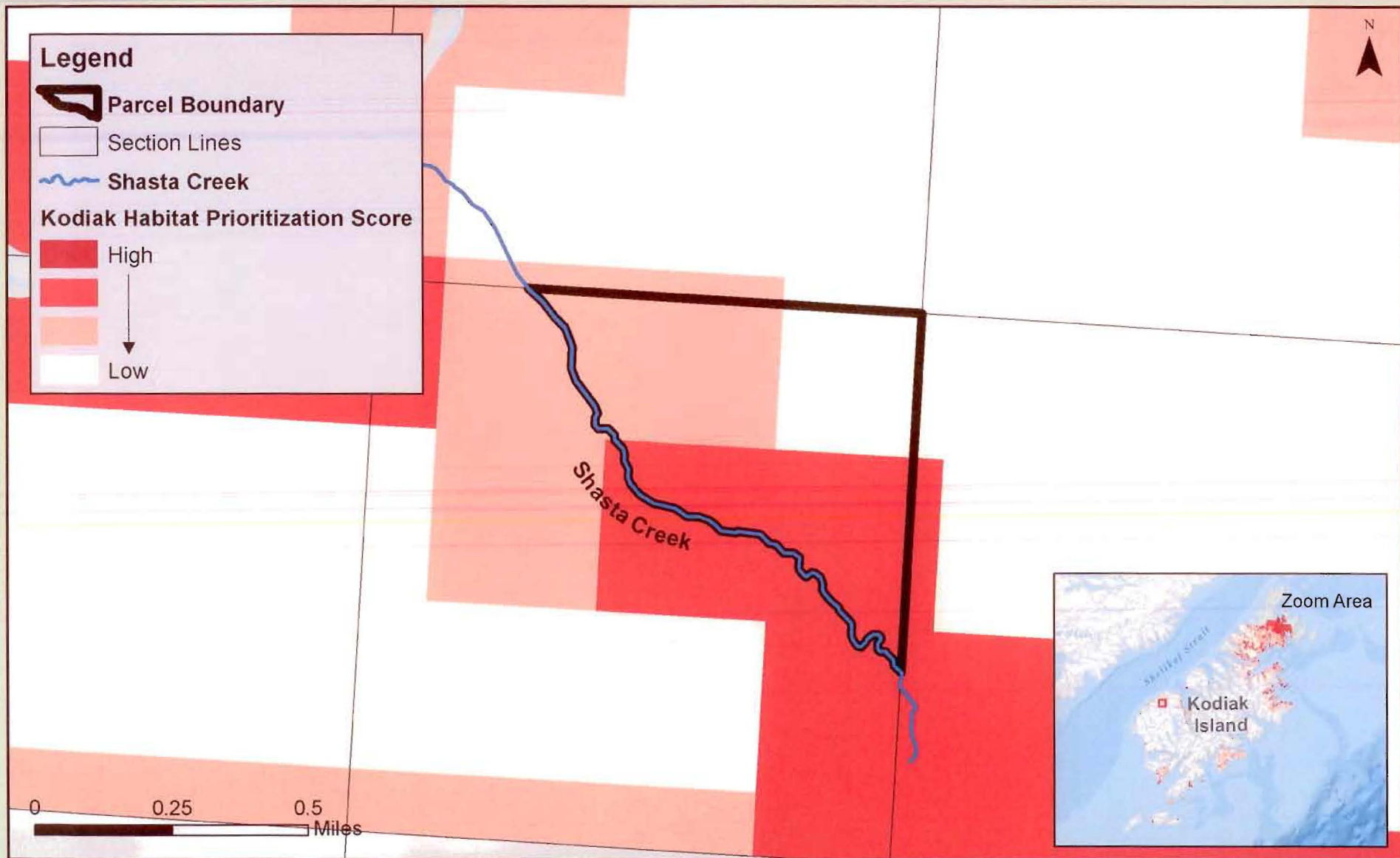
Torsen Funding and Conditional-Purchase Authorization Request: The Service requests due diligence (appraisal, appraisal review, environmental reviews, and title work) funding in the amount of \$7,600. In addition, the Service requests that the Council conditionally authorize the purchase of this parcel:

- a. if the estimated fair market value falls within the bracketed value of \$60,000 - \$100,000; and
- b. due diligence reports are acceptable to ADNR and ADOL; and
- c. provided that the Council Executive Director, ADNR and ADOL find that it is in best interest of the Council to move forward with acquisition of the parcel.

The authorization would be valid for a two-year period.

