

**RESOLUTION OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**

We, the undersigned, duly authorized members of the Exxon VALDEZ Oil Spill Trustee Council, after extensive review and after consideration of the views of the public, find as follows:

1. Under the Municipal Entitlement Act, the Kodiak Island Borough (hereinafter "KIB") has the right to receive title to the surface estate of certain land from the State of Alaska (hereinafter "State");

2. In 1980 and 1981 the KIB filed certain appeals with the Superior Court in Anchorage for the purpose of determining the KIB's rights under the Municipal Entitlement Act. The appeals were resolved and settled by the KIB and the State in the Agreement of Settlement and Consent Decree in case numbers 3AN-80-3070 Civ, 3AN-80-6710 Civ, and 3AN-81-1385 Civ, consolidated, approved by the court on August 12, 1981, which Agreement was subsequently amended by the Amendment to Settlement Agreement dated January 3, 1985 (hereinafter collectively referred to as the "Settlement Agreement");

3. Pursuant to the Settlement Agreement, the KIB has received title to the surface estate to certain land on Shuyak Island and has equitable title in and has an absolute right to receive patent from the State to the surface estate of other land on Shuyak Island, consisting in total of approximately 26,665.62 acres, more or less, (hereinafter all of the KIB's land and interest in land on Shuyak Island including adjacent rocks and islets are referred to as the "Land"). The KIB is

ACE 30295160

Attachment A

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authorized by state law to sell and convey the land to which it has equitable title with the consent of the State:

4. The KIB wishes to sell the Land to the State;

5. The Land includes important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. A rocky shoreline heavy with kelp beds, pockets of eelgrass and rich communities of invertebrates supports feeding harlequin ducks, black oystercatchers, marbled murrelets, and pigeon guillemots. Black oystercatchers and pigeon guillemots nest and harlequin ducks molt along the shoreline. The mature spruce forests on the parcel provide probable nesting habitat for marbled murrelets. Restoration of these injured species will benefit from acquisition of this important habitat through protection from activities and disturbances which may adversely affect their recovery. There is also a high likelihood of restoration benefits for river otters and concentrations of sea otters which feed and breed along the shoreline. Harbor seals, an injured species with seriously reduced population levels, are likely to benefit from parcel acquisition through protection of haulout areas and control of potential disturbances. Pacific herring, an injured species documented to spawn along the coastline, will benefit as will pink salmon populations, documented in six streams, and Dolly Varden, documented in eight streams on the parcel, through protection from activity which may adversely affect water quality and habitat. The area has high scenic value and supports high value wilderness-based recreation including hunting, fishing, sea-kayaking and camping. The area also possesses high cultural resource values, with fifteen documented historical/archaeological sites:

6. The Land is adjacent to the Shuyak Island State Park to the west and State owned land to the east. Protection of the Land will ensure protection of the entire Shuyak Island ecosystem and

will promote the restoration of the natural resources injured by the *Exxon Valdez* oil spill of March 24, 1989 ("EVOS").

7. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other developmental activities. However, restoration, replacement and enhancement of resources injured by EVOS present a unique situation. Without passing on the adequacy or inadequacy of existing law and regulation to protect natural resources and services, biologists, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill affected area to levels above and beyond that provided by existing law and regulation will have a beneficial affect on recovery of injured resources and lost or diminished services provided by these resources;

8. There has been widespread public support for the acquisition of the Land; and

9. The purchase of the Land is an appropriate means to restore a portion of the injured natural resources and services in the oil spill area. Acquisition of the Land is consistent with the Final Restoration Plan.

10. An appraisal for the Trustee Council has concluded that the fair market value of the Land is within the range of \$27,000,000 to \$33,320,000. The lowest price at which the KIB will sell the Land is based on a value of \$33,320,000, which is within the foregoing range. The appraisal is based upon a single cash payment. Because the payments will be over a period of years it is necessary that the purchase price be adjusted for the deferred payments. As authorized by the Trustee Council the State has offered and the KIB has agreed in concept to a purchase price of

\$42,000,000 to be paid over seven years. The present value of the deferred payments is \$33,320,000.

11. The Kodiak Island Borough Assembly has enacted an ordinance to establish a Facilities Fund in which the proceeds from the sale of these Lands are to be deposited. Disbursements from the fund are limited to the construction, maintenance and debt service for public facilities. As part of this ordinance, funding of at least \$6,000,000 was authorized by the Assembly for the construction of the Near Island Research Facility adjacent to the University of Alaska, Fishery Industrial Technology Center. Although the Near Island Research Facility and Fishery Industrial Technology Center are not a part of the Trustee Council restoration program, the work of these facilities will have an undetermined but complementary effect on the work of the Trustee Council restoring natural resources and related services injured by EVOS. Consequently, the Shuyak acquisition provides additional public and restoration benefits.

