

**RESOLUTION 08-04 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
VALDEZ DUCK FLATS SMALL PARCEL PWS 05**

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 court-appointed referee in Case No. 3VA-04-25 CI in the Superior Court for the State of Alaska, Third Judicial District At Valdez, has indicated an interest in selling PWS 05, consisting of 20.9 acres, to The Conservation Fund for conveyance to the State.
2. An appraisal commissioned by the court-appointed referee estimates the fee simple fair market value of PWS 05 at \$150,000.
3. The Trustee Council previously authorized \$125,000 for the purchase of sellers’ rights and interests in small parcel PWS 05 on December 4, 2000.
4. As set forth in Trustee Council Resolution 01-02 (attached) and as described in the Final Report for Restoration Project 97230, Conceptual Plan for the Valdez Duck Flats, the Valdez Duck Flats have attributes that 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. The Duck Flats are important habitat for a large number of out-migrating pink salmon in Port Valdez. Harbor seals and sea otters are known to feed in the Duck Flats and the mid to lower intertidal habitats at the mouth of the Flats support mussels, which have been heavily

impacted by the oil spill. Mussels constitute an important food source for several species injured by the spill such as harlequin ducks and black oystercatchers. This parcel is located near the site of the U.S. Forest Service visitor center and fish viewing area, which receives 120,000 visitors each year.

5. Existing laws and regulations, including, but not limited to, 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 natural resources, and acquisition of equivalent resources and services injured, lost or reduced as a result of the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law 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 reduced services provided by these resources.

6. There has been widespread public support within Alaska as well as on a national basis for the acquisition of lands.

7. The purchase of this small parcel is an appropriate means to restore a portion of the injured resources and reduced services in the oil spill area. Acquisition of this parcel is consistent with the Final Restoration Plan.

8. The Conservation Fund has offered to purchase PWS 05 in fee on an interim basis.

THEREFORE, we resolve to provide \$125,000 for the State of Alaska to purchase all the seller's rights and interests in small parcel PWS 05 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 pursuant to the following conditions:

(a) authorization for funding for PWS 05 as described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 31, 2009;

(b) 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;

(c) completion of a hazardous substances survey satisfactory to the State of Alaska and the United States;

(d) compliance with the National Environmental Policy Act must be ensured;

(e) a title search and review to the satisfaction of the State of Alaska and the United States for the respective interests acquired by each government must be completed;

(f) 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 on these Lands prior to purchase of the parcel; and

(g) a conservation easement similar to that used in other acquisitions funded by the Council which will enable the United States to enforce on a non-exclusive basis

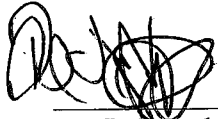
the restoration objectives of this acquisition. The form and substance of this easement and the related deed for the State must also be satisfactory to the Alaska Department of Law and the United States Department of Justice.

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.

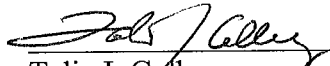
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the 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.

The only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds is \$125,000, and no additional amounts or interest are herein authorized to be paid to the seller from such joint funds.

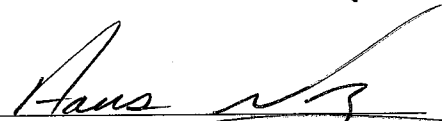
Approved by the Trustee Council at its meeting of March 17, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



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

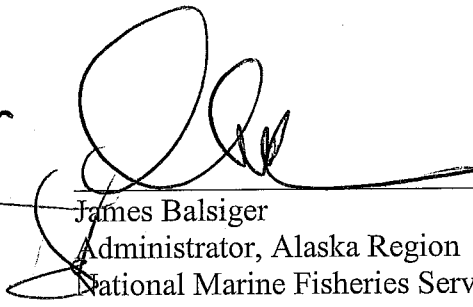


Talis J. Colberg  
Attorney General  
Alaska Department of Law

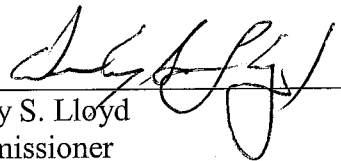


Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

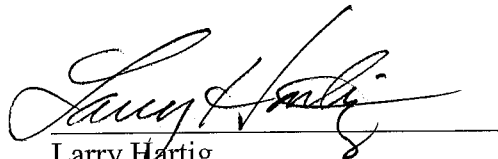
HANS NEIDIG FOR  
Randall Luthi



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 - Restoration 01-02 and Vicinity Map

