

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**

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

1. The owners of the Mud Bay small parcels, KEN 1060 A, B, C, and D, and the Beluga Slough small parcel, KEN 1061, have indicated an interest in selling said parcels and executed options to sell the parcels that are held by the Trust for Public Land (TPL);
2. An appraisal of the parcels commissioned by TPL has been approved by the State and federal review appraisers;
3. As set forth in Attachment A (Benefits Reports for KEN 1060 A, B, C, and D and KEN 1061), if acquired, these small parcels have 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. Acquisition of these small parcels will assure protection of 68.7 acres at Mud Bay and 38 acres at Beluga Slough. In addition City of Homer officials have indicated that the City appears receptive to a requirement of the acquisition that the City convey a conservation easement to the State of Alaska and the United States on additional parcels containing a total of approximately 59.52 acres adjacent to the Mud Bay small parcel as well as providing \$41,000 of the funds towards the purchase of the Beluga Slough small parcel.
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 *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 for the acquisition of lands within Alaska as well as on a national basis;

6. The purchase of the lands is an appropriate means to restore a portion of the injured resources and services in the oil spill area. Acquisition of these lands is consistent with the Final Restoration Plan;

7. 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 on behalf of the City of Homer all the sellers' rights and interests in the small parcels KEN 1060 A, B, C, and D, and KEN 1061 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 \$422,100 for small parcels KEN 1060 A, B, C, and D and \$574,000 for small parcel KEN 1061 with additional funds necessary to complete the acquisition of KEN 1061 to be provided by the City of Homer;

ACE 30394812

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 15, 1998;

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

(d) a title search satisfactory to the State of Alaska and the United States is completed by the City of Homer or TPL, 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;

(f) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;

(g) compliance with the National Environmental Policy Act;

(h) the acquisition of small parcels KEN 1060 A, B, C, and D is authorized on the condition that all four subparcels A, B, C, and D be acquired;

(i) a conservation easement on parcels KEN 1060 A, B, C, and D and KEN 1061 shall be conveyed to the United States and the State of Alaska and a warranty deed to the City of Homer, each of which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law; and

(j) a conservation easement, which must be satisfactory in form and substance to the United States and the State of Alaska, shall be conveyed to the United States and the State of Alaska on the following five parcels totalling approximately 59.52 acres and owned by the City of Homer:

Government Lot 7 in T6S R13W, Sec. 28, S.M.	7.10 acres	
Government Lot 8 in T6S R13W, Sec. 28, S.M.	3.94 acres	
Government Lot 9 in T6S R13W, Sec. 28, S.M.	3.0 acres	ACE 30394813

Lot 6-B in T6S R13W, Sec. 28, S.M.

26.41 acres

Lot 6-A in T6S R13W, Sec. 28, S.M.

19.07 acres

The parcels are depicted in Attachment B (location maps) attached hereto.


It is the intent of the Trustee Council that the above referenced conservation easements will provide that any facilities or other development on the foregoing small parcels and adjacent lands owned by the City of Homer after acquisition 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 prespill 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. The conservation easements may provide for a utility corridor adjacent to the roadway and the conservation easement for Lot 6-A may provide for parking.


By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and certification by the Executive Director that the executed purchase agreements are in accordance with the foregoing terms and conditions, 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 petition the District Court for disbursement of the joint settlement funds in the above certified amounts.


Such amounts represent the only amounts due under this resolution to the sellers by the State

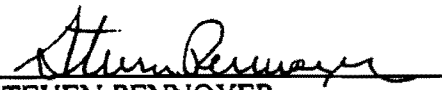
of Alaska to be funded from the joint funds in the District Court Registry, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

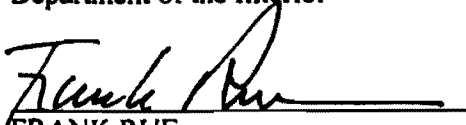
Approved by the Council at its meeting of October 3, 1997, held in Juneau and Anchorage, Alaska, as affirmed by our signatures affixed below:



for PHIL JANIK
Regional Forester
Alaska Region
USDA Forest Service


for BRUCE M. BOTELHO
Attorney General
State of Alaska


DEBORAH L. WILLIAMS
Special Assistant to the
Secretary for Alaska
Department of the Interior


