

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCELS KEN 12, 1051 AND 1052, AND
KAP 220, 221, 226, 235, 238, 239, 240, 242, 244, 247, AND 252
AND USS 578, 579, 1790, AND 1894**

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. The owner of small parcel KEN 12, which was identified as a parcel meriting special consideration by the Trustee Council at its meeting February 13, 1995, has indicated an interest in selling said parcel;

2. Appraisals of the parcel have been approved by the State and federal review appraisers;

3. 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 important habitat for several species of fish and wildlife for which significant injury resulting from the spill has been documented. Tracts 1 and 2 of the parcel are appraised at \$490,000 and Tract 4 is appraised at \$10,000 for a total of \$500,000. The owner has indicated his willingness to sell small parcel KEN 12 to the State of Alaska for the appraised fair market value of \$500,000;

4. Small parcel KAP 226 was ranked moderate by the Trustee Council's small parcel habitat protection process, and the Council at its meeting of February 13, 1995 authorized the appraisal of parcel KAP 220 as a parcel meriting special consideration for land acquisition and habitat protection;

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5. The owners of the small parcels KAP 220 and KAP 226 have indicated their willingness to sell their respective parcels so long as they are included in a package with small parcels KAP 221, 235, 238, 239, 240, 242, 244, 247, 252 and four parcels that have not been ranked but are identified by as USS 578, 579, 1790, and 1894;

6. Appraisals of the foregoing parcels were obtained by The Conservation Fund and have been approved by the State and federal review appraisers. The appraised value of small parcels to be acquired with Trustee Council funds is \$80,000 for KAP 220 and \$240,000 for KAP 226 with the funds for the additional small parcels, a total of \$631,000, being provided by The Conservation Fund from other sources. KAP 220, KAP 226, KAP 235 and USS 1790 will be acquired by the State of Alaska and KAP 221, KAP 238, KAP 239, KAP 240, KAP 242, KAP 244, KAP 247, KAP 252, USS 578, USS 579, and USS 1894 will be acquired by the United States Fish and Wildlife Service;

7. As set forth in Attachment B, these small parcels have attributes which, if they are acquired and protected, will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources including important habitat for several specifics of fish and wildlife for which significant injury resulting from the spill has been documented;

8. The Council at its meeting of October 15, 1996, authorized the appraisal by the U.S. Fish and Wildlife Service (FWS) of parcels KEN 1051 and 1052 as parcels having special merit for land acquisition and habitat protection. The owner of small parcels KEN 1051 and 1052 has indicated an interest in selling said parcel and an appraisal of the parcels has been approved by the State and federal review appraisers. As set forth in Attachment C, if acquired, these small parcels have attributes which will restore, replace, enhance, and rehabilitate injured natural resources and the services provided by those natural resources, including providing habitat for Dolly Varden and

salmon species for which significant injury resulting from the spill has been documented, providing key access for recreational uses on the surrounding public lands, and providing nesting habitat for bald eagles.

9. 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 Mammal 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 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 affect on recovery of injured resources and lost or diminished services provided by these resources;

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

11. 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 the State of Alaska to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcel KEN 12, to provide funds for the State of Alaska to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcels KAP 220 and KAP 226, and for the

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United States to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in small parcels KEN 1051 and 1052, 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 State of Alaska or the United States shall be the final approved appraised value of the respective parcel as stated below:

(i)	KEN 12	\$500,000
(ii)	KAP 220	\$80,000
(iii)	KAP 226	\$240,000
(iv)	KEN 1051 and 1052	\$183,000

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 15, 1998;

(c) disbursement of these funds by the District Court;

(d) a satisfactory title search is completed and approved by both governments for the respective interests to be acquired 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 acquiring government prior to purchase;

(f) a satisfactory hazardous materials survey is completed;

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

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(h) a conservation easement satisfactory to the Department of Justice, the Department of the Interior, and the Department of Law shall be conveyed to the nonacquiring 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, following execution of a purchase agreement between seller and the State of Alaska or the United States, and certification by the Executive Director that the executed purchase agreement is in accordance with the foregoing terms and conditions, 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 costs related to closing as are recommended by the Executive Director and approved by the Trustee Council for each of the Small Parcels 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


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by the State of Alaska or 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.

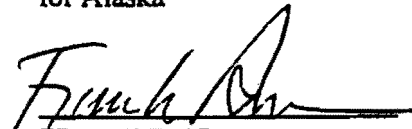
Dated this 18th day of December 1997 at Anchorage, Alaska.

