

**RESOLUTION 06-02 OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING THE
JACOBS AND MUTCH ANCHOR RIVER SMALL PARCELS**

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 Lots 7 and 8 in Section 33, Township 4 South, Range 15 West, Seward Meridian, Homer Recording District (the Jacobs parcel) and the owners of Tract A, according to the plat of HMS Resolution Ridge, filed under Plat Number 2002-23, Records of the Homer Recording District, Third Judicial District, State of Alaska (the Mutch parcel), have indicated an interest in selling these parcels, consisting of 38.45 acres (Jacobs) and 46.24 acres (Mutch), to the State of Alaska as part of the Council’s program for restoration of natural resources and services that were injured or diminished as a result of the Exxon Valdez oil spill (EVOS).

2. An appraisal approved by the state and federal review appraisers estimates the fee simple fair market value of the Jacobs parcel to be \$215,000.00 and the Mutch property to be \$235,000.00. The total cost to purchase these parcels is \$540,000, of which \$365,000 will be funded by an approved federal Coastal Wetlands Act grant and private donations.

3. The two parcels are contiguous and are located at the mouth of the Anchor River. The Anchor River is one of the most heavily fished rivers in Alaska. As set forth in Attachment A (Appraisal Summary Review), the Jacobs and Mutch Anchor River parcels 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. In particular, the parcels

will provide important public access for sportfishing, a service injured by the spill and rearing habitat for injured species such as Dolly Varden. The parcels are adjacent to land already owned by the state and managed for sportfishing.

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 judgment on the adequacy or inadequacy of existing laws 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 the recovery of injured resources and lost or diminished services provided by these resources.

5. There is widespread public support for the acquisition of these parcels.

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

THEREFORE, we resolve to provide funds for the State of Alaska to acquire all of the sellers' rights and interests in the Jacobs and Mutch Anchor River property, pursuant to the following conditions:

(a) the amount of funds to be provided by the Trustee Council to the State of Alaska shall be eighty thousand dollars (\$80,000.00) for the Jacobs small parcel and ninety five thousand dollars (\$95,000.00) for the Mutch small parcel;

(b) authorization for funding for the acquisitions described in the foregoing paragraph shall terminate if purchase of the property is not completed by December 30, 2006;

(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, if necessary, with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury and transfer of the necessary monies from the appropriate account designated by the Executive Director of the Trustee Council (Executive Director);

(d) completion of the following to the satisfaction of the State of Alaska and the United states for each parcel:

(i) title search;

(ii) a determination that the seller is willing and able to convey title in a form satisfactory to the State of Alaska and the Office of the Solicitor of the United States Department of the Interior;

(iii) an executed purchase or option agreement and conveyance documents that are ready for execution;

(iv) hazardous materials survey;

(v) statement of compliance with the National Environmental Policy Act; and

(vi) approval of the appraisals by the review appraiser(s);

(f) conservation easements on the Jacobs and Mutch parcels, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed by the sellers to the United States;

(g) 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;

(h) receipt by the State of Alaska of such other monies as are described in this resolution and necessary for completion of the purchases; and

(i) a determination that the State of Alaska has the legal authority to expend such monies as are required to complete these purchases.

It is the intent of the Council that the conservation easements referenced above 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 neither 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 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 resources 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 Final Restoration Plan as approved by the Trustee Council.

By unanimous consent, following 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 amounts described above to be paid from joint settlement

funds for the above-referenced parcels 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 and the United States to be funded from the joint trust funds, and no additional amounts or interest is herein authorized to be paid to the sellers from such joint funds.

Approved by the Council at its meeting of August 10, 2005 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



JOE MEADE
Forest Supervisor
Chugach National Forest
USDA Forest Service

SCOTT NORDSTRAND
Deputy Attorney General
State of Alaska

JAMES BALSIGER
Director, Alaska Region
National Marine Fisheries Service

McKIE CAMPBELL
Commissioner
Alaska Department of Fish and Game

DRUE PEARCE
Senior Advisor to the Secretary
for Alaska Affairs
Department of Interior