STEVEN PENNOYER
Director, Alaska Region
National Marine
Fisheries Service


FRANK RUE
Commissioner
Alaska Department of
Fish and Game


for MICHELE BROWN
Commissioner
Alaska Department of
Environmental Conservation

Attachments: A - Benefits Reports for parcels KEN 1060 A, B, C, and D and KEN 1061
B - Location maps

Attachment A

Benefit Reports

KEN 1060 A, B, C, and D - Mud Bay
KEN 1061 - Beluga Slough

ACE 30394816

ATTACHMENT A
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KEN 1060 A,B,C & D: Homer Spit - Mud Bay

Acreage: 68.7 **Rank:** PMSC **Sponsor:** ADF&G, ADNR
Owners: Trust for Public Lands (option)
Location: Homer Spit
Value: \$422,100

Parcel Description: The subject properties collectively comprise a contiguous 68.7 acre tract largely comprised of low-lying intertidal flats and salt marsh on the eastern side of the spit along Kachemak Bay extending across the spit to include the outer beach berm. The Trust for Public Lands (TPL) has an option to purchase the nominated lands.

Restoration Benefits: Acquisition of the subject properties will provide protection for important intertidal resources. These estuarine wetland habitats extend from mid-intertidal to supratidal elevations and include muddy intertidal, mixed sand/gravel substrate, giving way to alkalai grass salt marsh and a gravel/cobble/driftwood beach along the western beach berm. On the bay side of the spit, the intertidal habitats are characterized by brackish waters, providing feeding habitat for juvenile salmon outmigrating from other parts of Kachemak Bay. At high tide, harbor seals will swim in the area to feed, especially when the salmon are running in the mid to late summer. The intertidal habitat in this area supports intertidal vegetation and invertebrates that are of special significance to migratory birds on a seasonal basis. During spring migration, the tidal flats of this area are used by tens of thousands of migrating shorebirds which also use the uplands for roosting at high tide (especially Western sandpipers and Black Turnstones). In spring, the wetter portions of these lands are also of significant value to a variety of waterfowl species. Because of the biological productivity as well as aesthetic value of these lands, the properties are also of great public interest, helping to support tourism and recreation services. The area is especially popular during the annual Homer Shorebird Festival which draws thousands of visitors from throughout the state.

Potential Threats: The subject property has substantial development potential as indicated by recent commercial developments in the area. The property is one of the last remaining large pieces of open space/natural habitat left on the Homer Spit.

Appraised Value: The appraised fair market value of the subject properties is a total of \$422,100 as reflected in the approved fair market appraisal review.

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Proposed Management: It is intended that the property will be managed by the City of Homer in a manner consistent with the terms of a conservation easement to ensure protection of restoration values.