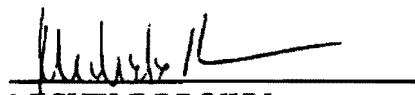

PHIL JANIK
Regional Forester
Alaska Region
USDA Forest Service


for BRUCE M. BOTELHO
Attorney General
State of Alaska


DEBORAH L. WILLIAMS
Special Assistant to
the Secretary of Interior
for Alaska


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

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Attachment A

KEN 12: Baycrest

Acreage: 90 **Rank:** PMSC **Sponsor:** ADNR **Appraised Value:** \$500,000
Owner: Baycrest Investment Corp. c/o Michael Bullock (Agent)
Location: Below the Baycrest Hill, about four miles west of Homer

Parcel Description. This parcel has three-quarters of a mile of shoreline along Kachemak Bay. There is road access to parcel from the Sterling Highway and a pioneer road to the beach. There are no structures on this site.

Restoration Benefits. Public ownership of this parcel will protect intertidal habitat by preventing the filling of wetlands that would result from construction of roads, driveways, and houses. Acquisition would also preserve opportunities for the public to continue using the area, especially the intertidal zone, and could facilitate access to Overlook Park (KEN 55) and to the intertidal zones of both parcels. ADNR recently purchased Overlook Park.

Key habitats and other attributes of this parcel include the following:

- *Intertidal/subtidal organisms.* This parcel contains an extensive tidal pool area that is unique to the area and accessible from the road system. Field reports from local experts indicate a high diversity of invertebrates and marine algae within the rocky intertidal and tide pool habitats.
- *Recreation/tourism.* The area is popular with local community groups, including public schools and natural history study groups, for environmental education field trips, bird watching and specimen collecting.
- The parcel also supports a variety of other fish and wildlife. The uplands contain a mixed association of spruce, birch, cottonwood, open meadows, ponds and bogs. These habitats are used by a diverse variety of birds and mammals including moose and bear.

Potential Threats. The current owners have platted a subdivision with 30 lots and a road on this parcel. In 1992, they acquired a U.S. Army Corps of Engineers permit for placement of fill into wetlands on this site for construction of a road and driveways for the platted lots.

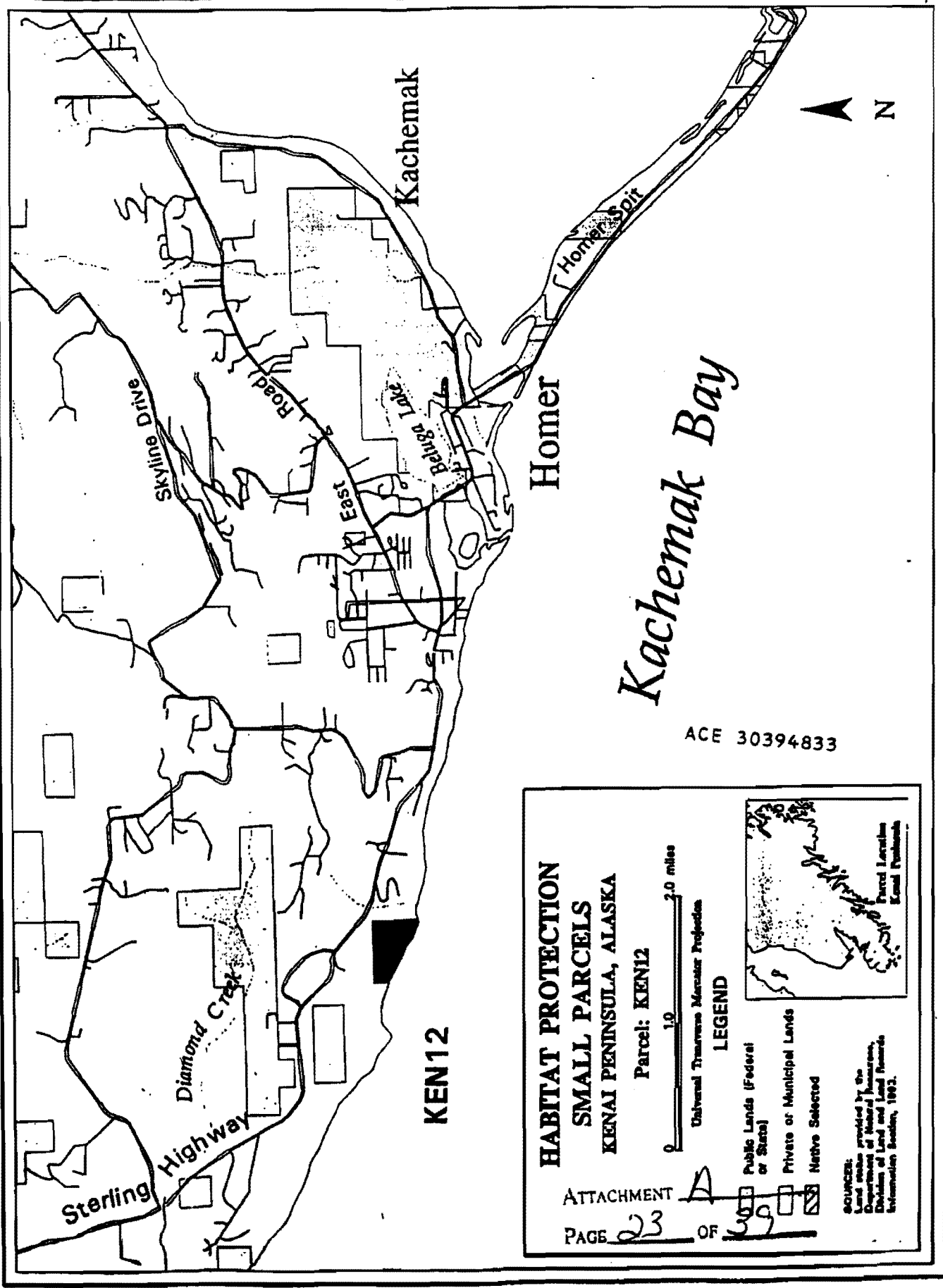
Appraised Value. The appraised value of this parcel is \$500,000. This is a vacant parcel with a dirt road. The highest best use of this parcel is to keep it intact for residential or recreational use oriented to natural physical characteristics. The property could be marketed to a single user, or sold in undivided interests to a group of residential or recreational users.