KURT FREDRIKSSON
Commissioner
Alaska Department of Environmental
Conservation

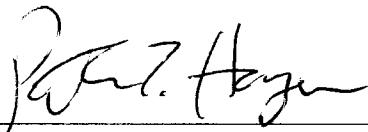
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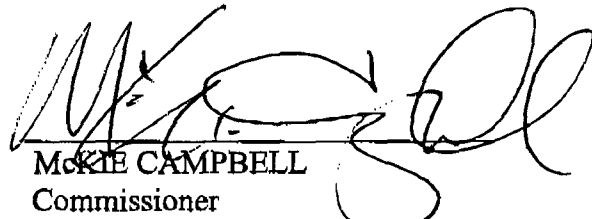
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Anchor River - Mutch

Location: Anchor River, Kenai Peninsula

Legal Description: KEN ____ (Mutch) parcel: Tract A, according to the plat of "HMS RESOLUTION RIDGE", filed under Plat Number 2002-23, Records of the Homer Recording District, Third Judicial District, State of Alaska

Agency Sponsor: ADF&G w/ ADNR as a cooperator

Landowner: Paul Mutch

Appraised Fair Market Value: \$235,000 (per 3/31/05 appraisal)

Total Project Cost: \$280,000

Cost Breakdown: \$235,000 (Purchase price); \$20,000 (estimated direct costs including appraisal (\$11,000), due diligence (\$4000), title insurance/closing fees (\$5000); \$ 25,000 (estimated indirect costs including staff time and overhead)

Total Cost to EVOS: \$95,000 (estimated)

Estimated Closing Date: December 2005

The Mutch parcel is one of three remaining private parcels located along the Anchor River estuary on the southern Kenai Peninsula – an ecologically important salt marsh that supports a large and popular sport fishery. The Mutch parcel is located 1± mile west of Anchor Point at the north end of Anchor Point Beach Road, fronting on Cook Inlet and intersected by the Anchor River. The 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. Acquisition of this small parcel will assure protection of approximately 46.24 acres.

The parcel consists of 13.6± acres of relatively level and elevated sandy/gravelly beach and grassy berm to the west of the Anchor River and an additional 5± acres of low elevation beach sloping to the mean high tide line of Cook Inlet. The remaining 27.5± acres are part of a larger salt marsh/estuary complex with high ecological significance. The parcel will contribute to the restoration of the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill ("EVOS"). The parcel is also important to the restoration or preservation of healthy populations of several species of salmonids (Dolly Varden, steelhead, coho salmon, king salmon).

The property is bounded to the south by existing State Park lands. The proposed acquisition will be complemented by planned purchase of the other two remaining private parcels (Jacobs and McGee, totaling 46± acres) within the Anchor River estuary. 67.6% of the total project costs for acquisition of the Mutch and Jacobs parcels is being provided by an approved federal Coastal Wetlands Act grant and private donations. The EVOS Trustee Council is being asked for the remaining 32.4%. Funding for the McGee parcel acquisition was previously approved by the EVOS Trustee Council.

Protection of these tracts supports restoration of species and services injured by the Exxon Valdez Oil Spill by protecting recreational and tourism uses and habitat for salmonids and other fish species.

Anchor River - Jacobs

Location: Anchor River, Kenai Peninsula

Legal Description: KEN ____ (Jacobs) parcel: That portion of Lots 7 and 8 in Section 33, Township 4 South, Range 15 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska, lying southwest of Anchor Bluff Estates

Agency Sponsor: ADF&G w/ ADNR as a cooperator

Landowner: Paul Jacobs

Appraised Fair Market Value: \$215,000 (per 3/31/05 appraisal and federal review)

Total Project Cost: \$260,000

Cost Breakdown: \$215,000 (Purchase price); \$20,000 (estimated direct costs including appraisal (\$11,000), due diligence (\$4000), title insurance/closing fees (\$5000); \$ 25,000 (estimated indirect costs including staff time and overhead)

Total Cost to EVOS: \$80,000 (estimated)

Estimated Closing Date: December 2005

The Jacobs parcel is one of three remaining private parcels located along the Anchor River estuary on the southern Kenai Peninsula – an ecologically important salt marsh that supports a large and popular sport fishery. The Jacobs parcel is located 1± mile west of Anchor Point to the north along the beach at the end of Anchor Point Beach Road. It fronts on Cook Inlet and is intersected by the Anchor River. The 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. Acquisition of this small parcel will assure protection of approximately 38.45 acres.