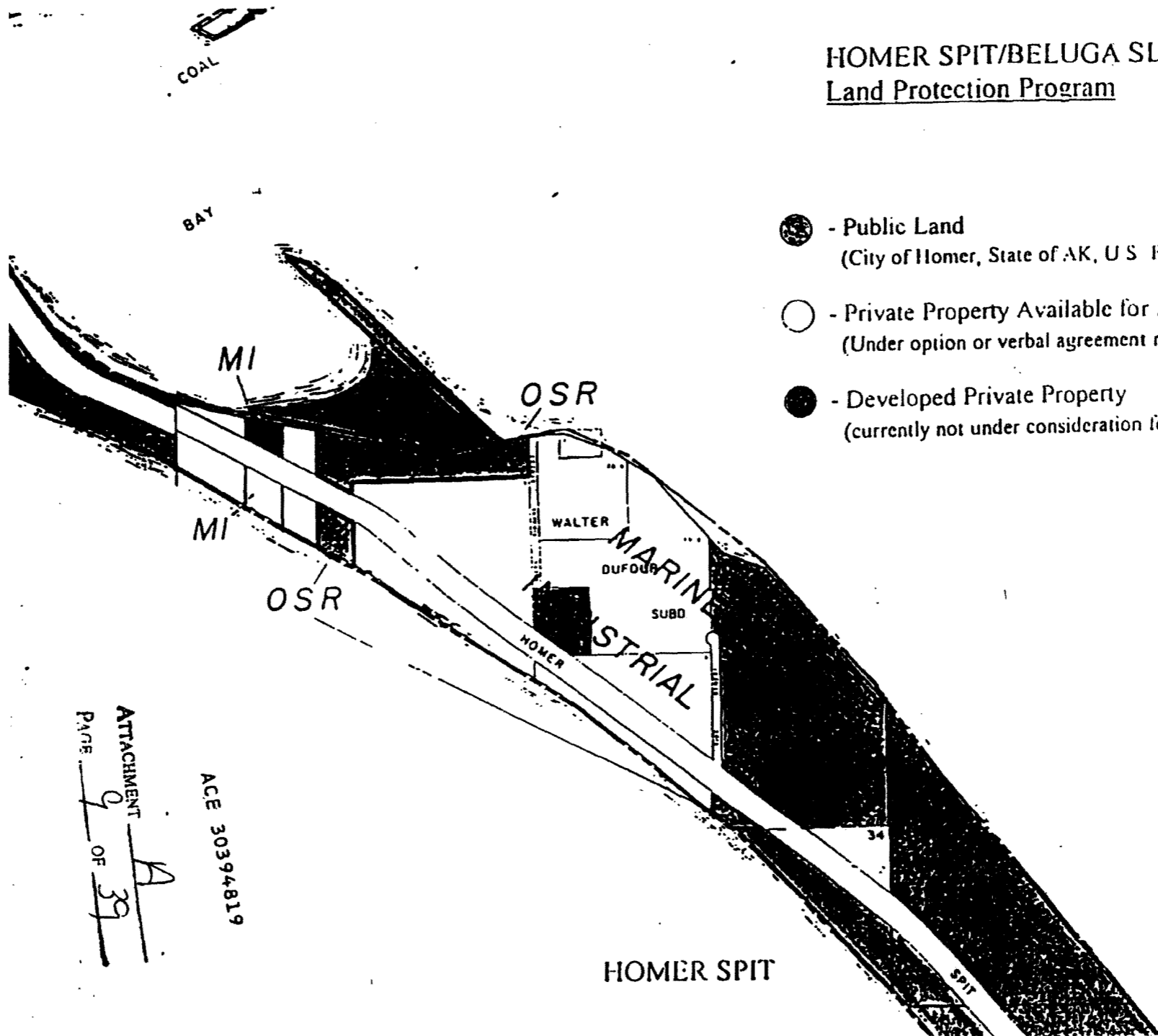
Public Comment: The Restoration Office has received an extraordinary amount of public comment in support of acquiring the Homer Spit nominations. Scores of letters from individuals as well as organizations both from within and outside the state have endorsed purchase of the nominated parcels. A large number of individuals have also indicated support through a petition.

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HOMER SPIT/BELUGA SLOUGH Land Protection Program

- - Public Land
(City of Homer, State of AK, U S Fish & Wildlife Service)
- - Private Property Available for Acquisition
(Under option or verbal agreement reached)
- - Developed Private Property
(currently not under consideration for acquisition)



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HOMER SPIT

KEN 1061: Beluga Slough

Acreage: 38 **Rank:** PMSC **Sponsor:** ADF&G, ADNR
Owners: Trust for Public Lands (option with landowner)
Location: Homer
Value: \$615,000

Parcel Description: The subject property is a square 38 acre tract adjacent to the Beluga Slough that drains in the ocean. The Trust for Public Lands (TPL) has an option to purchase the nominated lands.

Restoration Benefits: Acquisition of the subject property will provide protection for important intertidal resources. These estuarine wetlands support intertidal vegetation and invertebrates that are of special significance to migratory birds on a seasonal basis. During spring migration, the tidal flats of this area are used by tens of thousands of migrating shorebirds which also use the uplands for roosting at high tide. In spring, these lands are of significant value to a variety of waterfowl species (the Kachemak Bay Critical Habitat Area Management Plan specifically recognizes the importance of Beluga Slough to early spring migrants). Because of the biological productivity as well as aesthetic value of these lands, the properties are also of great public interest, helping to support tourism and recreation services. The area is a popular site to visit during the annual Homer Shorebird Festival which draws thousands of visitors from throughout the state.

Potential Threats: The subject property has substantial development potential as indicated by recent commercial developments in the area.

Appraised Value: The appraised fair market value of the subject properties is \$615,000 as reflected in the approved fair market appraisal.