Proposed Management. The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of this parcel for the benefit of fish and wildlife resources and services that were injured in spill. ADNR proposes to manage this parcel. The parcel will probably be classified "Habitat/Public Recreation Land." The Baycrest Parcel and Overlook Park could be managed as a unit because Baycrest provides access to Overlook Park and natural systems of both parcels are similar.

Public Comment. Support for acquisition of this parcel was expressed by the City Council of Homer (Resolution 95-2), Kachemak Bay State Park Citizens Advisory Board (Resolution 95-2), Kachemak Heritage Land Trust, and an individual reported sightings of bald eagle nests in the vicinity.

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**HABITAT PROTECTION
SMALL PARCELS
KENAI PENINSULA, ALASKA**

Parcel: KEN12



Universal Transverse Mercator Projection

LEGEND

- Public Lands (Federal or State)
- Private or Municipal Lands
- Native Selected



SOURCES:
Land maps provided by the Department of Natural Resources, Division of Land and Land Records Information Section, 1992.

ATTACHMENT **A**

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KAP 220: Mouth of Ayakulik River

Acreage: 5.4 **Rank:** PMSC **Sponsor:** ADFG **Appraised Value:** \$80,000
Owner: Ayakulik Associates c/o Reed Stoops
Location: Mouth of Ayakulik River

Parcel Description. In the Kodiak Island group, the Ayakulik River is second only to the Karluk River for sockeye and chinook salmon production potential. ADFG maintains a fish weir about a quarter mile upstream from the mouth of the river and may need to relocate its support facilities. The parcel to be acquired consists of one lot suitable for relocation of ADFG's support facilities should that be necessary. An adjacent 6.12 acre tract is set aside as a recreational area for the exclusive use of owners of the lot to be acquired. This reserved tract is a sand spit that could be used by recreationists who wish to camp while waiting to be picked up by taxi operators.

In 1995, the Council authorized an offer of \$213,000 to acquire 56 acres at the mouth of the Ayakulik River. The initial nomination consisted of six lots. Five of the six lots are not available for purchase at this time.

Restoration Benefits. Public ownership of this parcel will protect salmon stocks and the fisheries that depend on them ensuring continued operation of the weir. Acquisition would also provide public access to the beach so that recreationists can continue to fish, float the river, and camp while waiting to be picked up by air taxi operators.

Key habitat and other attributes of this parcel include the following:

- *Cultural resources.* A historic gold mining operation took place on this parcel.
- *Subsistence.* Subsistence fisheries are supported by Ayakulik fish stocks.
- *Recreation/tourism.* The Ayakulik is an exceptional sportfishing stream supporting hundreds of anglers each summer. Recreationists either float the river or fish at the mouth.

The fish weir provides escapement data necessary to protect the river's fisheries resources. The average annual run size for the Ayakulik system is roughly 0.9 million sockeye, 0.6 million pink, 50 thousand coho, and 10 thousand chinook salmon.

Potential Threats. ADFG presently maintains weir support facilities on leased land. The Ayakulik Village Corporation owners of the land surrounding the weir site, has proposed a prohibitive increase in lease fees for the operation of the weir support facilities. The proposed acquisition would allow ADFG to relocate its support facilities to the newly acquired lands and still maintain access to the weir over an existing 17(b) easement.

