

**RESOLUTION 09-06 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING SMALL PARCEL KEN 3005**

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 KEN 3005 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 \$45,000.
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. Acquisition of this parcel will protect approximately 227 linear feet of shoreline and an additional 200 feet of freshwater lake frontage. The parcel also provides important access to Safety Cove State Marine Park.
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 ("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 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.

THEREFORE, we resolve to provide funds for the State of Alaska to purchase all the seller's rights and interests in small parcel KEN 3005 as recommended by the Executive Director of the Trustee Council ("Executive Director"), 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 forty five thousand dollars (\$45,000) for small parcel KEN 3005;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 30, 2010;

(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 KEN 3005 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.

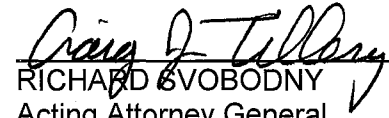
It is the intent of the Trustee Council that the above-referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent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

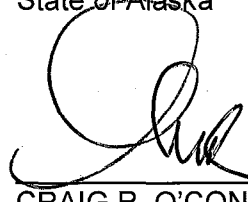
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

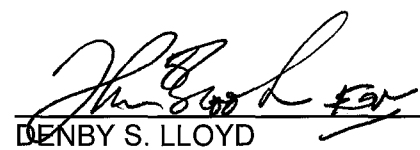
Approved by the Council at its meeting of May 29, 2009, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

  
\_\_\_\_\_  
JOE L. MEADE  
Forest Supervisor  
Forest Service Alaska Region  
U.S. Department of Agriculture

  
\_\_\_\_\_  
RICHARD SVOBODNY  
Acting Attorney General  
State of Alaska

  
\_\_\_\_\_  
KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
U.S. Department of Interior  
U.S. Department of Commerce

  
\_\_\_\_\_  
CRAIG R. O'CONNOR  
Special Counsel  
National Oceanic & Atmospheric  
Administration

  
\_\_\_\_\_  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
\_\_\_\_\_  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A - Restoration Benefits Report and Map

### KEN 3005, Best Parcel

<b>Owner:</b>	Douglas Best
<b>Physical Location:</b>	The parcel is an in-holding in Safety Cove State Marine Park located in Day Harbor near Seward, AK
<b>Acreage:</b>	2.05 acres
<b>Brief Description:</b>	ASLS 78-119, Plat 80-22 in Section 26, T2S, R1E, SM.
<b>Agency Sponsor:</b>	Alaska Department of Natural Resources
<b>Appraised Value:</b>	\$45,000

**Parcel Description.** The property is located at the head of Safety Cove on the western side of Day Harbor near Seward, Alaska. The parcel encompasses 2.05 acres within Alaska State Land Survey 78-119 and is the only private property within the 960-acre Safety Cove State Marine Park. The property is located north of a three-acre fresh water lake located above the gravel storm berm at the head of the cove. Behind this parcel the land rises steeply and is surrounded by large rocky cliffs and mountains. The parcel provides excellent and strategic access to Safety Cove State Marine Park and contains the only usable beach in the marine park boundaries. The parcel provides 227 feet of beach frontage on Safety cove and an additional 200 feet of freshwater lake frontage.

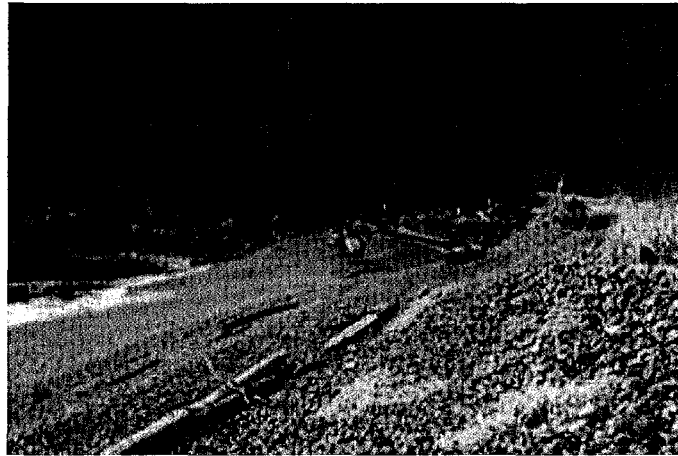


The parcel is heavily timbered with Sitka Spruce, hemlock and alder. The under story is a mix of salmon berry, blueberry, devils club and moss. The shoreline and intertidal is gravel and cobble. The parcel is currently undeveloped with few signs of human use.

#### **Linkage to Restoration:**

##### **Restoration Benefits.**

Restoration benefits will accrue to recreation. Acquisition will secure and enhance access to Safety Cove State Marine Park and remove the threat of conflicting use in perpetuity. Additionally, a variety of injured resources utilize the habitat provided by this parcel and are regularly found in the area. Sea otters utilize the intertidal habitat and river otters move between the ocean and the lake using trails worn between the two water bodies. Mussel colonies are found in the intertidal and provide food for Harlequin ducks commonly found in the area. The head of Day Harbor is identified as a waterfowl concentration area. Loons utilize the fresh water lake adjacent to this parcel and it is thought that the old growth Sitka spruce found on the parcel provide marbled murrelet habitat. The area immediately off shore is identified as a Pacific herring spawning area in the Cook Inlet ESI atlases. In addition, the rocky cliffs surrounding Safety Cove are important mountain goat habitat with the goats giving birth in the spring at lower elevations.



