

# Exxon Valdez Oil Spill Trustee Council

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## Erratum Notice

Resolution 08-01 of the *Exxon Valdez* Oil Spill Trustee Council Regarding Small Parcel KAP 3002 dated March 17, 2008 was erroneously number using a previously assigned resolution number. Resolution 08-01 is renumbered Resolution ~~80-07~~ <sup>08-01</sup> *Exxon Valdez* Oil Spill Trustee Council Regarding Small Parcel KAP 3002.

  
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Michael Baffrey  
Executive Director

March 19, 2008  
Date

**RESOLUTION 08-01 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING SMALL PARCEL KAP 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 owner of small parcel KAP 3002 has 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 \$192,000.

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 KAP 3002 also provides an important access point for sport hunting, sport fishing, camping and bear viewing and is important for subsistence use by residents of Old Harbor.

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 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 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.

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 purchase all the seller's rights and interests in the small parcel KAP 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 one-hundred ninety-two thousand dollars (\$192,000) for small parcel KAP 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 KAP 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 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 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 ("Executive



Director”) of the Trustee Council 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.

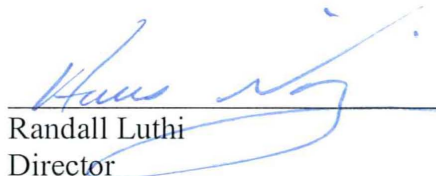
Approved by the Council at its meeting of March 17, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

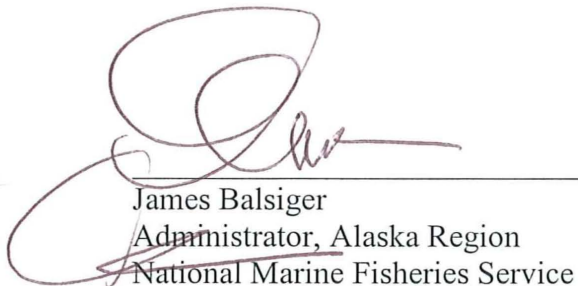


Talis J. Colberg  
Attorney General  
Alaska Department of Law

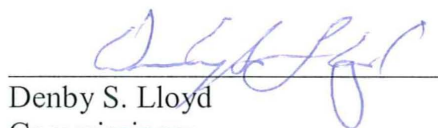


Randall Luthi  
Director  
Minerals Management Service  
U.S. Department of Interior

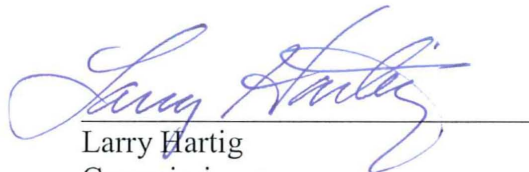
HANS NEIDIG FOR  
Randall Luthi



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

### KAP 3002, Capjohn

<b>Owner:</b>	Mr. Ralph Capjohn
<b>Location:</b>	Kiliuda Bay, Shearwater Peninsula, Kodiak Island
<b>Legal Description:</b>	Lots 1 & 2, U.S. Survey No. 10878 AK, located in Secs. 28, 29, 32, & 33, T.32S., R.24W., SM
<b>Acreage:</b>	159.97 acres
<b>Agency Sponsor:</b>	DNR
<b>Appraised Fair Market Value:</b>	\$192,000

**Background:** This 160-acre Native allotment is located on the north shore of Kiliuda Bay on the east side of Kodiak Island. The Capjohn tract is adjacent to State land and just west and north of land received through a land exchange between the State and the Old Harbor Native Corporation, a component of the larger Old Harbor acquisition package acquired by USFWS. Before undertaking the exchange, the State identified the inholdings on the north shore of Kiliuda Bay as priorities under the small parcel program. The Old Harbor Exchange has been completed. The objectives of the Old Harbor exchange and subsequent acquisition of inholdings were to improve public access to State lands and protect and restore species and associated services injured by the *Exxon Valdez* oil spill.

The Capjohn tract is located in the northwestern end of Kiliuda Bay at the end of North Arm. Mr. Capjohn made the parcel available for sale after completing BIA requirements. Mr. Capjohn has approached the State as a willing seller through the EVOS Small Parcel Program.

The following comment received, and response provided, are part of the public record created during the public comment period relative to the Old Harbor Land Exchange:

*Comment:*

The Alaska Department of Fish and Game (ADF&G) commented that the most used access points in the lands to be acquired by the State were native allotments that would remain in private hands. ADF&G requested that efforts be undertaken to acquire these in holdings.

*Response to the comment:*

Owners of two of the allotments have already approached the State to sell their allotments. The allotments could be purchased using funds from the *Exxon Valdez* Oil Spill Trustee Council or other sources. The State would like to acquire the other native allotments if they become available.

**Physical Description:** The Capjohn property is located in Kiliuda Bay just north of Old Harbor. The Bay has notable wilderness qualities and the parcel is in its natural condition absent permanent buildings or continuous human habitation. Anadromous Stream #258-20-100 6 0 flows through the parcel, a portion of which is a marsh identified as a waterfowl concentration area, to a rich intertidal, providing valuable riparian and intertidal habitat as well as important access to the adjacent State-owned uplands.

**Linkage to Restoration:** The property has particular habitat value to injured species and services including bald eagles, harlequin ducks, pink salmon, Sockeye salmon and Dolly Varden, as well as Pacific herring that spawn in the North Arm of Kiliuda Bay. Marine bird nesting colonies of cormorants and pigeon guillemots are found in Kiliuda Bay and likely utilize this area for feeding. The area is also identified as a winter waterfowl concentration area and harlequin ducks are likely to be found in this area. The parcel is an important access point for sport hunting, sport fishing, camping and bear viewing. This area is also very important for subsistence use by residents of Old Harbor. The wildlife and habitat values of the Capjohn parcel support subsistence, recreation, sport fishing, and passive use, services impacted by the *Exxon Valdez* Oil Spill.

**Proposed Management:** Acquisition of this parcel will enhance access to State lands acquired through the Old Harbor Exchange and enhance the protection of important intertidal and riparian habitat in this area. This parcel, should it be acquired, will be managed consistent with the management of the lands acquired by the State through the Old Harbor Exchange. The surrounding lands are managed as wildlife habitat consistent with the terms of the Terror Lake Hydro Agreement.

**Attachments:**

Parcel Map, KAP 3002