Access to the Ayakulik River is difficult and occurs mainly by wheeled planes landing on the beach at low tide. For this reason, recreationists tend to trespass through the subject parcel to get to the river or depart via the beach.

Appraised Value. The appraised value of this property is \$80,000. The highest and best use of this parcel is considered to be recreational or small lodge (less than six clients) development.

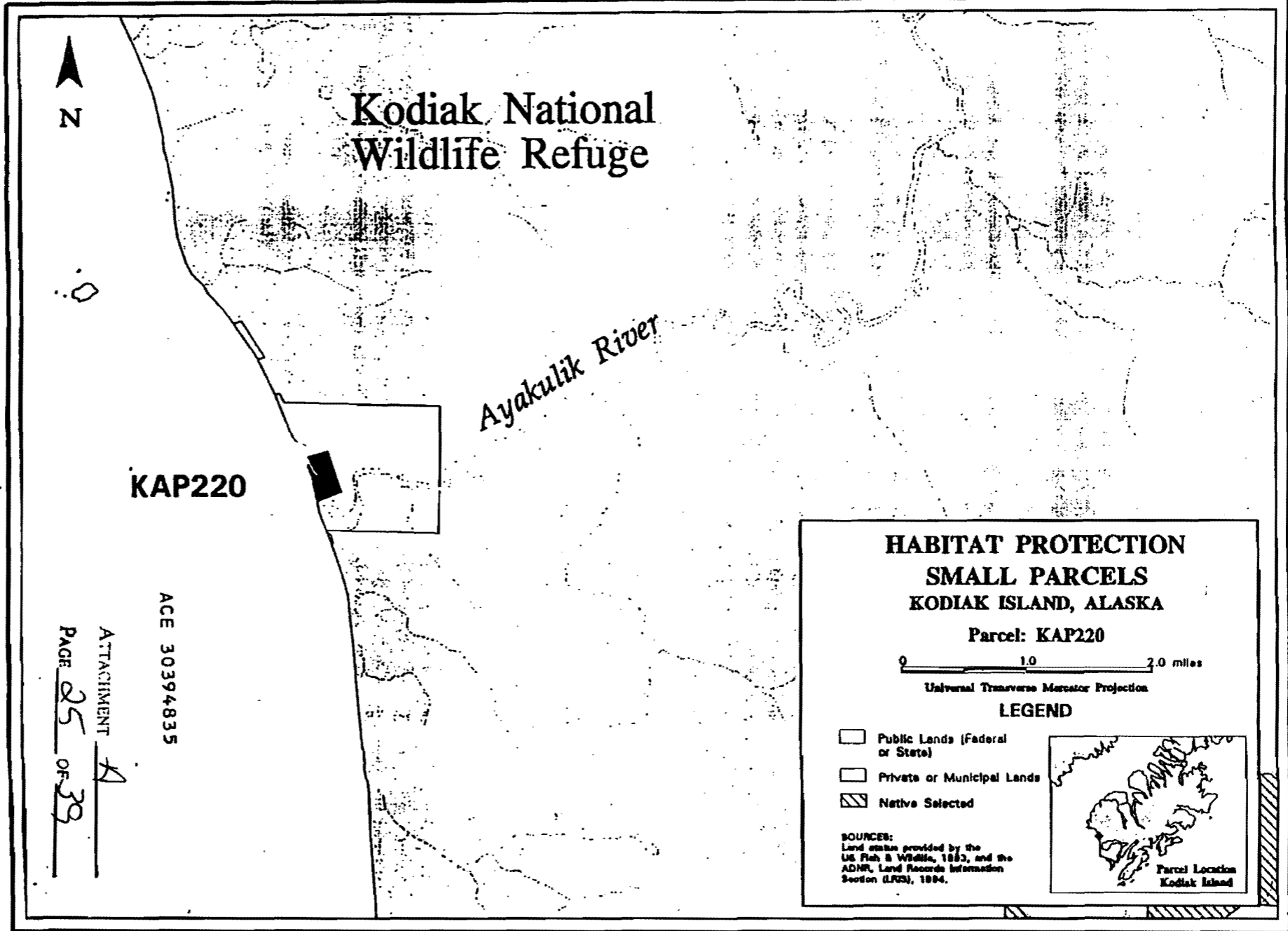
Proposed Management. The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of the subject property for the benefit of fish and wildlife resources and services that were injured in the *Exxon Valdez* oil spill. ADNR proposes to manage this parcel jointly with ADFG through an Interagency Land Management Agreement. The parcel will probably be classified "Habitat/Public Recreation Land."

Public Comment. Support for acquisition of this parcel was expressed by Kodiak Island Borough Assembly (Resolution 1995-01) and the Kodiak Regional Aquaculture Association.

