

## **RESOLUTION 10-13 OF THE *EXXON VALDEZ* OIL SPILL TRUSTEE COUNCIL REGARDING SMALL PARCEL KEN 3006**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), 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 follows:

1. The owner of small parcel KEN 3006 comprised of Lots 4 and 5, block 1 of Coal Creek Moorage Subdivision, as described in Attachment A, has indicated an interest in selling this small parcel.
2. An appraisal authorized by the Trustee Council has been completed, reviewed and approved establishing one hundred thousand dollars (\$100,000) as the Fair Market Value of KEN 3006.
3. KEN 3006 has attributes which if they are acquired and protected will restore, replace, enhance and rehabilitate injured 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 *Exxon Valdez* oil spill ("EVOS") has been documented.
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 caused by 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 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 in the oil spill area.

6. The purchase of small parcels is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

7. 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 of the Seller's rights and interests in small parcel KEN 3006 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 for the purchase of small parcel KEN 3006 shall be one hundred thousand dollars (\$100,000);

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by July 31, 2011;

(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 written 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 3006 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



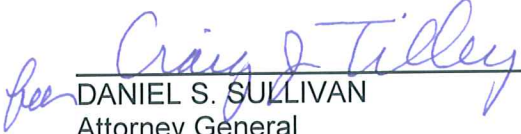
use except as may be consistent with applicable state or federal law and the goals of restoration to pre-spill conditions of any natural resource injured, lost, or destroyed as a result of the EVOS, and the services provided by that resource or replacement or substitution for the injured, lost or destroyed resources and affected 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 Seller 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 Seller from such joint funds.

Approved by the Trustee Council at its meeting of June 23, 2010, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

  
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STEVE ZEMKE  
Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture

  
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DANIEL S. SULLIVAN  
Attorney General  
State of Alaska

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

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

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DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
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LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A - Restoration Benefits Report and Map

Approved by the Trustee Council at its meeting of June 23, 2010, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

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Trustee Alternate  
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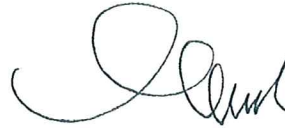
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Attachment A - Restoration Benefits Report and Map



**KEN 3006, Coal Creek Moorage 2**

<b>Owner:</b>	Linda McLane
<b>Physical Location:</b>	This parcel is located immediately adjacent to previously acquired small parcel KEN 19 located on the confluence of Little Coal Creek and the Kasilof River ("Coal Creek Moorage 1").
<b>Acreage:</b>	6.94 acres
<b>Brief Description:</b>	Lot 4 and Lot 5, Coal Creek Moorage Subdivision Part One, T 3N R 12 W Sec 13 SM
<b>Agency Sponsor:</b>	Alaska Department of Natural Resources
<b>Appraised Value:</b>	\$100,000

**Parcel Description.** This parcel, comprised of two lots fronting on Coal Creek, is located at the confluence of Little Coal Creek and the Kasilof River and is part of the Kasilof River Flats on the east shore of the Kasilof River. The lots are approximately 2.5 miles upstream from the mouth of the Kasilof River and the shores of Cook Inlet. The parcel is located immediately adjacent to previously acquired EVOS small parcel KEN 19, which was purchased from Mr. and Mrs. McLane in 1997. Both lots contain important tidally influenced wetlands. Uplands on the parcels are densely wooded with mixed spruce and birch.

The original Coal Creek parcel was considered unique because of the highly productive tidal marshes on and adjacent to this property, due to their limited distribution. The Kenai Peninsula Borough wetlands delineation illustrates the continuation of the marshes on the parcels currently under consideration.

**Linkage to Restoration:****Restoration Benefits.**

Injured species that will benefit from this parcel acquisition include intertidal resources, pink and sockeye salmon, Dolly Varden, and bald eagles. The parcel also supports species such as chinook and coho salmon; steelhead and rainbow trout; Canada, Tule and lesser snow geese; Sandhill cranes; and numerous other species of waterfowl and shorebirds. Coal Creek is an important wildlife movement corridor for black bear and moose that travel between the adjacent uplands and the Kasilof River Flats. The Cook Inlet Aquaculture Association has used Coal Creek as a release site for sockeye salmon smolts, which contribute to the overall Cook Inlet commercial fishery. The area supports recreational use by fishermen, birdwatchers and hikers.

The parcel also has significant cultural values. It includes remnant structures from an early 20<sup>th</sup> century fox farm, but more importantly it includes house depressions and other features from a prehistoric or early historic Denai'na village site. There is also evidence of early Russian structures with features indicating this may be the site of the first Russian settlement in southcentral Alaska. The site is in relatively pristine condition, with integrity of locations and setting.



The original Coal Creek proposal was strongly supported by the Kenai Peninsula Borough and Kenai Peninsula legislators. In 1997, these parcels were appraised in an effort to include them in the previous transaction. Unfortunately court proceedings prevented further action on the part of the Council. In 2004, Ms. McLane was able to purchase these parcels back from the court in hopes of eventually placing them in public ownership.

