

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCEL KEN 294**

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 Conservation Fund has purchased the Elliott small parcel, KEN 294, in anticipation that it will sell the parcel to the State of Alaska for \$78,000;

2. An appraisal of the parcel approved by the state review appraiser, determined that the fair market value of the parcel is \$78,000;

3. As set forth in Attachment A, Restoration Benefits Report for KEN 294, 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. Acquisition of this small parcel will assure protection of approximately 19.84 acres including approximately 1,282 feet of linear shoreline along the Anchor River. The parcel contains riparian and upland habitats of varying slope that support vegetative species such as, willow, alder, spruce, birch and cottonwood trees. These terrestrial habitats provide structure to the riverbank and cover for the river, thereby protecting streambed substrates and the hydrological properties most important to high quality fish habitat. The river corridor in this area provides habitat essential to the production of Pacific salmon, steelhead trout and anadromous Dolly Varden. This section is particularly important to rearing juvenile fish of all species throughout the year, and over wintering adult steelhead trout and Dolly Varden, as well as spawning chinook salmon. This area also serves as a major migratory corridor each year for thousands of adults of all species attempting to reach upstream spawning grounds. In sum, this parcel is considered to possess fish habitat of exceptional quality important to the life cycle requirements of all fish species indigenous to the Anchor River.

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 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 KEN 294 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 seventy-eight thousand dollars (\$78,000) for small parcel KEN 294;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 1, 2002;

(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;

(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 KEN 294 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.

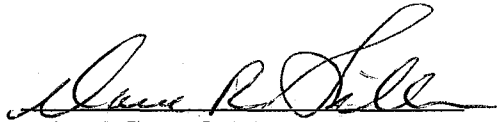
It is the intent of the Trustee Council that the above referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to 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.

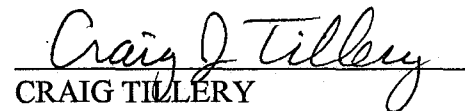
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director that the terms and conditions set


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.


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.

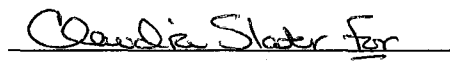
Approved by the Council at its meeting of May 3, 2001 held in Juneau and Anchorage, Alaska, as affirmed by our signatures affixed below:

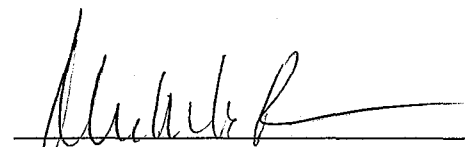

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FRANK RUE
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Alaska Department of
Fish and Game


MICHELE BROWN
Commissioner
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Environmental Conservation

Attachments:

- Attachment A - Restoration Benefits Report
- Attachment B - Vicinity Map

Attachment A: Benefits Report
KEN 294, Elliott Parcel

Acreage: 19.84 acres

Sponsor: ADF&G

Appraised Value: \$78,000

Location: The parcel is locate at Mile 160 of the Sterling Highway, approximately 3 miles south of Anchor Point, Anchor Point, Alaska and is intersected by the Anchor River.

Parcel Description. The parcel is mostly level with the Anchor River bisecting it in a generally east west direction. The parcel contains riparian and upland habitats of varying slope that support vegetative species such as, willow, alder, spruce, birch and cottonwood trees. Natural drainages meander through the parcel and keep some areas relatively wet, providing evidence that some of these areas are likely locations of former riverbed.

Restoration Benefits. These terrestrial habitats provide structure to the riverbank and cover for the river, thereby protecting streambed substrates and the hydrological properties most important to high quality fish habitat. The river corridor in this area provides habitat essential to the production of Pacific salmon, steelhead trout and anadromous Dolly Varden. This section is particularly important to rearing juvenile fish of all species throughout the year, and over wintering adult steelhead trout and Dolly Varden, as well as spawning chinook salmon. This area also serves as a major migratory corridor each year for thousands of adults of all species attempting to reach upstream spawning grounds. Additionally, maintenance of quality habitat at Anchor River is important to anadromous Dolly Varden throughout the Lower Kenai Peninsula. Tagging studies have demonstrated that spawning and rearing Anchor River Dolly Varden are highly migratory and contribute to populations that inhabit Deep Creek, Ninilchik River, and other Kachemak Bay tributaries. In sum, this section is considered to currently possess fish habitat of exceptional quality that is important to the life cycle requirements of all fish species indigenous to the Anchor River. The fish species mentioned above support fisheries that are important to the Kenai Peninsula. The Anchor River supports an average of approximately 28,000 angler days of fishing effort each year. The parcels being considered are adjacent to or near the Sterling Highway and therefore possess high recreational value. Population growth and changes in land use activities on the Lower Kenai Peninsula has lead to increased stream-side development. Consequently, the overall value of these parcels on the Anchor River are important to maintaining quality fish habitat and recreational opportunity on the Kenai Peninsula.

In addition to fish values, the subject property was recently discussed by the Moose Mitigation Trust as a priority for acquisition because of it's value to wildlife, especially moose.

The Anchor River provides important habitat for several species of wildlife. Waterfowl like Mallards, Harlequins, mergansers and teal all use the Anchor River. Most if not all wildlife that occur on the lower peninsula utilize this riparian area. Mink, river otter, and beaver are common residents of this area. Black and brown bears migrate through in search of salmon or other foods. Generally the dense understory provide secure cover for travel and protection from human disturbance.