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KAP 226: Karluk River Lagoon

Acreage: 16.34 **Rank:** Moderate **Sponsor:** ADFG/ADNR **Appraised Value:** \$240,000
Owner: Ayakulik Associates c/o Reed Stoops
Location: Karluk River Lagoon, Kodiak Island

Parcel Description. This parcel is located on the Karluk River, just upstream from the head of Karluk Lagoon. The Karluk River is world renowned for its highly productive fishery resources. The parcel to be acquired consists of three contiguous lots, each approximately five acres in size. It is in a village selection area excluded from the Kodiak National Wildlife Refuge. ADFG maintains a fish weir on the Karluk River and may move their weir operations onto the acquired property.

In 1995, the Council authorized an offer of \$146,000 to acquire 21.5 acres on the Karluk River Lagoon. The initial nomination consisted of four lots, one of which is not available for purchase at this time.

Restoration Benefits. Public ownership of the parcel would protect salmon stocks and the fisheries that depend on them ensuring continued operation of the weir on the Karluk River. Acquisition would also ensure continued public access to lands along the lower Karluk River and Lagoon for sport fishing and subsistence use and allow agencies to protect fish habitat and archaeological sites from damage should the property be developed for commercial purposes in the future.

Key habitats and other attributes of this parcel include:

- *Sockeye salmon* rear in the Karluk River lagoon.
- *Archaeological resources.* There is archaeological evidence of a remnant house pit on the parcel.
- *Subsistence.* Fishermen dependent on resources from the Karluk River include Karluk and Larsen Bay (population 144, respectively). Most subsistence fishing occurs in the lagoon.
- *Recreation/tourism.* The lands included in this parcel provide important public access and recreational service values. Recreationists floating the Karluk River use the lower river and lagoon as pick up points by air taxi operators.

Potential Threats. Recently, the Karluk Village Corporation, the major landowner surrounding the lagoon, has posted the area to prevent further use of their lands. If public access restrictions are enforced, future use of the river for sportfishing could be significantly affected because of the lack of suitable take-out points on Karluk Lagoon.

Although no development is currently planned that would adversely affect injured resources and services, the strategic location of the site for passenger pick-up suggests that the parcel has potential for future development for sport fishing or ecotourism operations.

Appraised Value. The appraised value of this property is \$240,000. The highest and best use of this parcel is considered to be recreational or small lodge (less than six clients) development.

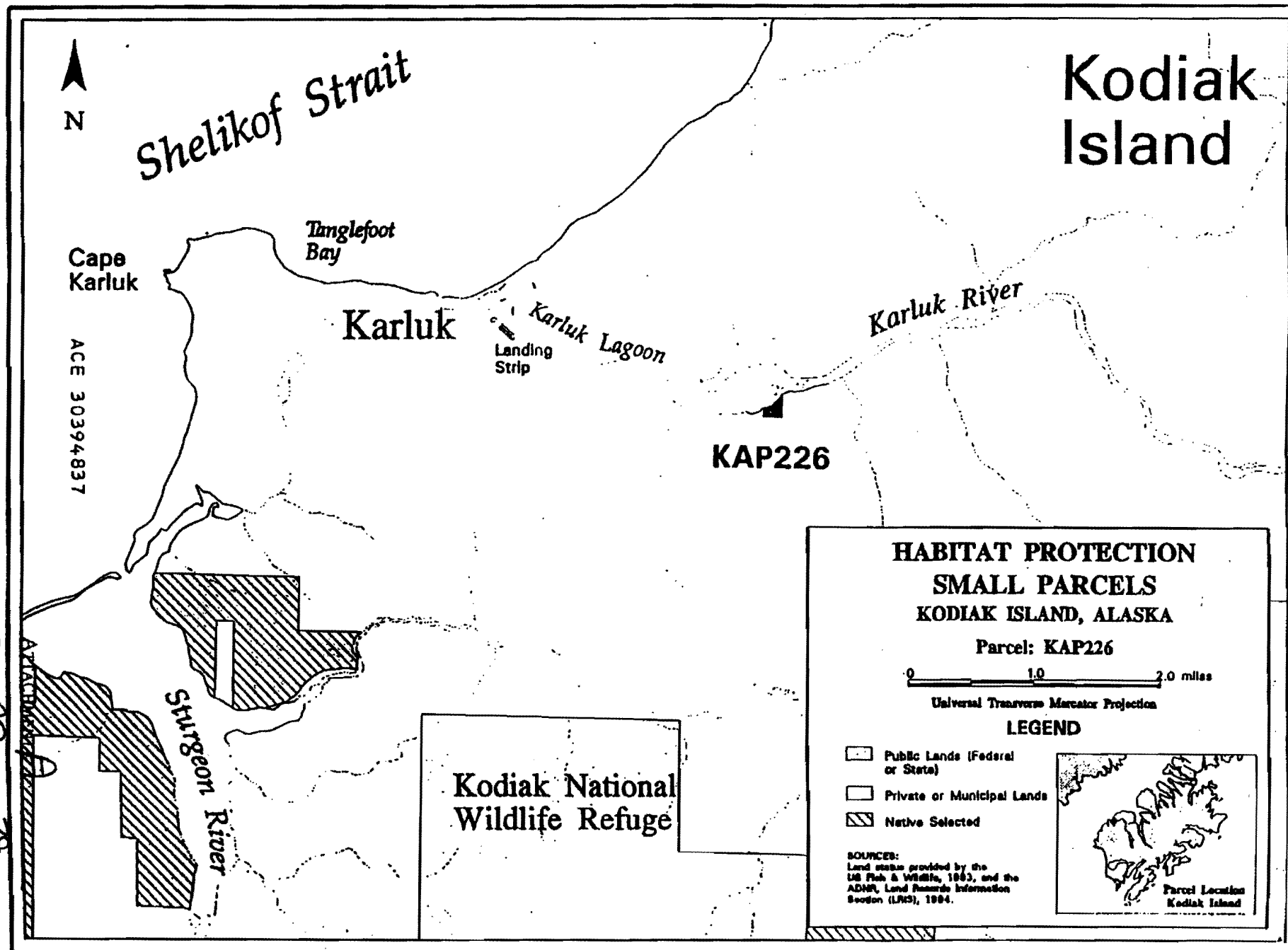
Proposed Management. The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of the subject property for the benefit of fish and wildlife resources and services that were injured in the *Exxon Valdez* oil spill. ADNR proposes to manage this parcel jointly with ADFG through an Interagency Land Management Agreement. The parcel will probably be classified "Habitat/Public Recreation Land" and the management intent will be to ensure legal access to and from the lagoon by recreationists and other users.

