

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCEL KAP 1055**

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

1.a. The Council at its meeting of October 15, 1996, authorized the appraisal by the U.S. Fish and Wildlife Service (FWS) of parcel KAP 1055 as a parcel having special merit for land acquisition and habitat protection;

b. The owner of small parcel KAP 1055 has indicated an interest in selling said parcel;

c. An appraisal of the parcel has been approved by the State and federal review appraisers;

d. 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 providing habitat for bird species for which significant injury resulting from the spill has been documented, providing key marine access for subsistence and recreational uses on the surrounding public lands, and making available to recreational users a public use cabin originally built by FWS on the property being acquired;

2. 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 development activities. However, restoration, replacement and enhancement of resources

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injured by the *Exxon Valdez* oil spill 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 effect on the recovery of injured resources and lost or diminished services provided by these resources;

3. There has been widespread public support for the protection of small parcels; and

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

THEREFORE, we resolve to provide funds for FWS to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcel KAP 1055; and to provide funds necessary for closing costs recommended by the Executive Director of the Trustee Council ("Executive Director") and approved by the Trustee Council 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 United States shall be the final approved appraised value of the respective parcel which is \$281,300;
- (b) authorization for funding for the foregoing acquisition shall terminate if a purchase agreement is not executed by December 15, 1997;
- (c) disbursement of these funds by the District Court;
- (d) a satisfactory title search is completed by the acquiring government and the Seller is willing and able to convey fee simple title by warranty deed;

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(e) no timber harvesting, road development or any alteration of the land will be initiated on the land without the express agreement of the acquiring government prior to purchase;

(f) a satisfactory hazardous materials survey is completed;

(g) compliance with the National Environmental Policy Act; and

(h) a conservation easement satisfactory to the U.S. Departments of Justice and the Interior and the Alaska Department of Law shall be conveyed by the seller to the non-acquiring government.

It is the intent of the Trustee Council that any facilities or other development on the foregoing small parcels after acquisition shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcels excepting such limited commercial use 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 ("MOA") and the Restoration Plan as approved by the Trustee Council ("Restoration Plan").

By unanimous consent and upon execution of the purchase agreement and written notice from FWS and the Executive Director that the terms and conditions set forth herein and in the purchase agreements 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 Purchase Price and any such additional

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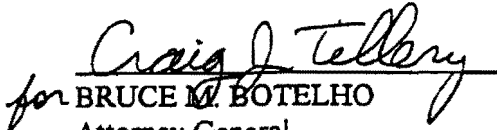
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costs related to closing as are recommended by the Executive Director and approved by the Trustee Council for KAP 1055 from the District Court Registry account established as a result of the Governments' settlement to be paid at the time of closing. These amounts represent the only amounts due under this resolution to the Sellers by the United States from the joint funds in the District Court Registry and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

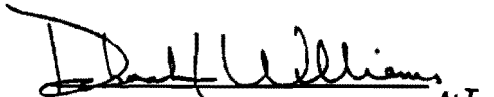
Approved at the November 8, 1996 Trustee Council meeting, and dated as of the date the last signature below is affixed.



PHIL JANIK
Regional Forester
Alaska Region
USDA Forest Service



for BRUCE W. BOTELHO
Attorney General
State of Alaska



GEORGE T. FRAMPTON, JR. ^{ALT.}
Assistant Secretary for Fish,
Wildlife and Parks
U.S. Department of the Interior



STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries Service



FRANK RUE
Commissioner
Alaska Department of
Fish and Game



MICHELE BROWN
Commissioner
Alaska Department of
Environmental Conservation

November , 1996

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Parcel ID #: KAP 1055

Rank: PMSC Acreage: 160 acres Agency Sponsor: USFWS

Location: Chief Cove, Uyak Bay, Kodiak Island
T28S R29W Sec 36, Seward Meridian

Landowner/Agent: Virginia Abston / BIA

Address: P.O. Box 294
Kodiak, AK 99615

Chief Cove is well-known to Kodiak mariners as a sheltered anchorage just inside the entrance to Uyak and Spiridon Bays. The cove also offers protection from the open Shelikof Strait for marine birds and mammals. Chief Point and Chief Cove were among the few documented beaches on Kodiak Island hit with oil from the 1989 spill. A number of seabird carcasses were picked up on this site.

The Abston parcel has many features that complement the goals of the EVOS habitat restoration effort. The accessible shoreline and the nearshore waters in this area are used for subsistence purposes, primarily by residents of Larsen Bay. Residents harvest salmon, waterfowl, shellfish, Sitka black-tailed deer and pick berries on or adjacent to the parcel. The Abston property provides key marine access for subsistence and recreational uses on the surrounding public lands.

A documented cultural resource site is located near the parcel and evidence of historic and prehistoric use most likely exists on the parcel. However, the area has not been intensively explored for cultural sites. The Spiridon Peninsula has notable wilderness qualities and the Abston parcel is one of only a few private patents in the area. The Kodiak Refuge maintains a public use cabin on the parcel (the allotment was recently conveyed to Mrs. Abston). The cabin is especially popular during the fall deer season.