Moose occur throughout the region and especially in the riparian areas year round. During spring, summer and fall moose utilize riparian areas for feeding, rearing young and thermal protection from hot summer days. During winter moose concentrate to the riparian areas because of the available browse and relatively lower snow depth. During winters with deep snow moose tend to congregate in higher densities on the lower

stretches of this river. For example, in 1992 a late winter survey showed that this section of river contained over 14 moose per square mile.

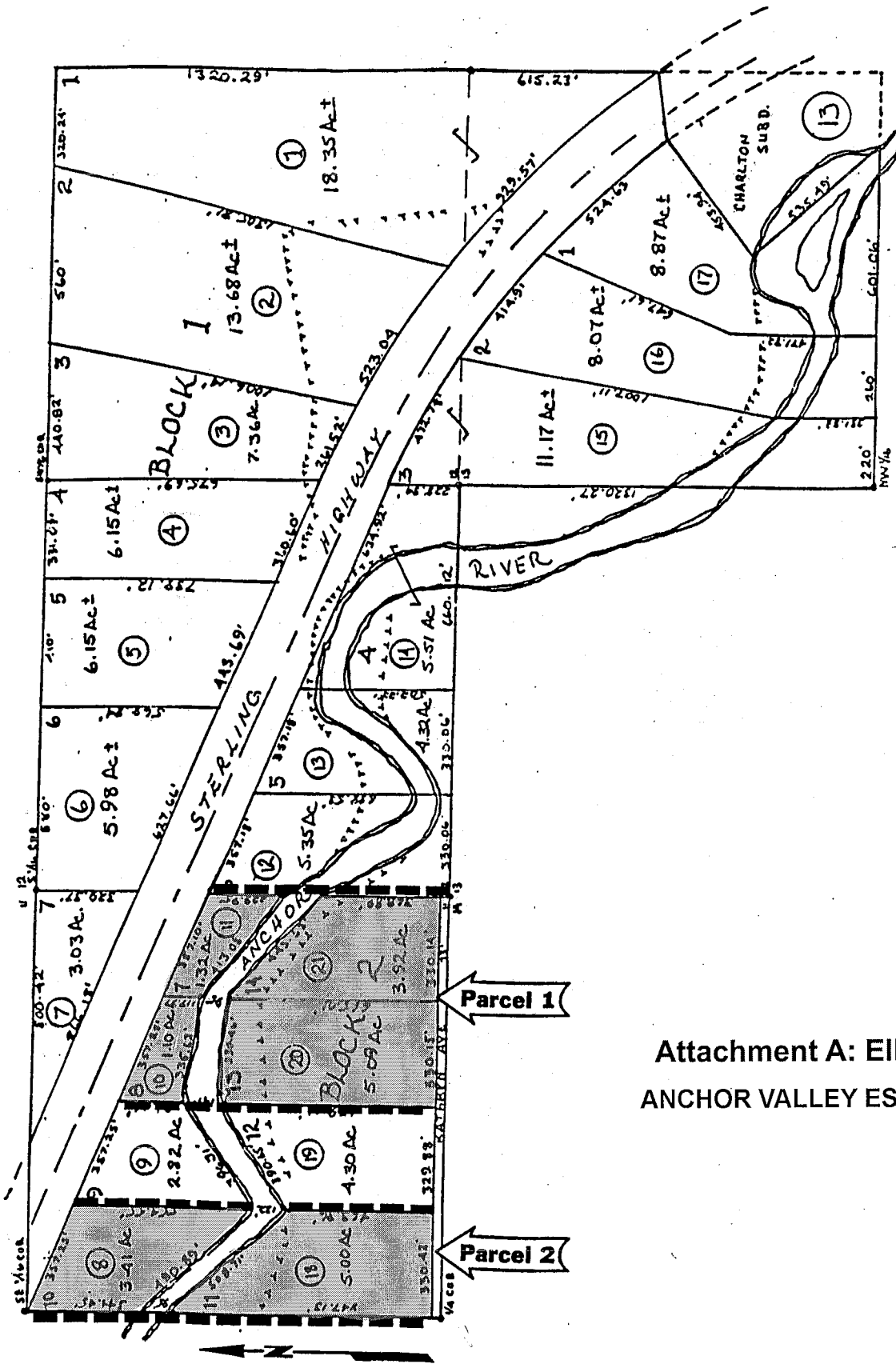
The Department of Fish and Game places a high value on this parcels for public access. On the South Fork of the Anchor River, small private parcels comprise nearly all of the land from the vicinity of the North and South Forks confluence at approximately MP 157 on the Sterling Highway upstream to about MP 164.

Potential Threats. The parcel is already subdivided and has potential for residential/recreational use. The appeal of the parcel is enhanced by its Anchor River frontage in an area popular for dolly varden and steelhead sportfishing.

Appraised Value. The appraised value of this parcel is \$78,000. The parcel is currently part of a subdivision and includes 6 subdivided lots. The highest and best use of these lots is speculative holding, combined vacant, for future sale or development as economic conditions dictate feasible.

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. ADF&G will manage this parcel. The parcel will probably be classified Habitat/Public Recreation Land.”

Public Comment. Support for acquisition of this parcel was expressed by representatives of Trout Unlimited, Alaska Fly Fishers, and the Alaska Sportfishing Association citing concerns regarding access in this stretch of the river.



Attachment A: Elliot
ANCHOR VALLEY ESTATES

Attachment B: Vicinity Map

