

RECEIVED  
FEB 23 1995

RESOLUTION OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

We, the undersigned, duly authorized members of the Exxon Valdez Oil Spill Trustee Council, after due consideration of the views of the public and as a supplement to our December 2, 1994, Resolution (hereafter "Resolution") regarding the Orca Revised and Core Lands interests owned by the Eyak and Sherstone Corporations (hereafter "Eyak") find as follows:

1. On December 2, 1994, the Trustee Council unanimously resolved to authorize an offer to purchase from Eyak the Core Lands in fee simple and certain interests in the Orca Revised lands. The acceptance of this offer was subject, among other things, to the preparation of conservation easements that allow for development on the Orca Revised lands only to the extent compatible with the restoration of injured natural resources and services, which Eyak was to convey, in perpetuity, to the United States. This offer was the preferred alternative of the Trustee Council. However, in the alternative, the Trustee Council conditionally and conceptually accepted Eyak's offer to sell fee simple interests in the Core Lands.

2. Eyak also owns the surface estate of, or has valid prioritized selections, on lands located west of Shepard Point known as the "Other Lands," consisting of approximately 36,000 acres. These lands include parcels adjoining Port Gravina, Sheep Bay, Windy Bay, and Simpson Bay. The Other Lands contain the highest ranked parcels for restoration purposes of any land owned by Eyak. Most of the parcels located within the Other Lands were ranked "high" in the Trustee Council large parcel habitat protection evaluation, and are of significant concern to the Council. These parcels contain highly important habitat for several species of wildlife for which injury resulting from the oil spill has been documented, including marbled murrelets, harlequin ducks, pink and sockeye salmon, sea otters, and bald eagles.

3. The Orca Revised lands are threatened with imminent clearcut logging. Although protected under a moratorium on commercial timber harvesting negotiated with Eyak in 1994, the moratorium will expire March 1, 1995. Pre-sale preparation activities by Eyak have begun and Eyak has represented that permits have been secured or are pending for the logging of portions of the Orca Revised lands and that a majority of the commercial timber in the Orca Revised lands is scheduled for harvest by clearcut logging over the next few years.

4. On December 12, 1994, Eyak responded to the Trustee Council's Resolution with a development rights offer for Orca Revised lands. The Council informed Eyak it did not consider the development rights offer responsive to the terms of its Resolution, which allowed for development

only to the extent compatible with the restoration of injured natural resources and services.

5. The Trustee Council remains desirous of purchasing interests in the Other Lands, which may provide the greatest benefit from land owned by Eyak to the natural resources injured as a result of the spill and the services they provide, and to purchasing interests in the Orca Revised lands to alleviate the immediate threat to the injured resources and services that may result from logging activities. Purchasing interests on the Orca Revised lands is important to maintaining water quality and riparian habitats for anadromous fish and maintaining nesting and foraging opportunities for marbled murrelets and bald eagles. The area has a high value for recreation and tourism and is highly visible to the nearby community of Cordova.

6. Existing laws and regulations, including the Alaska Forest Practices Act, the Alaska Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Zone 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 present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws and regulations to protect resources, biologists, 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 likely have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

7. There is widespread public support for the acquisition of interests in the Other Lands and the Orca Revised lands.

8. The purchase of the interests in the Other Lands and the Orca Revised lands is an appropriate means to restore a portion of the injured resources and the lost or reduced services in the oil spill area. Acquisition of any interests in these lands is consistent with the Final Restoration Plan.

THEREFORE, we resolve to authorize funding for an offer to purchase a moratorium in the form of a limited conservation easement on a portion of these lands, as detailed below, and to provide the funds, if the offer is accepted, in the amounts set forth below for the United States, acting through the Forest Service, to enter into appropriate agreements in conformity with applicable federal and state law to purchase and acquire these interests in the lands. Such agreements shall contain and are subject to the following conditions and terms:

(a) The Trustee Council authorizes an offer to purchase a limited conservation easement conveying to the United States the rights to the commercial timber located on the Orca Revised lands for a period of seven years. The purchase price for the interests in the Orca Revised lands shall be \$4,130,000. In order to provide an opportunity to

negotiate permanent habitat protection with respect to the Other Lands, it is necessary to preserve the status quo of those lands. Accordingly, acceptance of this offer is subject to the donation by Eyak of a seven year conservation easement prohibiting all development, including commercial timber harvest, by Eyak, its agents, successors, or assigns, on the Other Lands, except for such homesites under Eyak's Shareholder Land Use Program as may be negotiated with the Forest Service and agreed to by the Trustee Council. This offer is not intended to affect Eyak's existing subsistence and access rights. The donation of this conservation easement by Eyak shall not be subject to any shareholder approval of the conveyance of fee title in the Core Lands to the United States.