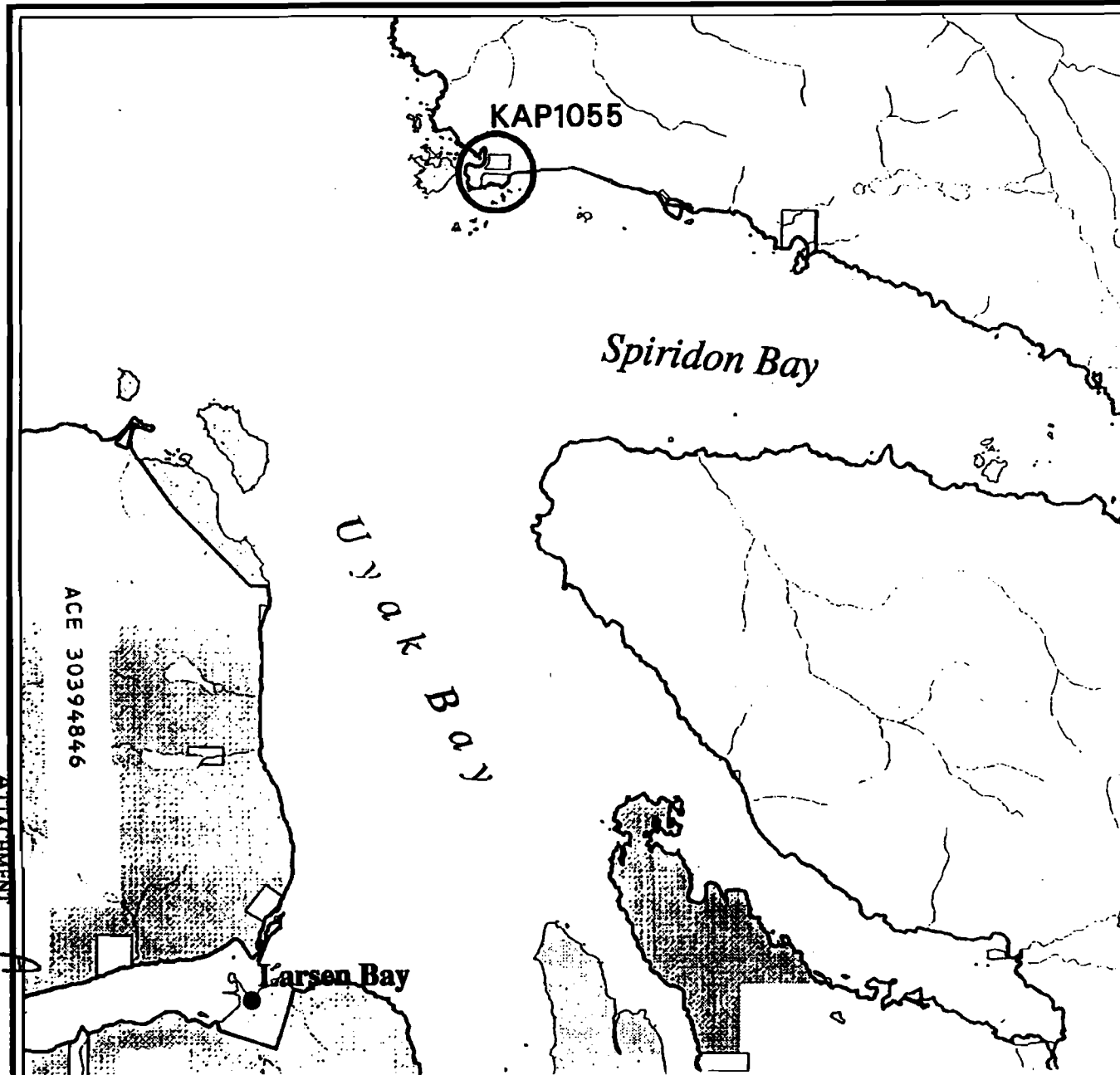
Two bald eagle nests are adjacent to the parcel and the birds forage along the entire shoreline. Pigeon guillemots, common mures, marbled murrelets and black oystercatchers are found in seasonal concentrations in Chief Cove, especially during rough weather. The intertidal beach supports extensive Pacific herring spawning that contributes to the commercial Spiridon Bay District harvest. River otter use of the area is high with probable denning on the site.

The acquisition of KAP 1055 would greatly enhance the restoration investment already placed on Kodiak Island.

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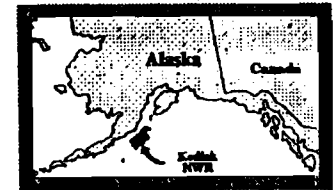
**Habitat Protection
Small Parcels**

**Kodiak Island,
Alaska**

Parcel : KAP1055

- Former Koniag Lands
- Small Parcels
- Outside of Kodiak NWR

- Land status represents USFWS
interpretation of BLM records.
- Projected in UTM zone 5.



0 1
Miles
0 1.61
Kilometers

October 04, 1996