Resolution 08-04

**ATTACHMENT A**  
**RESOLUTION 01-02**

**RESOLUTION OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
VALDEZ DUCK FLATS SMALL PARCEL PWS 05**

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

1. The owners of one of the Valdez Duck Flats small parcels, PWS 05, have indicated an interest in selling PWS 05, consisting of 32.66 acres, to the United States as part of the Council's program for restoration of natural resources and services that were injured or reduced as a result of the EVOS. A State highway right-of-way encumbers 9.42 acres of this parcel.

2. An appraisal approved by the state and federal review appraisers estimates the fee simple fair market value of PWS 05 is \$125,000.

3. As set forth in Attachment A (Restoration Benefits Report) and as described in the Final Report for Restoration Project 97230, Conceptual Plan for the Valdez Duck Flats, the Valdez Duck Flats have attributes that 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. The Duck Flats are important habitat for a large number of out-migrating pink salmon in Port Valdez and the and this parcel supports spawning populations located in a small stream that flows through the parcel. Harbor seals and sea otters are known to feed in the Duck Flats, and the mid to lower intertidal habitats at the mouth of the flats supports mussels,

which are heavily impacted by the EVOS. Mussels constitute an important food source for several species injured by the spill such as harlequin ducks and black oystercatchers. This parcel is the site of the Forest Service visitor center and fish viewing area, which receive 120,000 visitors each year.

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 EVOS present a unique situation. Without passing judgement on the adequacy or inadequacy of existing laws and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgement, 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 the recovery of injured resources and lost or diminished services provided by these resources.

5. There is widespread public support for the acquisition of this parcel.

6. Purchase of this parcel is an appropriate means to restore a portion of the injured resources and services in the spill area. Acquisition of this parcel is consistent with the Restoration Plan and Final Environmental Impact Statement.

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

THEREFORE, we resolve to provide funds for the United States to purchase all of the seller's



rights and interests in the small parcel PWS 05 and to provide funds necessary for closing costs recommended by the Executive Director of the Council ("Executive Director") and approved by the Trustee Council, pursuant to the following conditions:

(a) the amount of funds to be provided by the Trustee Council to the United States shall be one hundred and twenty five thousand dollars (\$125,000) for small parcel PWS 05;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 21, 2001;

(c) completion of a title search satisfactory to the State of Alaska and the United States and the seller is willing and able to convey fee simple title by general warranty deed;

(d) no timber harvest, road development or alteration of the land will be initiated by the owner prior to the purchase without the express agreement of the State of Alaska and the United States;

(e) completion of a hazardous materials survey satisfactory to the State of Alaska and the United States;

(f) compliance with the National Environmental Policy Act; and

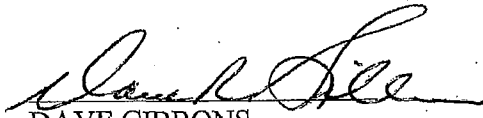
(g) a conservation easement on parcel PWS 05, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed by the seller to the State of Alaska. It is the intent of the Council that, except as described below, any facilities or other development on the foregoing small parcel 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 parcel excepting such limited commercial use as may be consistent with applicable state or federal law and the goals of restoration to prefill 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 resources 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"). The conservation easement will allow for the continued operation and maintenance of the Crooked Creek Visitor Center and fish viewing area by the Forest Service and may provide for improvement of the facilities consistent with local zoning and the protection of the natural resources and services provided by this parcel.