Public Comment. Support for acquisition of this parcel was expressed by the Kodiak Island Borough Assembly (Resolution 23).

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Shelikof Strait

Kodiak Island

Cape Karluk

Tanglefoot Bay

Karluk

Karluk Lagoon

Karluk River

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Landing Strip

KAP226

Sturgeon River

Kodiak National Wildlife Refuge




**HABITAT PROTECTION
SMALL PARCELS
KODIAK ISLAND, ALASKA**

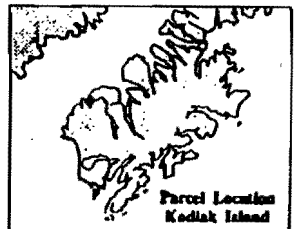
Parcel: KAP226

0 1.0 2.0 miles

Universal Transverse Mercator Projection

LEGEND

-  Public Lands (Federal or State)
-  Private or Municipal Lands
-  Native Selected



SOURCES:
Land status provided by the US Fish & Wildlife, 1983, and the ADNR, Land Records Information Section (LRIS), 1984.

ATTACHMENT C

Parcel ID #: KEN 1051 & 1052

Rank: PMSC Acreage: 10.77 & 10.35 acres Agency Sponsor: USFWS

Location: Kenai River
 T4N R10W Sec. 1&2, Seward Meridian

Landowner/Agent: Salamatof Native Association, Inc.

Address: P.O. Box 2682
 Kenai, Alaska 99611

Appraised Value: \$183,000

These two parcels are located within the Moose Range Meadows subdivision on the north bank of the Kenai River at approximately River Mile 26. The parcels consist of five subdivision lots and are directly across the river from the 1377 acre Salamatof parcel acquired last year. KEN 1051 is one of the largest undeveloped riverfront tracts in a subdivision that extends for nearly three river miles.

Pink salmon spawning and Dolly Varden spawning and rearing occur adjacent to the parcels. Sockeye salmon may also spawn and rear here although site-specific use has not been documented. Bald eagles roost in trees along the river and nest nearby.

Acquisition of these parcels will lead to the direct restoration of fishing opportunities on this popular stretch of the Kenai River. The number of bank anglers pursuing second run sockeye salmon has increased dramatically over the last 10 years. The construction of subdivision roads and more efficient fishing techniques contributed to this increase in use. The Service manages a 25 foot public access easement along both sides of the river. Serious river bank habitat damage and sloughing has occurred along this easement. The habitat damage prompted the Service to close the public easement during the 1995, 1996, and 1997 seasons.