The parcel consists of 12.9± acres of relatively level and elevated sandy/gravelly beach and grassy berm to the west of the Anchor River and an additional 8.1± acres of low elevation beach sloping to the mean high tide line of Cook Inlet. The remaining 17.5± acres are part of a larger salt marsh/estuary complex with high ecological significance. The parcel will contribute to the restoration of the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* Oil Spill (“EVOS”). The parcel is also important to the restoration or preservation of healthy populations of several species of salmonids (Dolly Varden, steelhead, coho salmon, king salmon).

The property is bounded to the south by the Mutch parcel. The proposed acquisition will be complemented by the planned purchase of the other two remaining private parcels, the McGee and Mutch parcels (totaling 53.7± acres) within the Anchor River estuary. 67.6% of the total project costs for acquisition of the Mutch and Jacobs parcels is being provided by an approved federal Coastal Wetlands Act grant and private donations. The EVOS Trustee Council is being asked for the remaining 32.4%. Funding for the McGee parcel acquisition was previously approved by the EVOS Trustee Council.

Protection of these tracts supports restoration of species and services injured by the Exxon Valdez Oil Spill by protecting recreational and tourism uses and habitat for salmonids and other fish species.

Summary

Client	The Nature Conservancy
Property Appraised	Two vacant acreage parcels south of the mouth of the Anchor River with frontage on Cook Inlet and the Anchor River.
Location	North of Anchor Point Beach Rd. Anchor Point, Alaska
Owners of Record	Parcel 1: Paul J. Mutch Parcel 2: Anchor Corporation (Jim Jacobs, President)
Legal Description	Parcel 1: Tract A, HMS Resolution Ridge Parcel 2: Por. GLO 2, 7, & 8, Section 33, T4S, R15W, S.M.
Size	Parcel 1: 46.24 acres Parcel 2: 38.45 acres
Interest Appraised	Fee Simple Estate less Mineral Rights
Highest and Best Use	Recreational oriented seasonal use or Speculative holding (interim)
Inspection Date	March 11, 2005
Effective Appraisal Date	March 11, 2005
Date of Report	March 31, 2005
Market Value Conclusions	Parcel 1: \$235,000 Parcel 2: \$275,000

The appraisers reserve the right to modify the value conclusions if a current survey of the parcels reveals a variation in the total acreage above mean high water, location of the Anchor River, area east of the River, and/or quantity of acreage seaward of the beachfront gravel berm.

APPRAISAL REVIEW SUMMARY

Project: Anchor River Land Acquisitions (Mutch and Jacobs Properties).

Intended User and Client: The Nature Conservancy, State of Alaska and the U.S. Fish and Wildlife Service.

Landowner: Parcel #1: Paul J. Mutch.
Parcel #2: Anchor Corporation (Jacobs).

Appraisers: Julie Derry-Alaska General Real Estate Appraiser License #88
David Derry, MAI-AK General Real Estate Appraiser License #36.

Type of Report: Complete, self-contained under USPAP Standard Rule 2-2(a).

Effective Date: March 11, 2005.

Date of Report: March 31, 2005.

Interest Appraised: Fee simple less mineral rights.

Purpose of the Report: Estimate market value as defined by the Uniform Appraisal Standards for Federal Land Acquisitions.

Intended Use of the Report: Aid the client in acquiring the subject properties.

Scope of Review: A technical review for compliance with the Uniform Appraisal Standards for Federal Land Acquisitions and Standard Rules 1 and 2 of the Uniform Standards of Professional Appraisal Practice.

Type of Property under Review: Two vacant parcels at the mouth of the Anchor River on the Kenai Peninsula.

Size: Parcel #1: 46.24 acres.
Parcel #2: 38.45 acres.

Highest and Best Use: Recreation oriented to a seasonal use with an interim speculative use.

Effective Date of Review: April 19, 2005.

Appraised Value & Action: Parcel #1: \$235,000-Approved
Parcel #2: \$275,000-Not approved; the review appraiser amended the original value estimate. The amended value is \$215,000.

COMMENTS

I have completed a *technical review* on the above report, prepared by Julie Derry and David Derry, MAI. A field review was completed on May 22, 2005. The appraisal report submitted involves two subject property valuations. The two properties are contiguous with each other at the mouth of the Anchor River. Discussions with Ms. Derry occurred April 26, 2005.