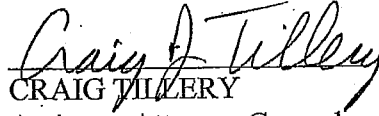
By unanimous consent, following execution of the purchase agreement between the seller and the United States and written notice from the Executive Director that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the 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 United States to be funded from the joint trust 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 December 4, 2000 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



DAVE GIBBONS  
Alaska Region  
USDA Forest Service



CRAIG WILLEY  
Assistant Attorney General  
State of Alaska



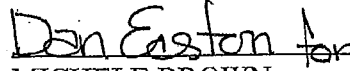
MARILYN HEIMAN  
Special Assistant to the  
Secretary for Alaska  
U.S. Department of the Interior



JAMES BALSIGER  
Director, Alaska Region  
National Marine Fisheries  
Service



FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game



MICHELE BROWN for  
Commissioner  
Alaska Department of  
Environmental Conservation

### PWS 05, Valdez Duck Flats

|                           |  |
|---------------------------|--|
| <b>Owner:</b>             | Court Appointed Referee  |
| <b>Physical Location:</b> | The parcel is located 0.5 miles north of the city of Valdez, Richardson Highway, Valdez, Alaska. U.S. Survey 349 |
| <b>Acreage:</b>           | 20.9   |
| <b>Legal Description:</b> | Parcel 1 of USS 349<br>T. 8 S., R. 6. W., Section 32 Copper River Meridian                                       |
| <b>Agency Sponsor:</b>    | ADF&G  |
| <b>Appraised Value:</b>   | Trustee Council offered \$125,000 based on an approved appraisal in 2000.  |

**Parcel Description.** The parcel fronts the east side of the Richardson Highway due east of the Valdez Townsite located in an area near the city harbor known as the Valdez Duck Flats. The parcel is located adjacent to a parcel previously purchased by EVOS.

