

**RESOLUTION 11-13 OF THE *EXXON VALDEZ* OIL SPILL TRUSTEE COUNCIL  
REGARDING SMALL PARCEL KEN 3010 (POORE)**

We, the undersigned, duly authorized members of *Exxon Valdez* Oil Spill Trustee Council ("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 91-082 CIV, U.S. District Court for the District of Alaska, for necessary natural resources damage assessment and restoration activities as follows:

1. The owner of small parcel KEN 3010 (Poore), comprised of lots 6 and 7 of the Government subdivision at Eagle Rock, as described in Attachment A, ("Seller") has indicated an interest in selling this small parcel.

2. KEN 3010 is within the oil spill area as defined by the Council in the Final Restoration Plan approved November 2, 1994.

Pursuant to Resolution 11-04, adopted February 11, 2011, the Council authorized funds for an appraisal of small parcel KEN 3010. The appraisal has been completed and reviewed by the state and federally-approved review appraiser. The fair market value for KEN 3010 is one million, one hundred thousand dollars (\$1,100,000).

3. KEN 3010 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 Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects 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 regulation 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 within the oil spill area.

The purchase of KEN 3010 is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

6. Acquisition of the 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 3010 as recommended by the Executive Director of the 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 Council to the State of Alaska for the purchase of small parcel KEN 3010 shall be one million, one hundred thousand dollars (\$1,100,000);
- b. authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 30, 2012;
- 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 Council within the Alaska Department of Revenue, Division of 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 KEN 3010 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 3010 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.

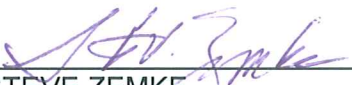
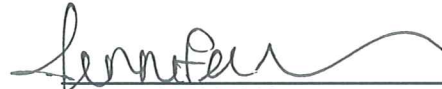



It is the intent of the Council that the above-referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent 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 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 purchases 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 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 interests are herein authorized to be paid to the Seller from such joint funds.

Approved by the Council at its meeting of September 15, 2011, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

  
\_\_\_\_\_  
STEVE ZEMKE  
Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture  
\_\_\_\_\_  
JOHN J. BURNS  
Attorney General  
State of Alaska  
\_\_\_\_\_  
KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
Office of the Secretary  
U.S. Department of the Interior  
\_\_\_\_\_  
JIM BALSIGER  
Administrator, Alaska Region  
National Marine Fisheries Service  
U.S. Department of Commerce  
\_\_\_\_\_  
CORA CAMPBELL  
Commissioner  
Alaska Department of Fish and Game  
\_\_\_\_\_  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A – Restoration Benefits Report and Map

**KEN 3010: Poore – Kenai River**

<b>Owner:</b>	Virginia Poore
<b>Physical Location:</b>	This parcel is located at mile 11 of the Kenai River
<b>Acreage:</b>	52 acres
<b>Brief Description:</b>	T 5 N, R 10 W, SM, Sec. 6, Lots 6 and 7
<b>Agency Sponsor:</b>	Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation
<b>Appraised Value:</b>	\$1,100,000

**Parcel Description**

The Poore parcel is located along the Kenai River near Eagle Rock and has approximately 1,250 linear feet of river frontage. It is located across the river from the Eagle Rock unit of the state parks on an outside bend of the Kenai River where the shoreline is actively eroding. The parcel has a boat launch facility, including a parking area and restrooms but most of the parcel is undisturbed with numerous areas of lowland wetlands. *Wetland Mapping and Classification of the Kenai Lowland, Alaska* (Gracz et al.) characterizes most of this parcel as lakebed ecosystem wetland with riparian wetlands along waterbodies. A small stream, cataloged in the Alaska Department of Fish and Game Anadromous Waters Catalog, meanders through the parcel east to west before entering the Kenai River in the adjacent parcel. The parcel provides valuable lowland wetland and riparian habitat as well as recreational opportunities for shore based anglers. The boat launch and parking area is especially busy during the end of July when nearby facilities are at capacity.

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

Injured species that will benefit from this parcel acquisition include pink and sockeye salmon, bald eagles, and Barrow's goldeneyes. Although bald eagles, and pink and sockeye salmon are considered to be recovered, protecting important habitats is essential to maintaining recovery objectives. The parcel also supports coho and sockeye salmon rearing habitat. All of these salmon species contribute to the commercial fisheries of Cook Inlet.

This area also supports popular recreational fisheries for Chinook, sockeye, pink and coho salmon. Since 1981 approximately 45% of the total sport fishing effort expended on the Kenai River has occurred in the lower 20 miles of river. In particular, this area supports a popular shore fishery for pink and coho salmon during August and September.

**Potential Threats**

The current owner has indicated that she would like to sell the property. The development potential of the parcel is unknown but would appear to be high, as it is a large parcel with

significant riverfront footage. This is an opportunity to acquire lowland and riparian habitat that may be unavailable in the future.

**Proposed Management**

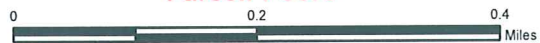
This parcel has been identified as a priority for the Division of Parks and Outdoor Recreation. This parcel will be managed by the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, in consultation with the State Historic Preservation Officer for the purposes of protecting resources and services injured by the *Exxon Valdez* Oil Spill and will be recommended for addition to KRSMA.



# HABITAT PROTECTION SMALL PARCELS

Kenai Peninsula, Alaska

Parcel: Poore

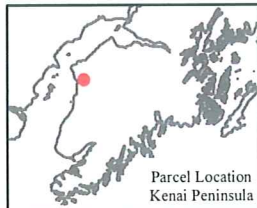


Alaskan Albers Equal Area Conic

## LEGEND

- MUNICIPAL
- PRIVATE
- NATIVE ALLOT.
- STATE
- NATIVE

SOURCES:  
Land status provided by ADNDR  
<http://www.asgdc.state.ak.us/>  
BLM SDMS  
<http://sdms.ak.blm.gov/sdms/imf.jsp?site=sdms>  
Date: 1/27/2011



Kenai Spur Rd

Kenai River

STATE PARKS