# ERNEST TORSEN PROPERTY

Kodiak Prioritization Overlay



Data Sources:  
Kodiak Island Borough, ADNR, USGS, ADFG, AFWS, Audubon  
Knocor Forest Products, SIN, NRCS, EVOSTC, NCED, NOAA

Projected Coordinate System:  
NAD 1983 State Plane Alaska 5 FIPS 5004 Feet



U.S. Fish & Wildlife Service

Kodiak Island Alaska

Karluk Area Land Status

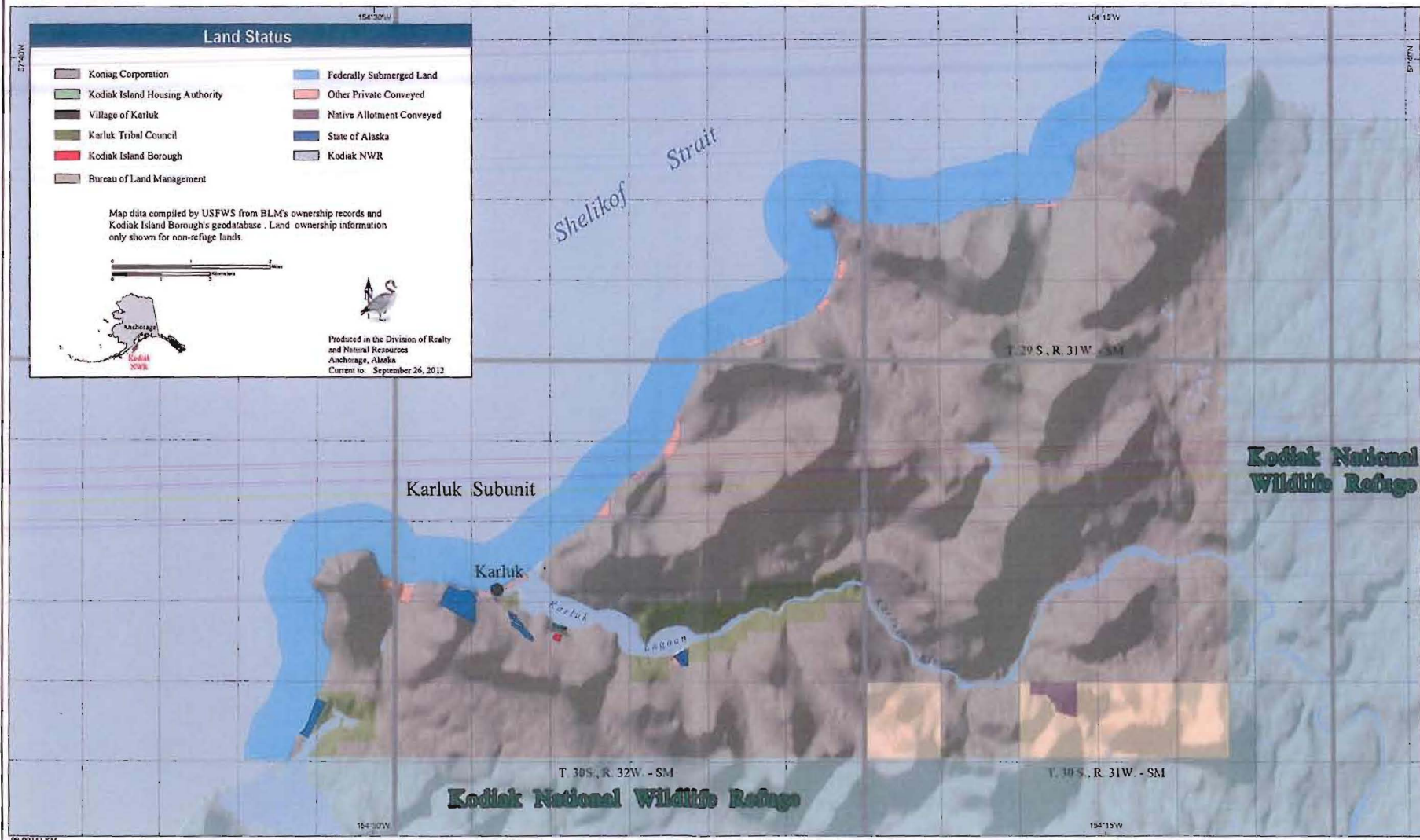
### Land Status

- |                                 |                           |
|---------------------------------|---------------------------|
| Koniag Corporation              | Federally Submerged Land  |
| Kodiak Island Housing Authority | Other Private Conveyed    |
| Village of Karluk               | Native Allotment Conveyed |
| Karluk Tribal Council           | State of Alaska           |
| Kodiak Island Borough           | Kodiak NWR                |
| Bureau of Land Management       |                           |

Map data compiled by USFWS from BLM's ownership records and Kodiak Island Borough's geodatabase. Land ownership information only shown for non-refuge lands.