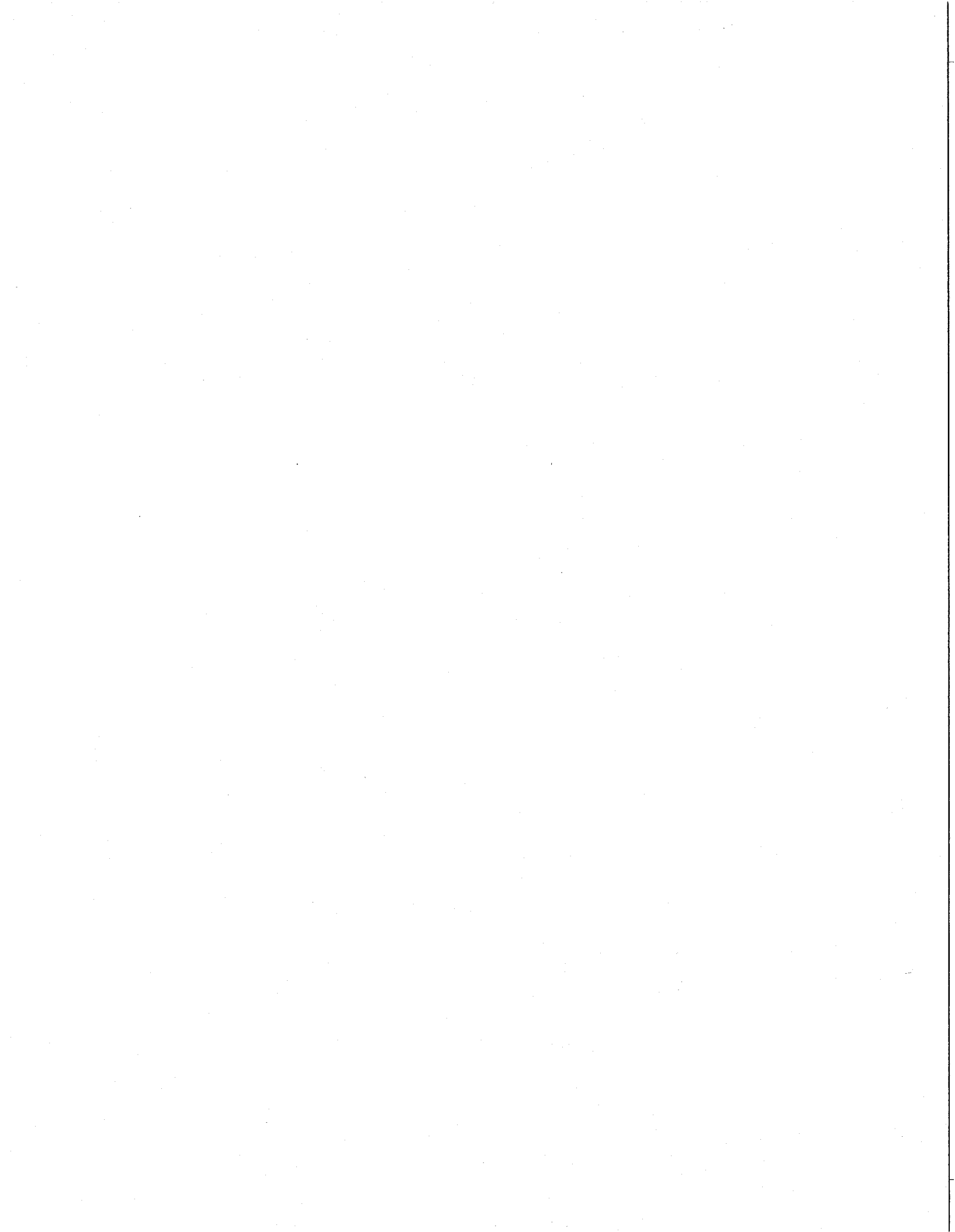
The Valdez Duck Flats are a large and unique complex of intertidal mud flats and salt marsh covering approximately 1,000 acres. The flats are flooded regularly by incoming tides that mix with seven freshwater streams creating a productive estuary environment. Millions of salmon fry from these streams and the nearby Solomon Gulch hatchery feed and rear throughout the Duck Flats, assisted by the counter-clockwise currents that flow through Port Valdez. The Duck Flats also provide nesting, molting and staging habitat for 52 species of marine birds, 8 species of waterfowl, 18 species of shorebirds and numerous other passerines and raptors. Harbor seals and sea otters also forage throughout the area for mussels and clams.