**Table 1: Injured Resources and Services – Summary of anticipated benefits.**

Not Recovering	Recovery Unknown	Recovering	Services
Pacific Herring	Marbled murrelets	Intertidal communities	Recreation
Pigeon Guillemot	Subtidal Communities	Mussels	Commercial fishing
		Sediments	Passive use
		Sea Otters	
		Harlequin Ducks	

**Potential Threats.**

The owner is very interested in selling this parcel. He would prefer that the parcel become part of Safety Cove Marine Park however, he is not in a position to donate the parcel and a sale to a third party is highly likely should the State be unable to purchase the parcel. All comparables for this appraisal were 2006 (1) or 2007 (5) sales in Day Harbor indicating that demand is relatively strong for recreational parcels in this immediate area.

Conversion of this property to a lodge or recreational cabin site would severely impact the public’s ability to access Safety Cove Marine Park leading to potential user conflicts over time. Development on this parcel has the potential to negatively affect the intertidal and nearshore habitat as well as the heavily forested uplands.



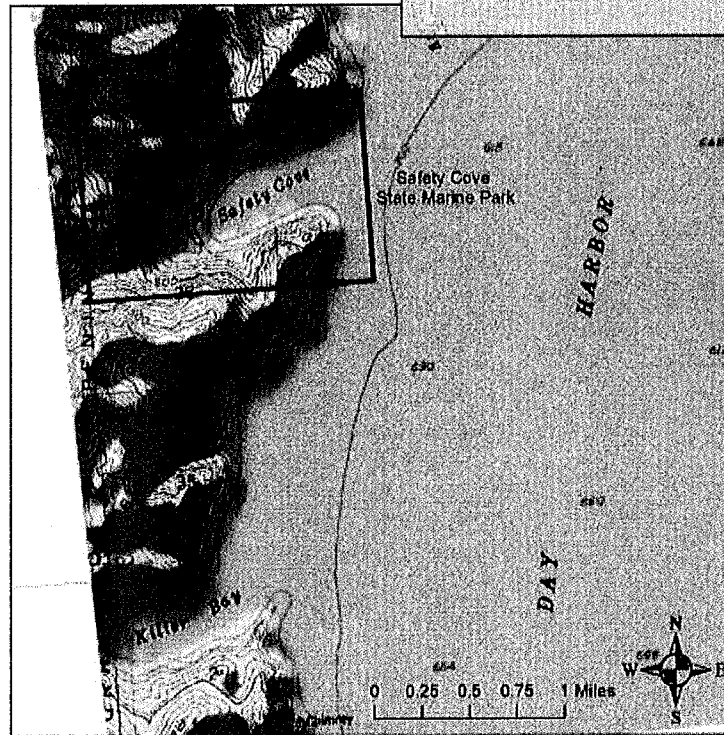
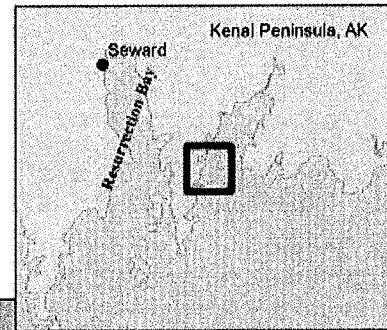
**Proposed Management.**

This parcel was identified in the Management Plan for State Marine Parks as an in-holding that may impact recreation values of the park should it be developed. The Safety Cove State Marine Park plan recommends purchase if the owners are willing sellers. Justification for purchase was based on the need to prevent conflicts between the public and in-holders should development occur. The management plan recommends management of the marine park as a natural zone with minimal development, which is consistent with EVOS restoration goals and objectives.



This parcel will be managed by the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, consistent with the management intent for Safety Cove State Marine Park and for the purposes of protecting resources and services injured by the *Exxon Valdez* Oil Spill.

**Appraised Value.** \$45,000



**Best Parcel, Safety Cove State Marine Park  
Kenai Peninsula, Alaska**

The Best Parcel (red outline) is located within Safety Cove State Marine Park (green outline).

# Safety Cove State Marine Park

Safety Cove State Marine Park is located on the western side of Day Harbor approximately 27 miles from Seward by boat. A small lake is located at the head of the cove. Some camping opportunities also exist at the head of the cove.