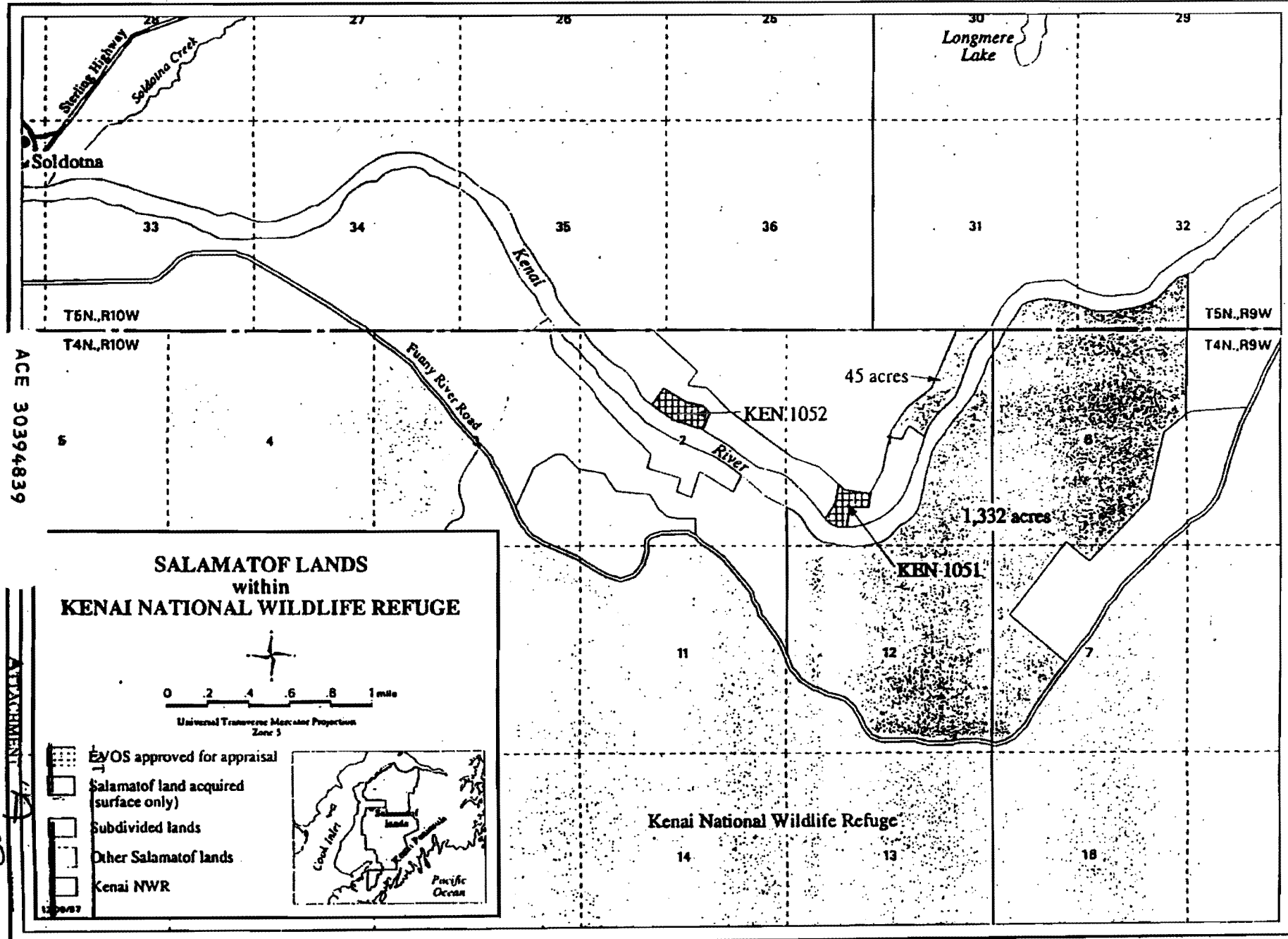
The Kenai Refuge has received special funding for riverbank restoration and protection. If these parcels are acquired they will be developed as public fishing sites. Light-penetrating metal gratewalk would be installed along the bank and at wet spots on the access trail. The structures would be removed each fishing season. Adequate public parking and sanitation facilities would also be provided on site.

The acquisition of these parcels would protect sensitive banks of the Kenai River while providing for continued fishing opportunities. Concentrated public access sites would also alleviate trespass on adjacent private lands and other social conflicts. Without such facilities the annual public easement closure is likely to continue.