(b) The acknowledgement of Eyak that it shall, in good faith, cooperate and negotiate with the Trustee Council to complete an agreement for the acquisition of permanent interests in the Other Lands that will further the purposes of restoration by the protection of the highly important habitat located on the Other Lands.

(c) The purchase price for the interests in the Orca Revised lands shall be amortized on an annualized, pro-rata basis; any unamortized portion of that amount remaining at the closing of any subsequent purchase of interests in the Orca Revised lands shall be credited against the purchase price of those interests.

(d) Authorization from Eyak to complete the appraisal of the Other Lands.

(e) The disbursement of funds from the Court Registry by the United State District Court for the District of Alaska (hereafter "District Court").

(f) No development inconsistent with the conservation easements proposed to be acquired shall take place on the Orca Revised lands or the Other Lands prior to the conveyance of interests in the Orca Revised lands.

(g) A satisfactory hazardous substances survey is completed.

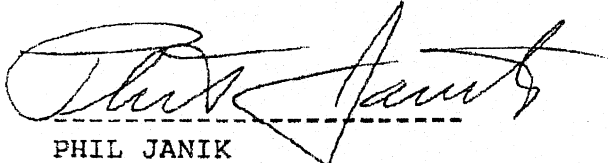
(h) Satisfactory compliance with the National Environmental Policy Act and other applicable federal law.

(i) An appropriate interest in the State of Alaska authorizing the State to enforce in a court of competent jurisdiction the restoration and conservation purposes for which this acquisition is made as set forth in this Resolution and in any implementing purchase agreement. Language to implement this intent shall be developed in form and substance that is satisfactory to the U.S. Department of Justice and the Alaska Department of Law.

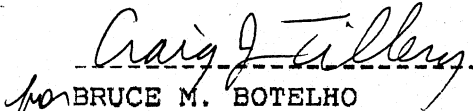
By unanimous consent, and upon execution of the purchase agreement and written notice from the Forest Service and the State of Alaska that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the U.S. Department of Justice to petition the District Court for the withdrawal of the sum of \$4,130,000 to be paid at closing. These amounts represent the only amounts due under this resolution to Eyak by the United States or

the State of Alaska from the joint funds in the District Court Registry, and no additional amounts or interest are herein authorized to be paid to Eyak from such joint funds.

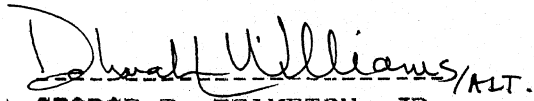
Dated this 22<sup>nd</sup> day of February, 1995, at Juneau, Alaska.



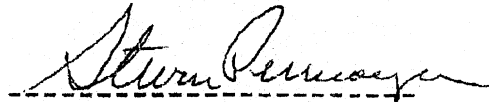
PHIL JANIK  
Regional Forester  
USDA Forest Service



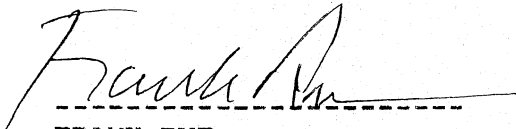
for BRUCE M. BOTELHO  
Attorney General  
State of Alaska



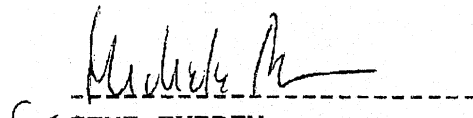
GEORGE T. FRAMPTON, JR.  
Assistant Secretary for Fish  
& Wildlife and Parks  
U.S. Dept. of the Interior



STEVEN PENNOYER  
Director, Alaska Region  
National Marine Fisheries  
Service



FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game



for GENE BURDEN  
Commissioner  
Alaska Department of  
Environmental Conservation