

RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

WHEREAS the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), at its January 4, 2001 meeting by resolution 01-05 did offer to enter into a long-term agreement with Koniag, Inc. for the protection of certain lands on Kodiak Island; and

WHEREAS the Board of Directors of Koniag, Inc, has by its resolution dated January 12, 2001, generally accepted that offer but has requested certain provisions in a form different than that previously approved by the Trustee Council; and

WHEREAS the Trustee Council now wishes to respond to those requested changes and to reach a long term agreement, does hereby rescind such January 4, 2001 resolution and we, the undersigned, duly authorized members of the Trustee Council, after extensive review and after consideration of the views of the public, find as follows:

1. In accordance with the Trustee Council Resolution of December 2, 1994, the United States, acting through the U.S. Fish and Wildlife Service, Department of the Interior ("Service" and "Department," respectively) and Koniag, Inc. ("Koniag"), have completed the fee purchases of certain lands and interests in lands within the Kodiak National Wildlife Refuge ("Refuge").
2. Consistent with the foregoing Resolution, the United States also received from Koniag the Non-Development Easements covering certain other lands within the Refuge for the term expiring December 2, 2001, and the State of Alaska ("State") received from Koniag an Access and Use Easement for those lands for the same period. The purpose of the foregoing easements was to protect the key resources

ACE 30396959

1

Resolution 01-08

ATTACHMENT A PAGE 32 OF 48

on certain lands owned by Koniag, primarily within the Karluk and Sturgeon River drainages, while the parties sought to reach a long term agreement to protect this key habitat.

3. Negotiators for the Trustee Council and Koniag have now reached a tentative agreement, subject to review, ratification and approval of their principals, the Trustee Council and the Koniag Board of Directors, respectively, covering the surface estate of the lands generally depicted on the maps at Attachment A hereto (the "Lands") and totaling approximately 57,900 acres. This tentative agreement will, if implemented, provide long-term protection and opportunities for restoration of natural resources and services that were injured by the *Exxon Valdez* oil spill. The tentative agreement, which is set forth at Attachment B, includes the various exhibits thereto (the tentative agreement and attachments thereto are hereafter referred to as the "Agreement").
4. The Lands were selected and conveyed to Koniag or its predecessors pursuant to the Alaska Native Claims Settlement Act. The subsurface rights associated with the Lands are held by the United States of America ("United States").
5. The Lands are within the oil spill area as defined by the Trustee Council in the Final Restoration Plan approved November 2, 1994.
6. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the Trustee Council's habitat benefits analysis. This analysis has indicated that these lands have high value for the restoration of such injured natural resources as sockeye salmon, pink salmon, Dolly Varden, Pacific herring, black oystercatcher, bald eagles, harbor seals, harlequin ducks, intertidal/subtidal biota, marbled murrelet, pigeon guillemot, river otters, sea otters, and cultural and archeological resources. This analysis has also indicated that the Lands have high value for the restoration

of injured services that rely on these natural resources, including commercial fishing, wilderness, recreation, tourism and subsistence. Restoration of the injured species will benefit from acquisition and protection of this important habitat through the elimination of activities and disturbances which may adversely affect their recovery.

7. The Lands are located wholly within the boundaries of the Refuge and their protection will ensure the preservation of a significant portion of one of the nation's most productive and unique ecosystems. The benefits resulting from such acquisition and protection are further described in the Habitat Benefits Report at Attachment C .
8. Existing laws and regulations, including but not limited to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation 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 EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws 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 diminished services provided by these resources.
9. There has been widespread public support for the acquisition of the Lands, locally, within the spill zone and nationally.
10. Implementation of the Agreement is an appropriate means to restore a portion of

the injured resources and services in the oil spill area and is consistent with the Final Restoration Plan.

11. Recently, on private lands within the Refuge, development and construction have included lodges, private residences and recreational cabins. Such sites have been near key water bodies and can have a significant impact, particularly on a cumulative basis, on water quality and injured natural resources and services well beyond the boundaries of the individual sites. In the event the subject lands are not acquired or protected at this time, development by the owners is certain to occur on them in a manner that will adversely impact the water quality and the injured EVOS resources and services sensitive to human disturbance.
12. The approved appraisal procured on behalf of the Trustee Council as of September 8, 1994 provided an estimate of fair market value totaling approximately \$7,297,100 (Seven million two hundred ninety-seven one hundred and no/100 dollars) for the fee acquisition of the Lands.
13. The Service prepared and submitted an offer to Koniag to purchase its Kodiak Island lands as per the September 8, 1994 estimate of fair market value in the approved appraisal. This offer was rejected and negotiations and discussions ensued over the past several years between Koniag and a joint Federal/State of Alaska negotiating team which resulted in the Agreement. Koniag has also advised the Federal/State negotiators that it is unwilling to sell the Lands in fee at the present time, but would consider a long-term agreement that would provide for habitat protection and economic opportunities for the residents of Karluk and Larsen Bay, Alaska, as well as Koniag's other shareholders.
14. It is ordinarily the federal government's practice to pay its estimate of fair market value for lands it acquires. However, due to the unique circumstances of this proposed acquisition, including the exceptional habitat value of the Lands for

purposes of promoting recovery of natural resources and services injured by EVOS and the levels of compensation paid in other transactions providing for the protection of key habitat within the Oil Spill Zone, including that for the prior acquisitions from Koniag, the Trustee Council believes the payment structure provided in the attached Agreement is appropriate.