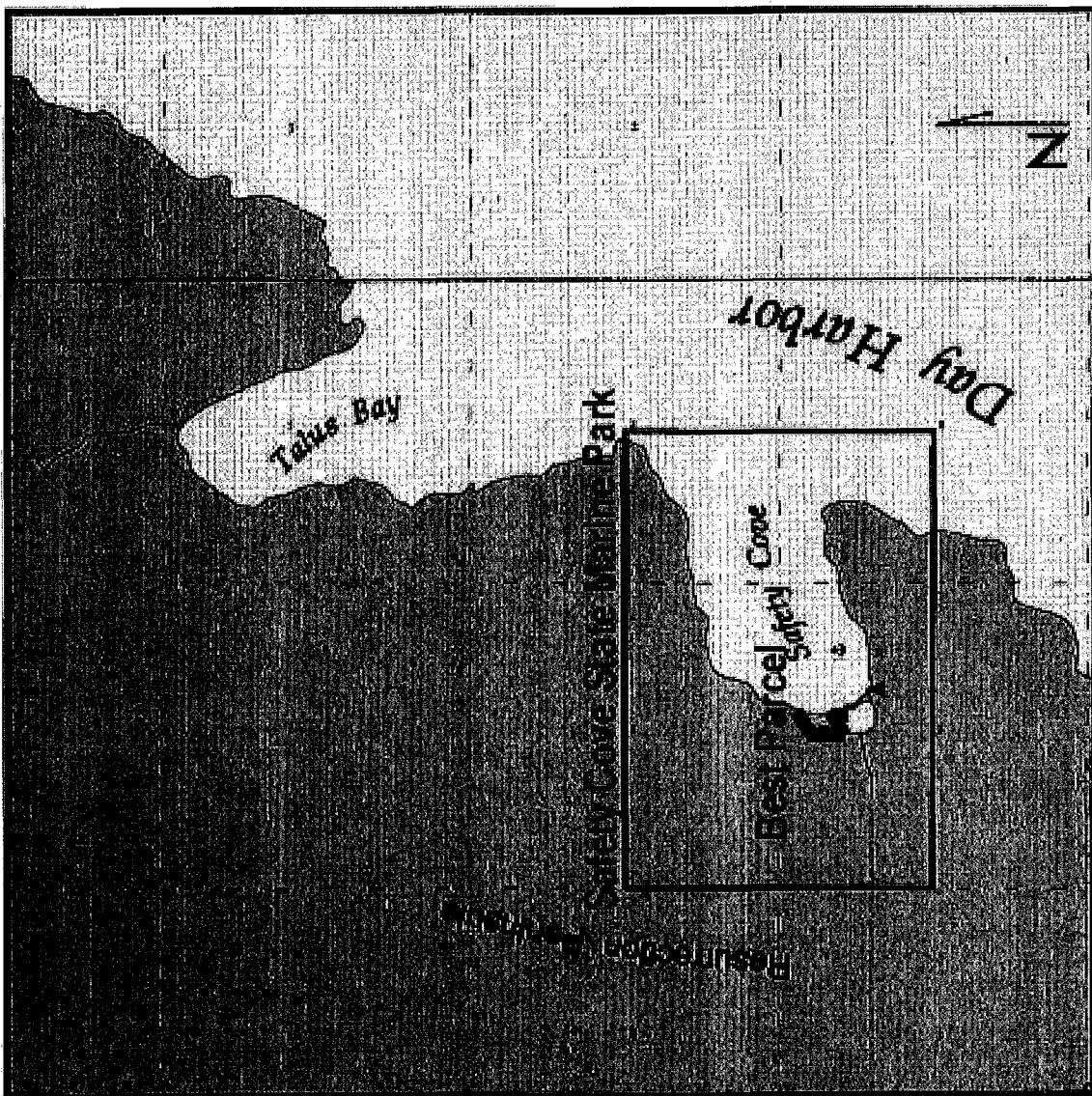
Approximate acreage of the marine park: 960 acres.

## State Marine Parks Land Status / Land Use

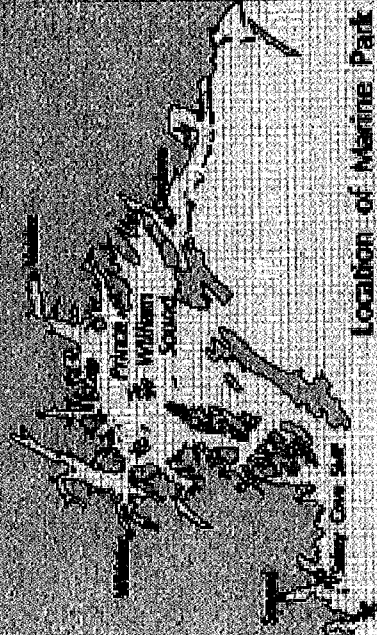
### LEGEND -

- Park Zone
- Park
- National Park Service or Wildlife Refuge
- State Owned or Other Public
- Private
- State Marine Park
- Requested Addition
- Anchorage
- Camping Beach
- Camp Site
- Boat Docking
- Private Dock
- Viewing Pier
- Jet Slip
- Tide

Produced by  
Department of Parks & Recreation  
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ONE MILE | USGS Quadrangle Blying Sound D-6



Location of Marine Park