THEREFORE, we resolve to provide the funds for the State of Alaska to offer to purchase and, if the offer is accepted, to purchase all of the Seller's rights and interests in the surface estate on Shuyak Island, consisting of approximately 26,665.62 acres, more or less, substantially in accordance with the draft AGREEMENT FOR SALE AND PURCHASE OF INTERESTS IN LANDS ON SHUYAK ISLAND (attached as Exhibit A and hereafter referred to as the "Purchase Agreement") and pursuant to the following conditions:

(a) receipt by the United States District Court for the District of Alaska ("District Court") of the annual settlement payments due from Exxon Corporation, et al;

(b) disbursement of these funds by the District Court to the State for the purpose of this acquisition:

(c) completion of a satisfactory title search assuring that the KIB is able to convey fee simple title by general warranty deed to the surface estate of that portion of the Land to which it has received title and by special warranty deed to surface estate of that portion of the Land to which it has equitable title;

(d) no timber harvesting or road development will be initiated on the Lands prior to closing.

Conveyance of the Land to the State shall be subject to to the following conditions:

(a) a restrictive covenant that there shall be no commercial timber harvest on the Land nor any other commercial use of the Land excepting such limited commercial use as may be consistent with State law and the goals of restoration to its prespill condition 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;

(b) a covenant that public use of the Land shall include sport and subsistence hunting, fishing, trapping, and recreational uses insofar as consistent with public safety and permitted under law or under a regulation of the Board of Fisheries, Board of Game or the Department of Natural Resources; and

(c) a conservation easement, satisfactory in form and substance to the Alaska Department of Law and the United States Department of Justice, granted by the KIB to the United States. This easement shall authorize the United States to enforce in a court of competent jurisdiction certain restrictive covenants necessary to ensure the protection of the natural resources and services injured by EVOS.

By unanimous consent and upon execution of the purchase agreements and written notice from the State of Alaska and Executive Director of the Trustee Council 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 U.S. Department of Justice to petition the District Court for withdrawal of the sum of eight million dollars (\$8,000,000) from the District Court Registry account established as a result of the Governments' settlement to be paid at the time of closing, and following receipt of the settlement payments due from Exxon in September, 1996, and annually thereafter, to petition the District Court as follows:

- 2 (1) for withdrawal of the sum of two million one hundred ninety four thousand two hundred sixty-six dollars (\$2,194,266) to be paid by October 1, 1996;
- 3 (2) for withdrawal of the sum of four million dollars (\$4,000,000) to be paid by October 1, 1997;
- 4 (3) for withdrawal of the sum of four million dollars (\$4,000,000) to be paid by October 1, 1998;

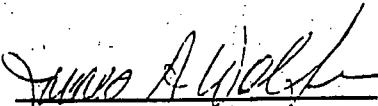
- 5 (4) for withdrawal of the sum of four million dollars (\$4,000,000) to be paid by October 1, 1999;
- 4 (5) for withdrawal of the sum of four million dollars (\$4,000,000) to be paid by October 1, 2000;
- 7 (6) for withdrawal of the sum of four million dollars (\$4,000,000) to be paid by October 1, 2001;
- 8 (7) for withdrawal of the sum of eleven million eight hundred five thousand seven hundred thirty-four dollars (\$11,805,734) to be paid by October 1, 2002.

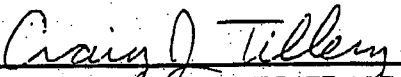
These amounts represent the only amounts due under this resolution to the KIB from the State of Alaska from the joint funds in the District Court Registry and no additional amounts are herein authorized to be paid to the KIB from such joint funds.

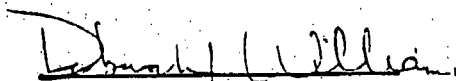
The KIB also owns lands at key waterfront locations along Uyak Bay within Kodiak National Wildlife Refuge as a result of forfeitures for tax delinquency. These lands are included within the large parcels which have been evaluated previously by the Trustee Council for the habitat acquisition program and determined to be of high value for EVOS restoration purposes. The Trustee Council hereby authorizes and will provide funding not to exceed one million dollars (\$1,000,000) for the United States to acquire such lands at their approved appraised value from the KIB plus such closing costs as may be recommended by the Executive Director of the Trustee Council ("Executive Director") and approved by the Trustee Council. The particular parcels to be acquired must be approved by the Trustee Council. Such acquisitions shall be made by separate purchase agreements executed by the KIB and the United States. In accordance with State law, after satisfaction of back

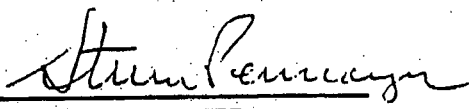
taxes and interest. any amounts remaining from the purchase price are to be paid to the persons who held such property prior to forfeiture.

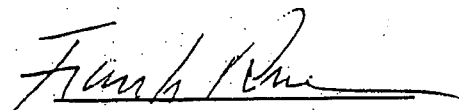
Dated this 11<sup>th</sup> day of December, 1995 at Anchorage, Alaska.

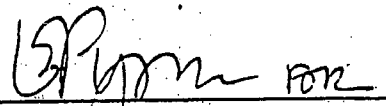
  
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