

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCELS KEN 1049 AND KAP 98, 101, 103, 131, AND 132**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), after extensive review and after consideration of the views of the public, find as follows:

- 1.a. The owner of small parcel KEN 1049 has indicated an interest in selling said parcel;
 - b. An appraisal of the parcel commissioned by the Alaska Department of Natural Resources has been approved by the State and federal review appraisers;
 - c. 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. This parcel is bounded on one side by Small Parcel KEN 10 (Kobylarz parcel) and, on the other side by small parcel KEN 1040 (Oberts Big Eddy parcel). Acquisition of the Kobylarz parcel has been completed and negotiations continue on the Oberts Big Eddy parcel. Although small parcel KEN 1049 is listed for sale with a real estate broker, the owner has indicated her willingness to sell it to the State of Alaska for the appraised fair market value of \$55,000;
- 2.a. The Council at its meeting of May 2, 1996 authorized the appraisal by the U.S. Fish and Wildlife Service of parcels KAP 98, KAP 101, KAP 103, KAP 131, and KAP 132 as parcels having special merit for land acquisition and habitat protection;
 - b. The owners of the foregoing small parcels have indicated an interest in selling their respective parcels;

c. Appraisals of the parcels obtained by the U.S. Department of the Interior have been completed and approved by the State and federal review appraisers;

d. As set forth in Attachment B, these small parcels have attributes which, if they are acquired and protected, will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources including important habitat for several specifics of fish and wildlife for which significant injury resulting from the spill has been documented;

3. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other development activities. However, restoration, replacement and enhancement of resources injured by the *Exxon Valdez* oil spill present a unique situation. Without passing on the adequacy or inadequacy of existing law and regulation to protect natural resources and services, biologists, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill affected area to levels above and beyond that provided by existing law and regulation will have a beneficial affect on recovery of injured resources and lost or diminished services provided by these resources;

4. There has been widespread public support for the protection of small parcels; and

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

THEREFORE, we resolve to provide funds for the State of Alaska to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcel

KEN 1049; and to provide funds for the United States to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcel KAP 98, KAP 101, KAP 103, KAP 131 and KAP 132 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 or the United States shall be the final approved appraised value of the respective parcel as stated below:

- | | | |
|-------|----------|-----------|
| (i) | KEN 1049 | \$55,000 |
| (ii) | KAP 98 | \$128,000 |
| (iii) | KAP 101 | \$52,000 |
| (iv) | KAP 103 | \$66,000 |
| (v) | KAP 131 | \$68,000 |
| (vi) | KAP 132 | \$256,000 |

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 15, 1997;

(c) disbursement of these funds by the District Court;

(d) a satisfactory title search is completed by the acquiring government 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 acquiring government prior to purchase;

(f) a satisfactory hazardous materials survey is completed;

(g) compliance with the National Environmental Policy Act;

(h) a conservation easement satisfactory to the Department of Justice, the Department of the Interior and the Department of Law shall be conveyed to the nonacquiring government.

It is the intent of the Trustee Council that any facilities or other development on the foregoing small parcels after acquisition shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcels excepting such limited commercial use as may be consistent with applicable state or federal law and the goals of restoration to prepill 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 ("MOA") and the Restoration Plan as approved by the Trustee Council ("Restoration Plan").

By unanimous consent and upon execution of the purchase agreement and written notice from the State of Alaska and the Executive Director for small parcel KEN 1049 and the United States Fish and Wildlife Service and the Executive Director for small parcels KAP 98, KAP 101, KAP 103, KAP 131 and KAP 132 that the terms and conditions set forth herein and in the purchase agreements 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 withdrawal of the Purchase Price and any such additional costs related to closing as are recommended by the Executive Director and approved by the Trustee Council for each of the Small Parcels from the District Court Registry account established as a result of the Governments'

settlement to be paid at the time of closing. These amounts represent the only amounts due under this resolution to the Sellers by the State of Alaska or the United States from the joint funds in the District Court Registry and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Dated this _____ day of November, 1996 at Anchorage, Alaska.

PHIL JANIK
Regional Forester
Alaska Region
USDA Forest Service

BRUCE M. BOTELHO
Attorney General
State of Alaska

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

STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries Service

FRANK RUE
Commissioner
Alaska Department of
Fish and Game

MICHELE BROWN
Commissioner
Alaska Department of
Environmental Conservation