15. The acquisition of these lands or interests in lands is in compliance with the National Environmental Policy Act; Section 810 of the Alaska National Interest Lands Conservation Act; Section 7 of the Endangered Species Act; and the provisions of E.O. 11593 implementing the National Historic Preservation Act; and has been determined to be consistent with Section 307 of the Coastal Zone Management Act.
16. A satisfactory hazardous substance survey has been or will be completed prior to the initial closing with respect to the lands or interests in lands being acquired.

THEREFORE, we resolve to provide the funds as set forth below and in the Agreement for the United States and the State to enter into the Agreement with Koniag, in conformity with applicable Federal and State laws. In the event that there are any disagreements among the Parties as to the legal descriptions and the scope of the lands intended to be the subject of this Agreement, the maps at Attachment A are intended to be controlling. Any substantive changes in the language contained in the Agreement, including the exhibits attached thereto, or modifications in the legal descriptions that would be at variance with the foregoing attached maps, must be approved by the Trustee Council. Non-substantive changes may be made by the Alaska Department of Law and the U.S. Department of the Interior.

PROVIDED FURTHER, that the Agreement shall contain or be subject to the following terms or conditions:

ACE 30396963

1. Receipt by the United States and the State of Alaska of the remaining settlement payment due on October 1, 2001, from Exxon Corporation, et al.
2. Filing by the United States Department of Justice and the Alaska Department of Law of a notice(s), 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 Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the United States.
3. Completion of a title search satisfactory to the Alaska Department of Law and consistent with the title regulations of the Attorney General of the United States.
4. No development is to take place prior to closing on the Lands which is inconsistent with that provided for in the various granting documents attached as exhibits to the tentative agreement.
5. The terms and conditions of the granting instruments attached as exhibits to the Agreement are subject to review and approval as to form and substance by the U.S. Department of Justice and the Alaska Department of Law.
6. Should title to any lands be conveyed in fee to the United States pursuant to the Agreement, such lands shall be subject to a conservation easement in the State of Alaska authorizing it to enforce in a court of competent jurisdiction, the restoration and conservation purposes for which this acquisition is made as set forth in the State Conservation Easement, attached as an exhibit to the Agreement.

ACE 30396964

THEREFORE, by unanimous consent, and upon execution of the Agreement and written notice from the Department and the Alaska Department of Law to the Executive Director that the terms and conditions set forth herein and in the 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 the Trustee Council to provide joint settlement funds as set forth below:

1. (a) \$150,000 (One hundred fifty thousand and no/100 dollars) unless Koniag instead elects to complete the land exchange set forth in Section 20 of the Agreement, in which event the amount shall be \$300,000 (Three hundred thousand and no/100 dollars) to be paid to Koniag by December 15, 2001, for the extension of the existing Non-Development Easements and the State Access and Use Easement until October 15, 2002. The provision of the foregoing \$150,000 is conditioned upon the United States providing funding of an equal amount for this payment in the event that Koniag does not elect such land exchange.

(b) For purposes of the March 1, 1999 Trustee Council Resolution concerning the Restoration Reserve, the foregoing \$150,000 or \$300,000 payment from the joint settlement funds, as applicable, and any interest attributable to that amount between December 1, 2001 (or such other date on which these funds are transferred from the Investment Fund) and October 1, 2002 shall reduce the \$55 million (Fifty-five million and no/100 dollars) available for habitat protection on October 1, 2002.

(c) In the event that Koniag does not elect and complete the exchange option, then from the funds then available and previously authorized by the Trustee Council by its resolution dated December 11, 1995 and motion dated June 8, 1998 concerning the acquisition of certain small parcels within the Refuge, \$50,000 is reallocated therefrom to be used for the deposit to the Special Account.

ACE 30396965

(d) In the event that Koniag initially elects to pursue the exchange option, but does not complete such exchange for any reason, then the Department of Interior shall reimburse the joint settlement funds in the amount of \$150,000 from the federal criminal restitution funds for the payment due December 15, 2001 from the joint funds for the extension of the existing Non-Development Easements and the State Access and Use Easement in order to fulfill the federal payment obligation set forth in the above paragraph 1(a).