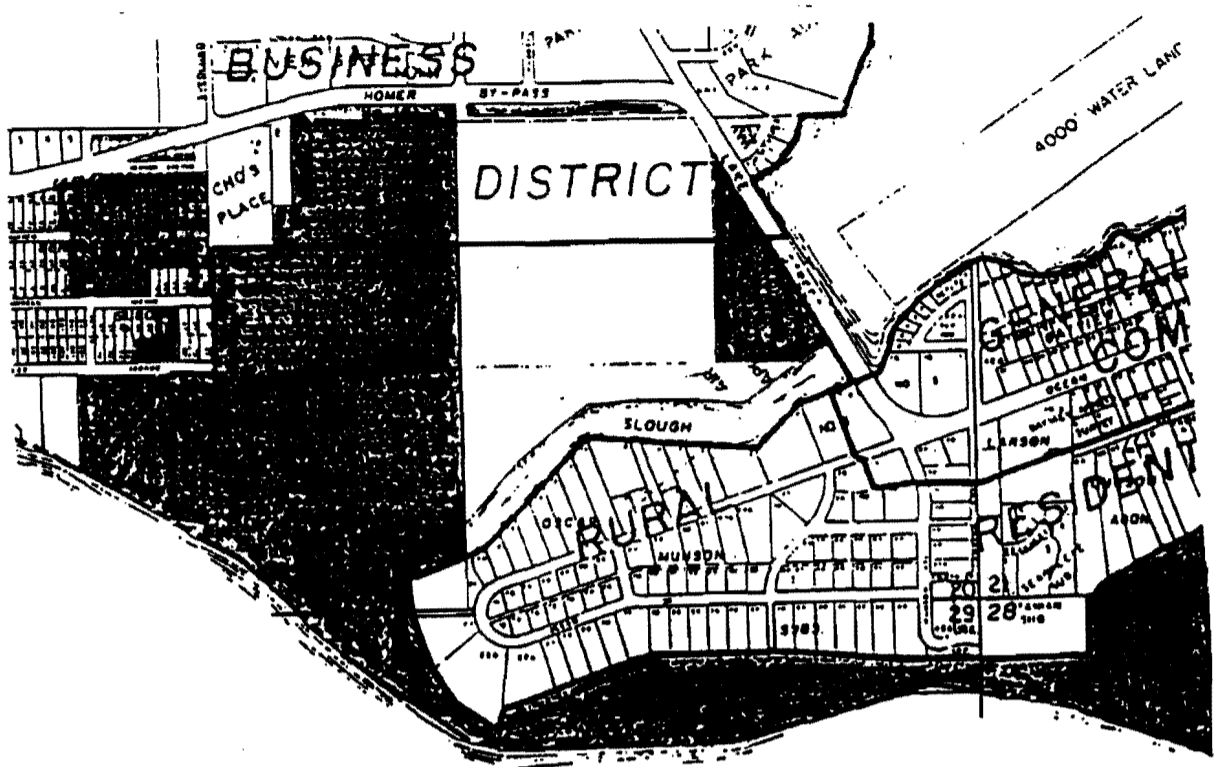
Proposed Management: It is intended that the property will be managed by the City of Homer in a manner consistent with the terms of a conservation easement to ensure protection of restoration values.

Public Comment: The Restoration Office has received an extraordinary amount of public comment in support of acquiring the Homer Spit/Beluga Slough nominations. Scores of letters from individuals as well as organizations both from within and outside the state have endorsed purchase of the nominated parcels. A large number of individuals have also indicated support through a petition.



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BELUGA SLOUGH



HOMER SPIT/BELUGA SLOUGH Land Protection Program

-  - Public Land
(City of Homer, State of AK, U.S. Fish & Wildlife Service)
-  - Private Property Available for Acquisition
(Under option or verbal agreement reached)

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ATTACHMENT A
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Attachment B

Location Maps

KEN 1060 A, B, C, and D - Mud Bay

City of Homer Property

Lot 6-B 26.4 acres
(with conservation easement conveyed to
Kachemak Heritage Land Trust)