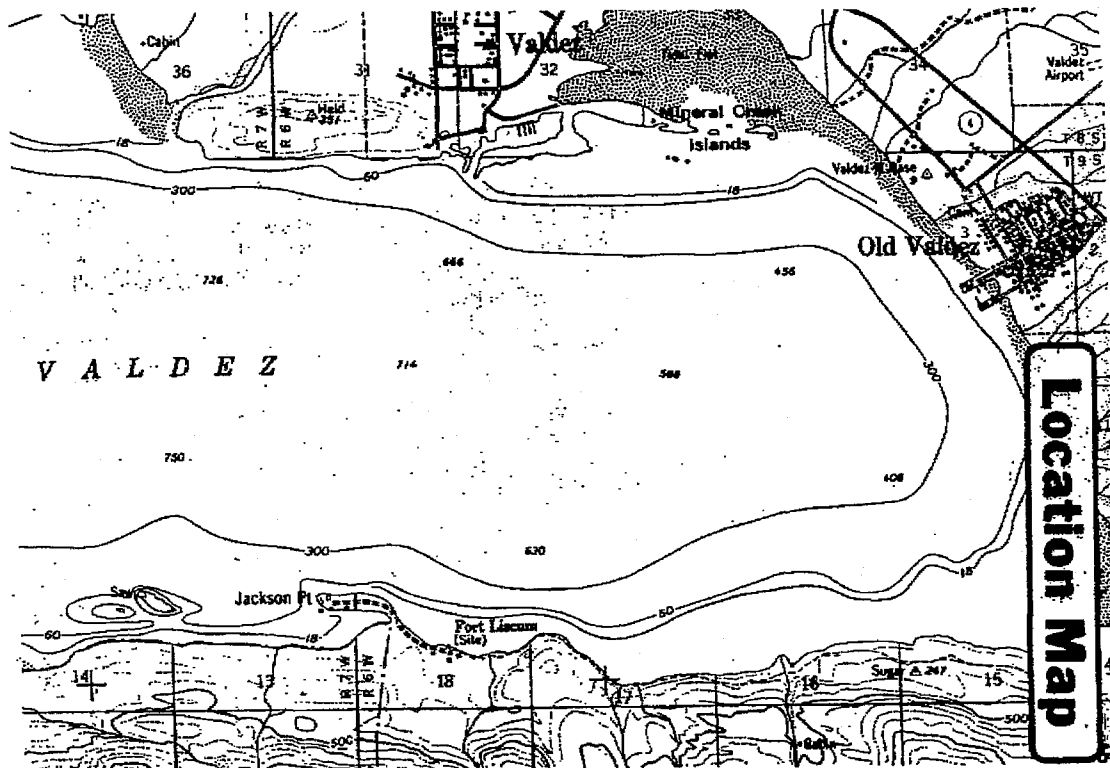
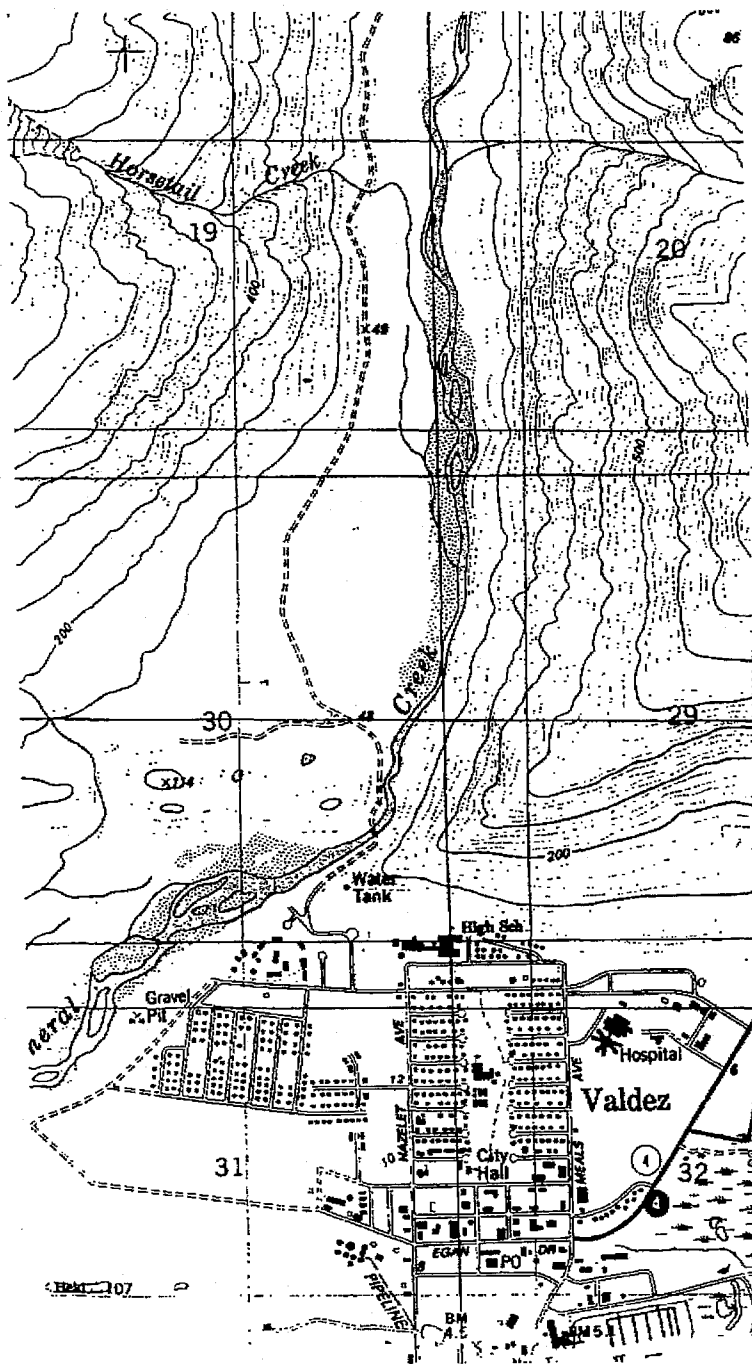
The injured resources and services that potentially benefit from acquisition of this parcel include pink salmon, intertidal/Subtidal habitats and recreation/tourism.