Background

The subject properties are at the mouth of the Anchor River, in Anchor Point, Alaska. Access to the two parcels is via the Cook Inlet beach. The beach is accessed from the Anchor Point Beach Road. The Anchor River is one of the

most heavily fished rivers in Alaska. It supports large runs of King and Silver salmon. Sport anglers use the area in the spring and late summer. The area is inundated with campers starting the week before the Memorial Day weekend and continuing through the summer. On a typical Memorial Day weekend, it has been reported more than 500 RV's are parked on the two subject properties. Most of the camping occurs on the southern parcel (Mutch tract). The Anchor River flows through the properties, giving direct access for salmon fishing. Topography of the parcels is level. Both properties have significant tidal wetlands. Both are prone to seasonal flooding during extreme high tides. There are no available utilities to the subject properties.

**Appraiser
Analysis**

The four tests relative to highest and best use are analyzed to determine what use is maximally productive for the subject. A recreational use geared toward a summer seasonal use is concluded to be the subject's highest and best use. An interim use is speculation. Zoning is classified as "Rural" or unrestricted. This increases potential uses exponentially. However, *reasonably* probable uses tend to narrow potential uses. In addition to Borough zoning, the property falls under the jurisdiction of the U.S. Army Corps of Engineers for lands below mean high tide and coastal wetlands. The larger parcel for each subject parcel is not addressed. However, they are marketable units by themselves and are not part of integral larger ownerships.

Sales Comparison

Dollars per acre is concluded as the unit of comparison. A quantitative and qualitative analysis is employed. Eight sales are analyzed. All of the sales are along the Cook Inlet shoreline. They are found between Ninilchik and Homer. These sales represent the most current market data along Cook Inlet. Their selling dates range from August 1996 to January 2005. The relevant elements to value are briefly discussed. The appraisers conclude that conditions of sale, market conditions, size, access, location, topography, utilities and water frontage required adjustment to some or all of the sales.

Parcel 1 (Mutch Property)

About 46.24 acres comprises this subject. For the analysis, the appraisers reduce its effective size to 41.18 acres by subtracting land that is subject to tidal flooding above mean high water. The appraisers estimate about 75% of this tract is tidal wetlands. This estimate is based on topographic maps, survey notes and their personal inspection of the property. Vegetation is mostly marsh and sand. There are areas with grass cover along the upper bench of the beach.

Adjustments for market conditions, size, access, location, topography (percentage of wetlands), utilities available and water frontage are made. After adjustment, the sales indicate \$3,850 per acre to \$8,306 per acre for the subject. The magnitude of adjustment sometimes exceeds 200%. This is because there are no similar sales like the subject. The appraisers preferred the sales without road access and with similar utility. A unit value of \$5,700 per acre was selected for subject. This equates to an estimated market value of \$235,000.

Parcel 2 (Anchor Corporation Property)

According to a survey, this parcel contains 38.45 acres. For the analysis, the appraisers reduce its effective size to 30.35 acres by subtracting land that is subject to tidal flooding above mean high water. The appraisers estimate about 50% of this tract is tidal wetlands. This estimate is based on topographic maps,

survey notes and their personal inspection of the property. Vegetation is mostly marsh and sand. After inspecting the property and reviewing aerial photographs, the review appraiser does not concur with this estimate.

Adjustments for market conditions, size, access, location, topography (percentage of wetlands), utilities available and water frontage are made. After adjustment, the sales indicate \$5,714 per acre to \$16,536 per acre for the subject. The magnitude of adjustment sometimes exceeds 300%. This is because there are no similar sales like the subject. The appraisers preferred sales without road access and with similar utility. A unit value of \$9,000 per acre was selected for subject. This equates to an estimated market value of \$275,000. The review appraiser does not concur with the appraiser's estimated value for this parcel.

Reviewer's Conclusion

In the review process (conforming to the Uniform Appraisal Standards for Federal Standards for Federal Land Acquisitions) the review appraiser must answer the following questions:

- 1) Does the appraisal report meet contracting specifications?
- 2) Is the report technically correct?
- 3) Is the value reasonable and supported?

The appraisal report submitted by David Derry, MAI and Julie Derry meets the reporting requirements of a *complete, self-contained* appraisal report, as outlined by Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice. The use of recent comparable sales increases the reliability of the value conclusion. However, the scarcity of truly comparable sales exasperates the appraisal problem. The value estimate concluded for the Paul Mutch property is reasonable and supported. A market value estimate of \$235,000 is approved.

The value conclusion for the Anchor Corporation is not reasonable and not approved. While the analysis leading up to the value conclusion is reasonable and well presented, the overall "usable" land portion of this parcel is significantly less than what the appraisers concluded. As authorized by 49 CFR§24, the review appraiser has elected to change the value conclusion of the Anchor Corporation property.