City of Homer Property

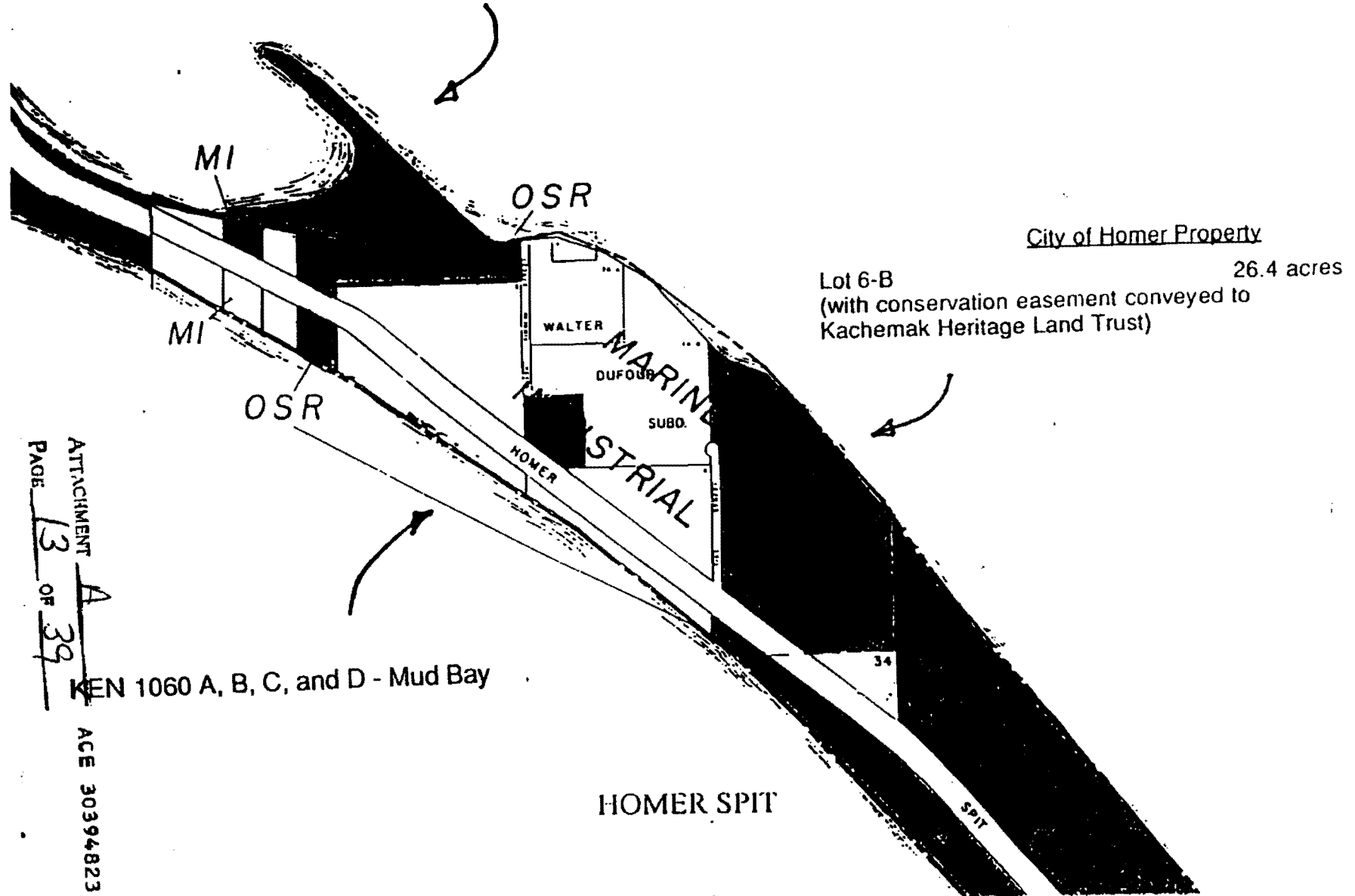
Government Lot 7 - T6S R13W S28 7.10 acres
Government Lot 8 - T6S R13W S28 3.94 acres
Government Lot 9 - T6S R13W S28 3.0 acres (portion north of Spit road)

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City of Homer Property

Government Lot 7 - T6S R13W S28 7.10 acres
Government Lot 8 - T6S R13W S28 3.94 acres
Government Lot 9 - T6S R13W S28 3.0 acres (portion north of Spit road)



City of Homer Property

Lot 6-B 26.4 acres
(with conservation easement conveyed to
Kachemak Heritage Land Trust)