2. The Trustee Council, will cause to be established and fund as of October 15, 2002, a special account in the amount of \$29,800,000 (Twenty-nine million, eight hundred thousand and no/100 dollars), unless Koniag instead elects to complete the land exchange set forth in Section 20 of the Agreement, in which event the amount shall be \$29,550,000 (Twenty-nine million, five hundred fifty thousand and no/100 dollars)("Special Account"). The Special Account shall be established by the United States and the State, acting through the Trustee Council or its successors in function (the "Governments"), with the State of Alaska investment system in accordance with the authority provided by Congress in Section 350 of P.L. 106-113, 113 Stat.1501 (1999). The Governments will manage the Special Account and are solely responsible for its investment. Notwithstanding the foregoing, over the life of this Agreement, the Governments shall (a) consult with Koniag concerning the investment strategy for the Special Account and (b) establish an initial investment target of a projected average annual return of 5.75% above inflation when considered over a ten year period, unless after consultation with Koniag, the Governments determine that such investment targets would be imprudent and would require an investment strategy relying on undue risk of principal of these joint governmental funds. Koniag shall be provided a financial report on the Special Account at least quarterly, which report shall identify the investments held therein, their value and all transactions made with respect to the Special Account during the reporting period. Such reports shall be provided within thirty (30) days of the close of the reporting period.

ACE 30396966

8

ATTACHMENT A
PAGE 39 OF 48

Resolution 01-08

3. Investment management fees shall be paid from the Special Account in accordance with the provisions set forth below:

- (a) If the Special Account is held in the State of Alaska's Treasury, the management fees for the account shall be the actual fees assessed by, and commensurate with other management fee charges of, the Alaska Department of Revenue, Division of Treasury for an account of this nature.
- (b) If the Special Account is held in an entity other than that of the State of Alaska, the fees to be charged shall be the actual fees assessed by, and commensurate with, the management fees charged for an account of this nature.
- (c) For each entire year that the Conservation Easement is in effect, an annual payment from the Special Account shall be made to Koniag as follows:

Year 1	\$372,100, paid on October 15, 2003
Year 2	\$405,589, paid on October 15, 2004
Year 3	\$439,078, paid on October 15, 2005
Year 4	\$472,567, paid on October 15, 2006
Year 5	\$506,056, paid on October 15, 2007
Year 6	\$539,545, paid on October 15, 2008
Year 7	\$573,034, paid on October 15, 2009
Year 8	\$606,523, paid on October 15, 2010
Year 9	\$640,012, paid on October 15, 2011
Year 10	\$673,501, paid on October 15, 2012
Year 11	\$706,990, paid on October 15, 2013
Year 12	\$744,200, paid on October 15, 2014
Year 13	\$744,200, paid on October 15, 2015
Year 14	\$744,200, paid on October 15, 2016

ACE 30396967

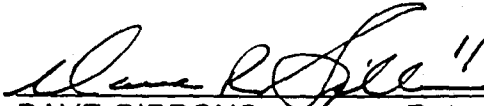
Year 15	\$744,200, paid on October 15, 2017
Year 16	\$744,200, paid on October 15, 2018
Year 17	\$744,200, paid on October 15, 2019
Year 18	\$744,200, paid on October 15, 2020
Year 19	\$744,200, paid on October 15, 2021
Year 20	\$744,200, paid on October 15, 2022


- (d) If Koniag elects in accordance with the Agreement not to subsequently sell the lands to the United States in fee, and otherwise allows the easements to terminate, Koniag shall cease to have any right or claim with respect to any amounts in the Special Account, and the balance thereof shall be subject to use by the Governments in accordance with the consent decrees applicable to the use of the proceeds from the EVOS settlement and other applicable law. If Koniag elects to sell the lands covered by the Conservation Easement in fee to the United States, then it shall receive the balance in the Special Account in accordance with the terms of the Agreement.
- (e) So long as the Conservation Easement and the Camp Island Limited Development Easement are in effect, no funds in the Special Account may be withdrawn therefrom except in accordance with the terms of the Agreement. The funds in such Special Account may not otherwise be transferred to another account without the prior written consent of Koniag.


PROVIDED FURTHER, that the funds provided above represent the only amounts under this resolution due to Koniag which are to be funded from the joint federal-State funds.

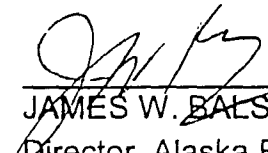
ACE 30396968

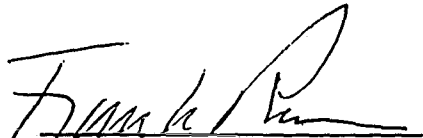
Adopted this 16th day of January, 2001, in Anchorage, Alaska.

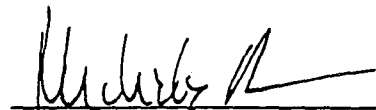

DAVE GIBBONS Date 1/22/01
Trustee Representative
Alaska Region
USDA Forest Service


CRAIG TILLEY Date 1/18/01
Assistant Attorney General
State of Alaska


DAVID B. ALLEN Date 1/18/01
Trustee Representative
Director, Alaska Region
U.S. Fish and Wildlife Service
U.S. Department of the Interior


JAMES W. BALSIGER Date 1-18-01
Director, Alaska Region
National Marine Fisheries Service


FRANK RUE Date 1-22-01
Commissioner
Alaska Department of
Fish and Game


MICHELE BROWN Date 1/18/01
Commissioner
Alaska Department of
Environmental Conservation

ACE 30396969