EXTRAORDINARY ASSUMPTION- Under USPAP Standard Rules 3-1(c) and 3-2(d), any part of an original appraisal used by a review appraiser who has become the appraiser of record must be listed as *extraordinary assumptions*. Most of the Derry report, meets the standards set forth in the Uniform Standards for Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions. The only discrepancy is how the percentage of usable land was calculated.

The appraisers conclude about 18 acres of usable land is attributed to the subject. However, after reviewing aerial photographs, topographic maps and pictures contained in the appraisal report, it became evident that the subject has much less usable land. During the property inspection, two things became apparent. First, there were large logs that had washed up on even the highest portion of this tract. Secondly, there was no grass covering any portion of the sand berm (there are areas of grass on the Mutch property to the south). These two things indicate there is not much usable land on the tract.

Most of the usable land is a narrow strip along the sand berm. Using aerial photographs and topographic maps, I estimate the subject contains about 12.9 acres of usable land. This equates to about 65% non-usable land. Given this, the analysis changes to reflect a larger downward adjustment for topography/wetlands. Using the exact rationale for the topography adjustment that the appraisers used, the indicated value range for the Anchor Corporation property is \$4,664 per acre to \$8,968 per acre. Excluding the high and low indicators, the mean of the indicated value is \$7,111 per acre. None of the eight sales is deemed better than the other. Thus, it is reasonable to conclude a value toward the midpoint of the indicated selling prices.

After reallocating a more supportable topography/wetlands adjustment, the estimated market value of the subject is \$7,100 per acre or \$215,000 (rounded).


REVIEWER ASSUMPTIONS and LIMITING CONDITIONS

1. The appraisal review memorandum attached is based on information and data contained in the appraisal report, which is the subject of the review. Data and information from other sources may be considered. If so, they are identified and noted as such.
2. It is assumed that such data and information are factual and accurate.
3. The review appraiser reserves the right to consider any new or additional data or information, which may subsequently become available.
4. Unless otherwise stated, all assumptions and limiting conditions contained in the appraisal report, which is the subject of this appraisal review, are also conditions of the review.

REVIEW APPRAISER'S CERTIFICATION

I, the undersigned, certify that to the best of my knowledge and belief:

1. the statements of fact contained in the review report are true and correct.
2. the reported analyses, opinions, and conclusions in the review report are limited only by the assumptions and limiting conditions stated in this review report, and are the reviewer's personal, unbiased professional analyses, opinions, and conclusions.
3. the reviewing appraiser has no present or prospective interest in the property that is the subject of the review report and no personal interest or bias with respect to the parties involved.
4. the compensation received by the review appraiser for the review is not contingent on the analyses, opinions or conclusions reached or reported.
5. the appraisal review was made and the review report prepared in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.
6. the appraisal review was made and the review report prepared in conformity with the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice, except to the extent that the Uniform Standards for Federal Land Acquisitions required invocation of the USPAP's Jurisdictional Exception Rule, as described in Section D-1 of the Uniform Standards for Federal Land Acquisitions.
7. the review appraiser did make an inspection of the properties that are the subject of the appraisal report reviewed; has personally inspected some of the market comparables cited in the appraisal report under review; has verified some of the factual data presented in the appraisal report reviewed.
8. no one provided significant professional assistance to the review appraiser.
9. the appraisal report, as submitted, **IS ADEQUATELY** supported for the purpose and function of the appraisal assignment as defined and as presented. The Paul Mutch property is approved. The Anchor Corporation property value was amended to reflect a more accurate usable land.
- 10 I do not authorize the out-of-context quoting from, or partial reprinting of this review report. Further, none of this review report shall be disseminated to the general public by the use of media for public consumption or public communication without prior written consent of the review appraiser signing below.



RICHARD H. JOHNSON, ARA
Johnson Appraisal Company
Alaska Certified General RE Appraiser License #323

June 2, 2005
Date



Kachemak Bay : Mouth of the Anchor River Tracts




Map prepared by The Nature Conservancy of Alaska (v 05 07 2003)

The Nature Conservancy 

SAVING THE LAST GREAT PLACES ON EARTH

 Potential TNC acquisitions
 Conservation Area Boundary

 State of Alaska lands

0.25 0 0.25 0.5 0.75 1 1.25 Kilometers