ATTACHMENT A
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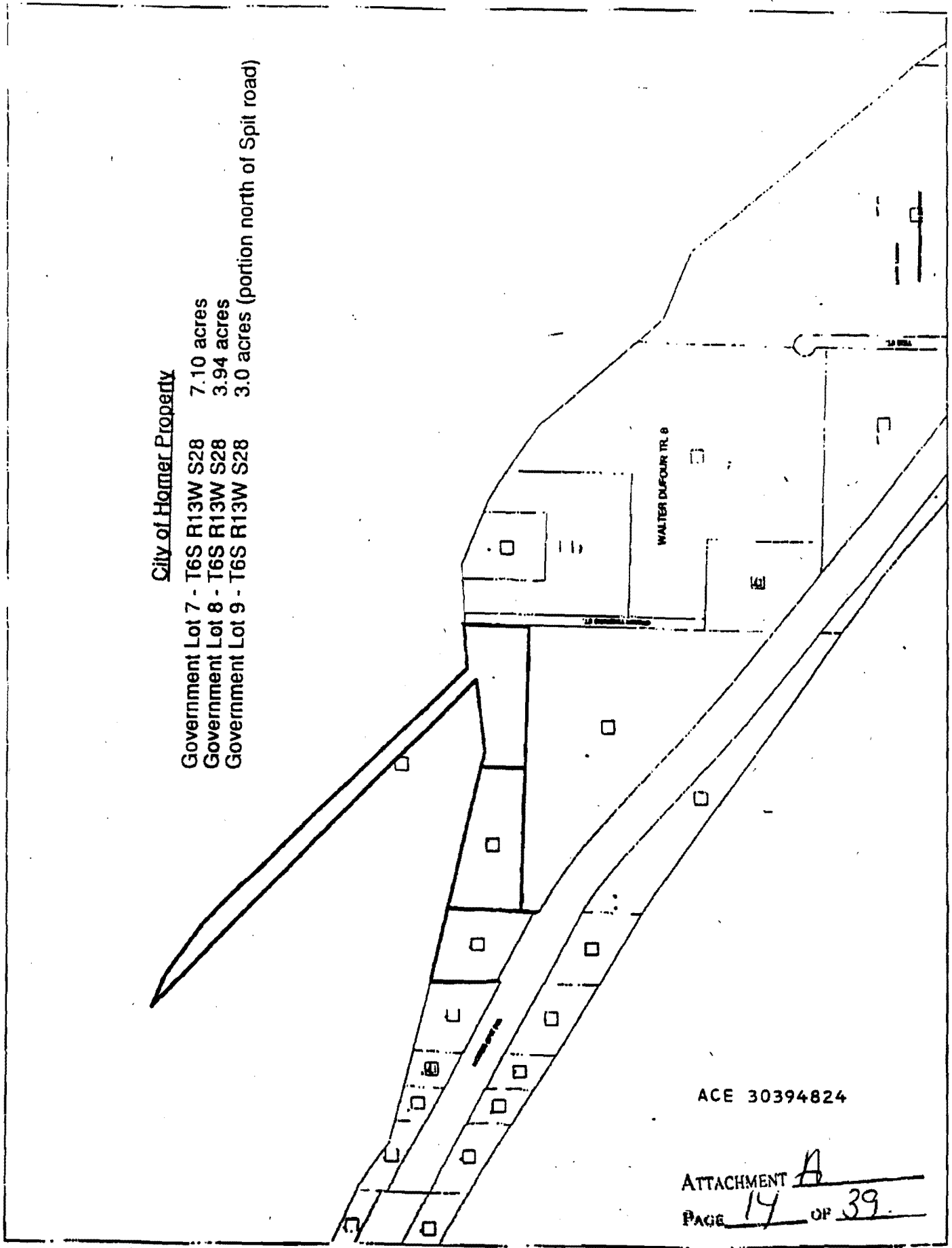
KEN 1060 A, B, C, and D - Mud Bay

ACE 30394823

HOMER SPIT

City of Homer Property

- Government Lot 7 - T6S R13W S28 7.10 acres
- Government Lot 8 - T6S R13W S28 3.94 acres
- Government Lot 9 - T6S R13W S28 3.0 acres (portion north of Spit road)



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ATTACHMENT A
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NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF _____, 1997.