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ATTACHMENT A

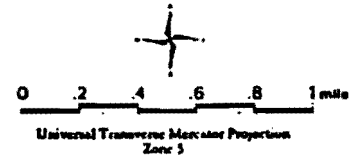
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




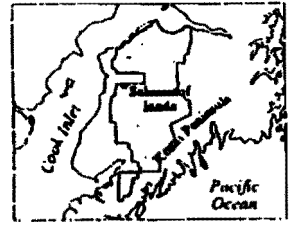
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ATTACHMENT 19
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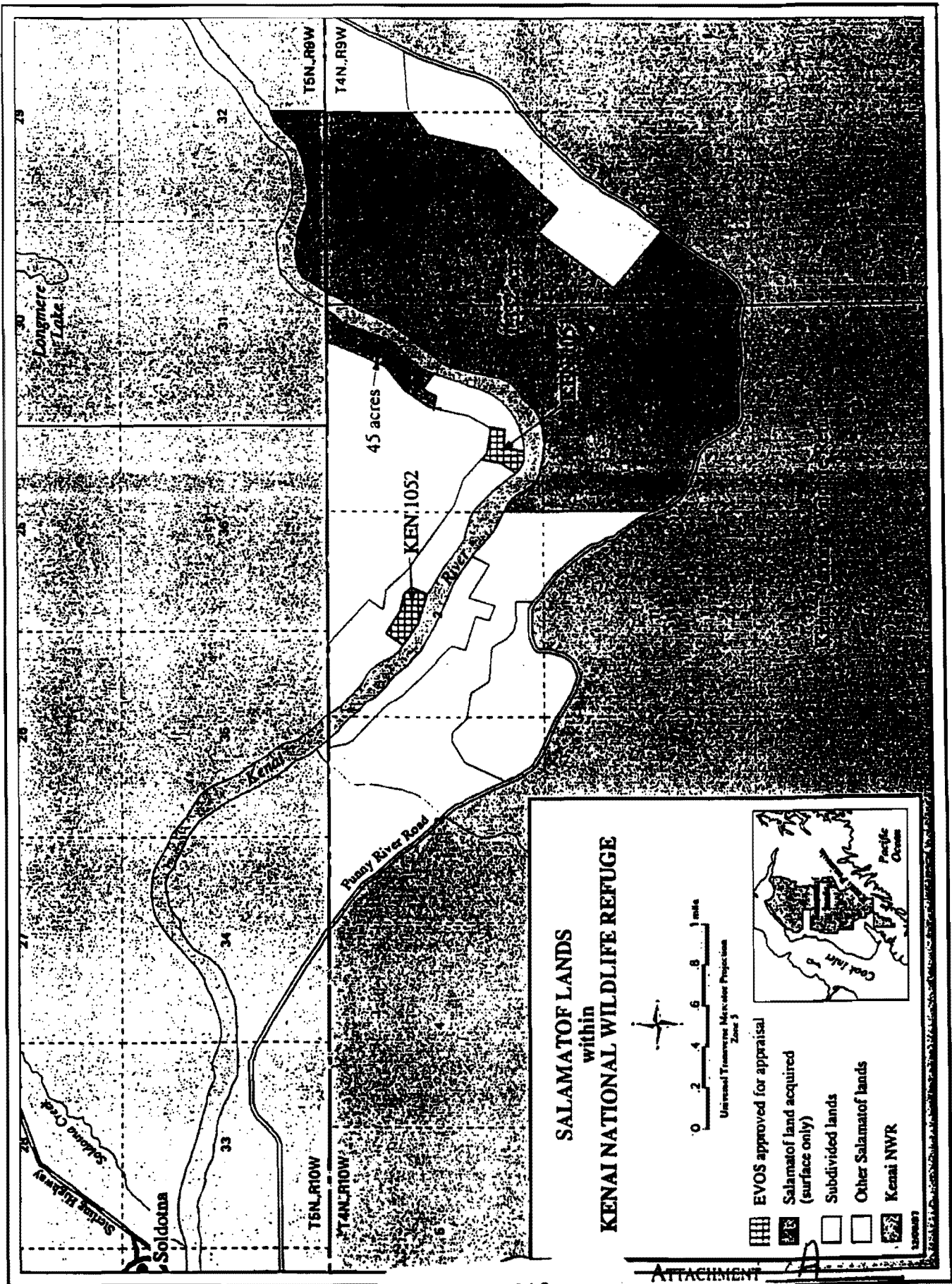
**SALAMATOF LANDS
 within
 KENAI NATIONAL WILDLIFE REFUGE**



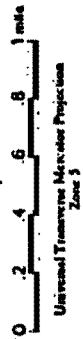
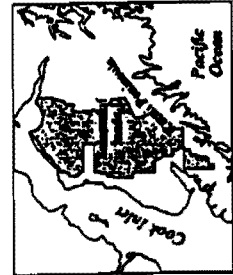
-  EYOS approved for appraisal
-  Salamatof land acquired (surface only)
-  Subdivided lands
-  Other Salamatof lands
-  Kenai NWR








12/20/97



**SALAMATOF LANDS
within
KENAI NATIONAL WILDLIFE REFUGE**



-  EVOS approved for appraisal
-  Salamatof land acquired (surface only)
-  Subdivided lands
-  Other Salamatof lands
-  Kenai NWR

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ATTACHMENT 7A

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