

**RESOLUTION 09-08 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCEL KAP 3001**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after public meetings, unanimous agreement has been reached to expend funds received in settlement of State of Alaska v Exxon Corporation, et al., No. A91-083 CIV, and United States of America v. Exxon Corporation, et al., No 91-082 CIV, U.S. District Court for the District of Alaska, for necessary natural resource damage assessment and restoration activities, as described in Resolution 07-04 of the *Exxon Valdez* Oil Spill Trustee Council regarding Chokwak II Small parcel, KAP 3001.

This resolution re-authorizes the distribution of funding for the purchase of the above referenced property totaling \$160,000, to be distributed to the State of Alaska according to the following schedule:

Department of Natural Resources	\$160,000
TOTAL APPROVED FOR DISTRIBUTION	\$160,000

The Council further finds as follows:

1. An appraisal of the parcel completed by the Department of Natural Resources and approved by the Bureau of Indian Affairs of the United States Department of the Interior determined that the fair market value of the parcel is \$160,000.

2. As set forth in Resolution 07-04 and attachments, this parcel, if acquired, 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 160 acres located on the

north shore of Kiliuda Bay on the east side of Kodiak Island. The parcel includes Anadromous Stream #250-20-100 4 0, valuable riparian and intertidal habitat, as well as access to the adjacent state-owned uplands acquired through a land exchange between the State and Old Harbor Native Corporation. The parcel is important to the sport fishing and tourism industries, both of which were impacted by the *Exxon Valdez* oil spill.

3. 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 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.

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

5. 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 acquire all the seller's rights and interests in small parcel KAP 3001 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

(\$160,000) for small parcel KAP 3001;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 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 KAP 3001 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 29, 2009, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

for Steve V. Zinke

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