FOR: _____
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES _____

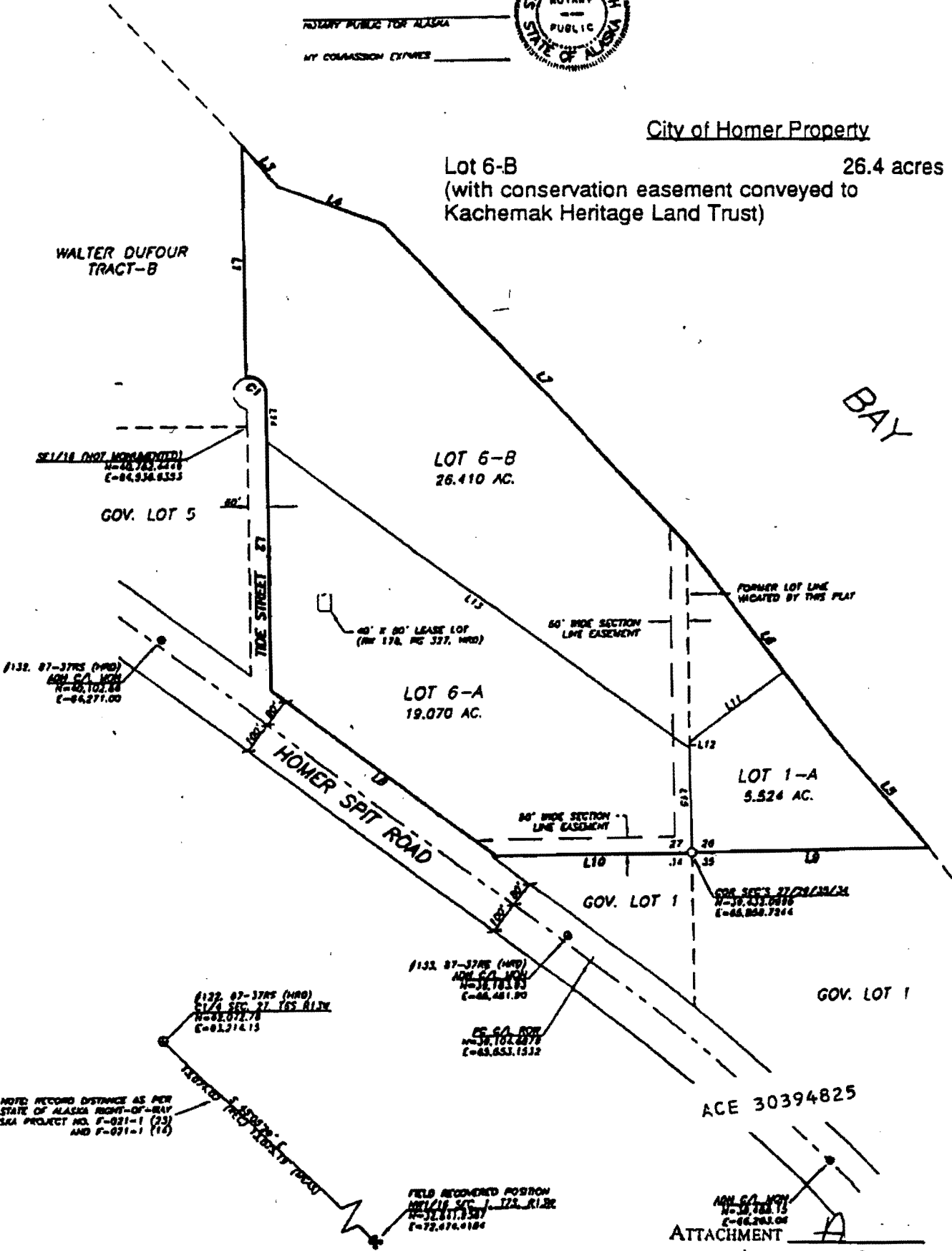


City of Homer Property

Lot 6-B 26.4 acres
(with conservation easement conveyed to Kachemak Heritage Land Trust)

WALTER DUFOUR TRACT-B

BAY



MOVED RECORD DISTANCE AS PER STATE OF ALASKA RIGHT-OF-WAY MAP ALASKA PROJECT NO. F-021-1 (23) AND F-021-1 (12)

FIELD MEASURED POSITION (WELL) SITE - 125.4182 N-32.811.3281 E-72.476.0184

ACE 30394825
ATTACHMENT A