**Potential Threats.**

The owner is very interested in selling this parcel. Adjacent neighbors have expressed interest in the parcel, however, it is the owner's preference that this parcel be acquired by the State and managed consistent with the Coal Creek parcel previously purchased by the Trustee Council. Conversion of this property to home sites has the potential to diminish public access to the upper reaches of Coal Creek, negatively impact valuable cultural resources, and negatively impact estuarine and intertidal areas including KEN 19, Coal Creek Moorage 1. Potential user conflicts could also occur over time.

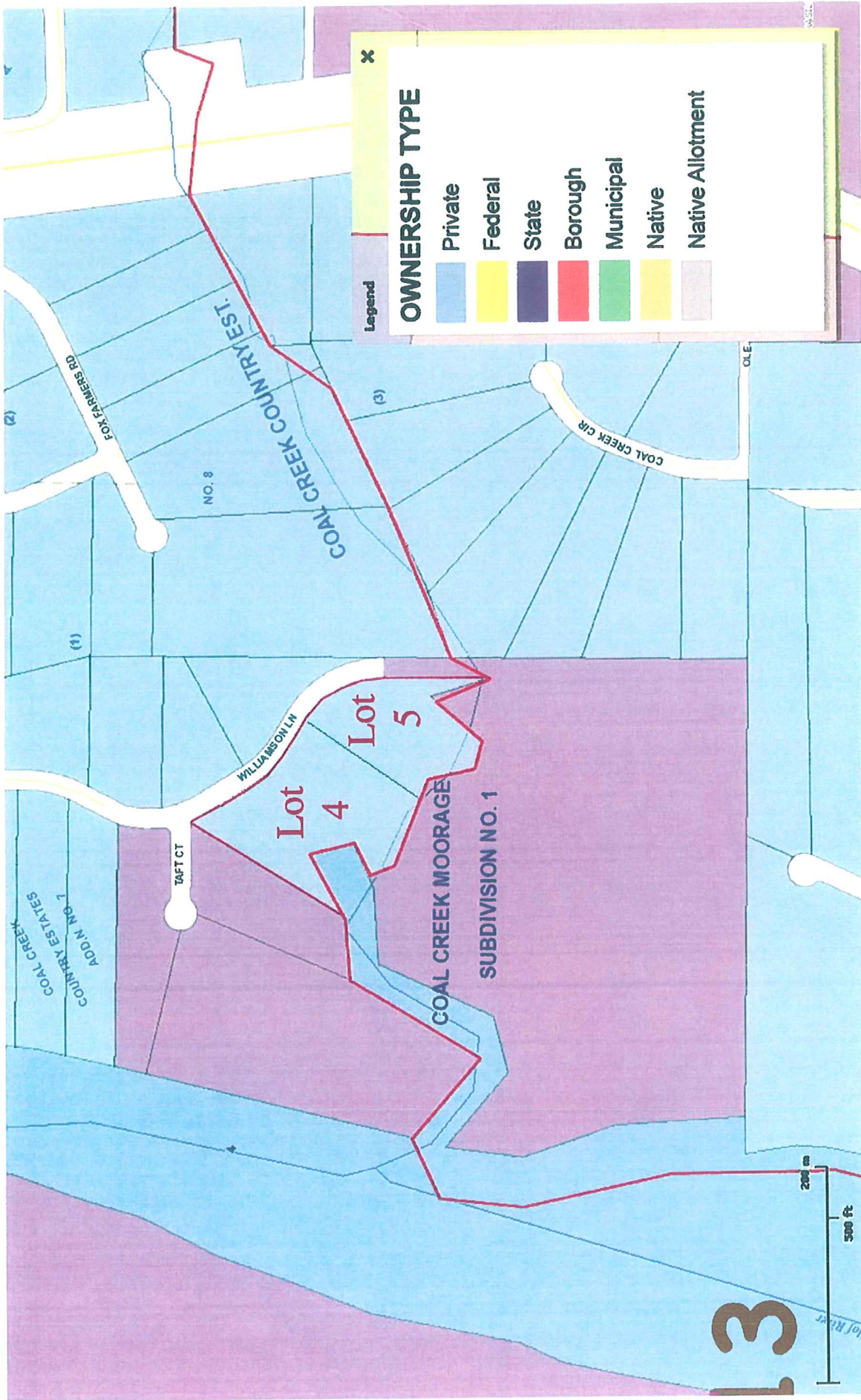
**Proposed Management.**

This parcel has been identified as a priority for the Division of Parks and Outdoor Recreation. The State Historic Preservation Officer considers protection of this parcel critical.

This parcel will be managed by the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, Kenai Area Office in consultation with the State Historic Preservation Officer, consistent with the management of KEN 19, Coal Creek Moorage 1, for the purposes of protecting resources and services injured by the *Exxon Valdez* Oil Spill.







## Coal Creek Moorage 2, Land Ownership



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## KPB Parcel Viewer