**Potential Threats.** Threats to the resources on this parcel are based largely on facilities expansion. Facilitates expansion may include filling of wetlands for parking or public access, highway improvements and interpretive site development. Public ownership of this site would ensure continued public access and visitor enhancements consistent with restoration goals.

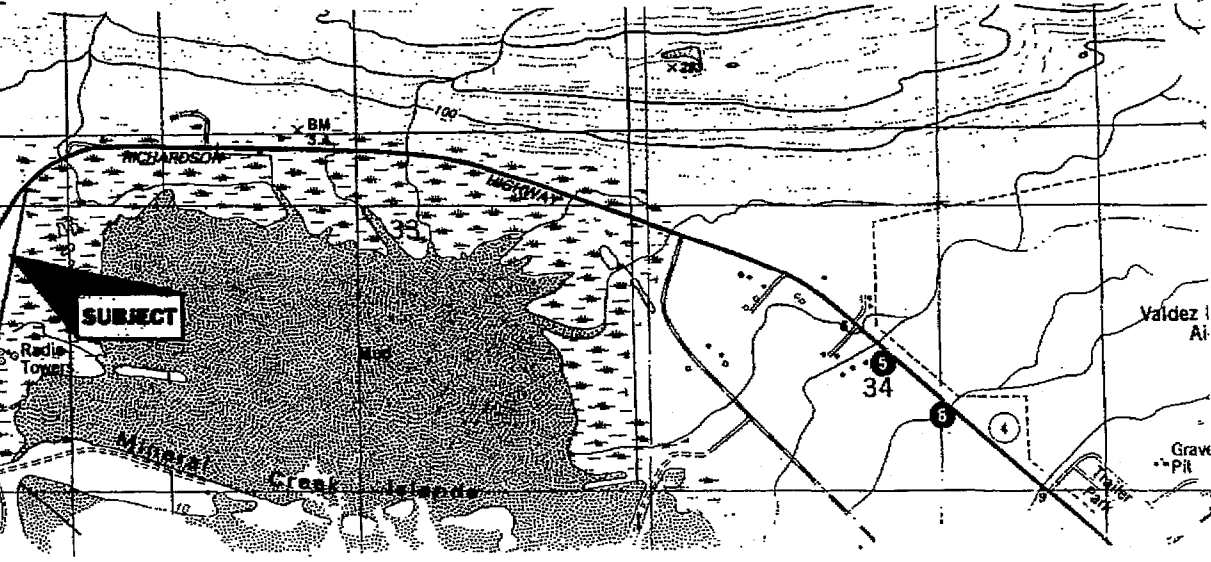
**Proposed Management.** The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of the subject property for the benefit of fish and wildlife resources and services that were injured in the *Exxon Valdez* oil spill. If this parcel is acquired, ADF&G will manage the parcel to protect environmentally sensitive estuarine habitat.

**Appraised Value.** The Trustee Council via Resolution 01-02 offered \$125,000 for the parcel based upon an approved appraisal in December 2000.





**Location Map**



Original  
Recording  
1991.  
was found  
page 504.  
lies within  
of Alaska.

STATE  
of  
ALASKA

USS 349

RICHARDSON HIGHWAY  
STATE OF ALASKA

GALENA - NIKOLAI  
HOLDING COMPANY

**SUBJECT**