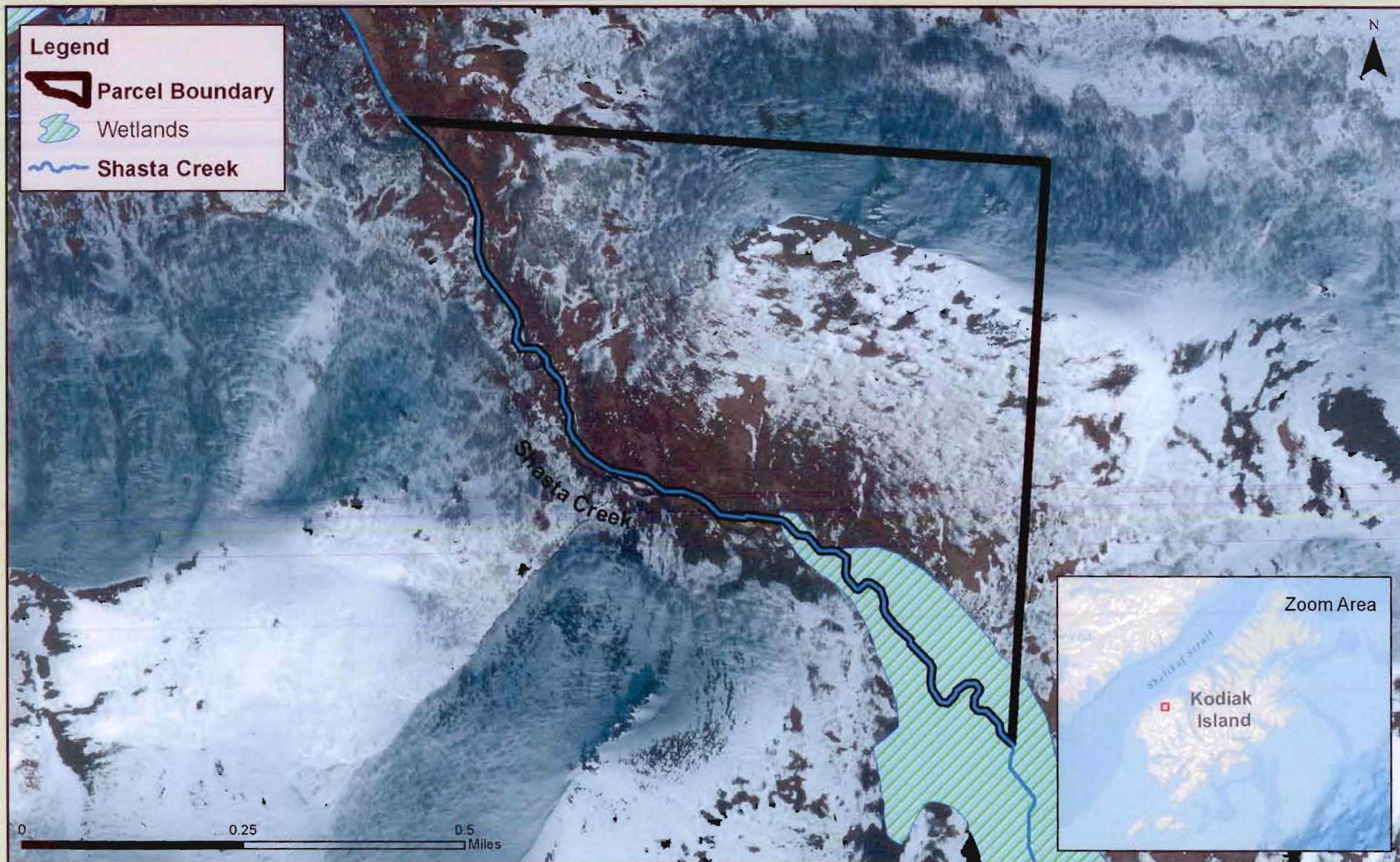


Produced in the Division of Realty and Natural Resources  
Anchorage, Alaska  
Current to: September 26, 2012



# ERNEST TORSEN PROPERTY

Aerial Photograph and Features



Data Sources:  
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