

COPY

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING CERTAIN KODIAK SMALL PARCEL LAND ACQUISITIONS**

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

1.a. By its motion of June 8, 1998, the Council agreed to authorize funding of up to \$645,000 for the purchase of privately owned, 10-acre parcels conveyed by the Larsen Bay Tribal Council to Tribal members. This motion designated these as parcels meriting special consideration by virtue of their location within the boundaries of a large parcel acquisition of land purchased from Koniag, Inc. with Council funding.

1.b. On June 8, 1998, the Council agreed, by motion, to authorize funding of up to \$264,000 for the purchase of three Native allotments in the Sitkalidak Strait and Three Saints Bay areas of Kodiak Island and within the Kodiak National Wildlife Refuge. This motion designated these as parcels meriting special consideration by virtue of their location within the boundaries of a large parcel acquisition of land purchased from Old Harbor Native Corporation with Council funding.

1.c. In furtherance of the motion set forth in Paragraph 1.a., and subject to funding by the Council, 10-acre parcel owner Matilda Christensen has reached agreement to sell a 10-acre parcel located on Uyak Bay. In furtherance of the motion set forth in Paragraph 1.b., the owners of a Native allotment, the Heirs of Fedosia Inga, have agreed to sell the allotment located on Sitkalidak Strait. These parcels are referred to collectively hereinafter as "two parcels."

1.d. Appraisals of \$13,000 for the Christensen property and \$84,000 for the Inga property have been approved by the State and federal review appraisers.

1.e. As set forth in Attachments A and B, if acquired, these two 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 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;

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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 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 resources specialists agree that, in their best professional judgement, 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 of 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 these 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 the two parcels; and to provide funds necessary for closing costs recommended by the Executive Director of the Council ("Executive Director") and approved by the Council 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 United States shall be the final approved appraised value of \$13,000 for the Christensen property and \$84,000 for the Inga Property;

(b) authorization for funding for either of the foregoing acquisitions shall terminate if the respective purchase agreements are not executed by December 15, 1999;

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

(d) a satisfactory title search is completed by the acquiring government and the Sellers are 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 agency 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 U.S. Departments of Justice and the Interior and the Alaska Department of Law shall be conveyed by the sellers to the non-acquiring government.

It is the intent of the 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 prefill 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 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 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 Purchase Price and any such additional costs related to closing as are recommended by the Executive Director and approved by the Council for the two 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 of 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.

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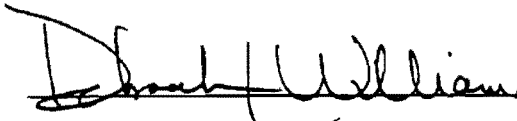
Approved at the September 29, 1998 Trustee Council meeting and dated as of the date the last signature below is affixed.



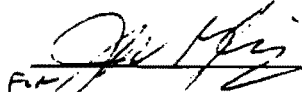
JIM WOLFE
Trustee Representative
Alaska Region
U.S. Forest Service


for

BRUCE M. BOTELHO
Attorney General
State of Alaska



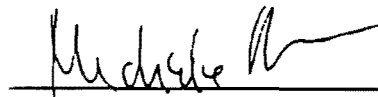
DEBORAH L. WILLIAMS
Special Assistant to the Secretary
for Alaska
U.S. Department of the Interior



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

September 29, 1998

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Parcel ID: KAP 95
Heirs of Fedosia Inga

Rank: N/A **Acreage:** 80 acres **Agency Sponsor:** USFWS
Appraised Value: \$84,000
Location: Sitkalidak Strait, Kodiak Island
Landowner: Heirs of Fedosia Inga
Address: c/o Paul N. Swenning
3432 E. 67th Avenue
Anchorage, Alaska 99507

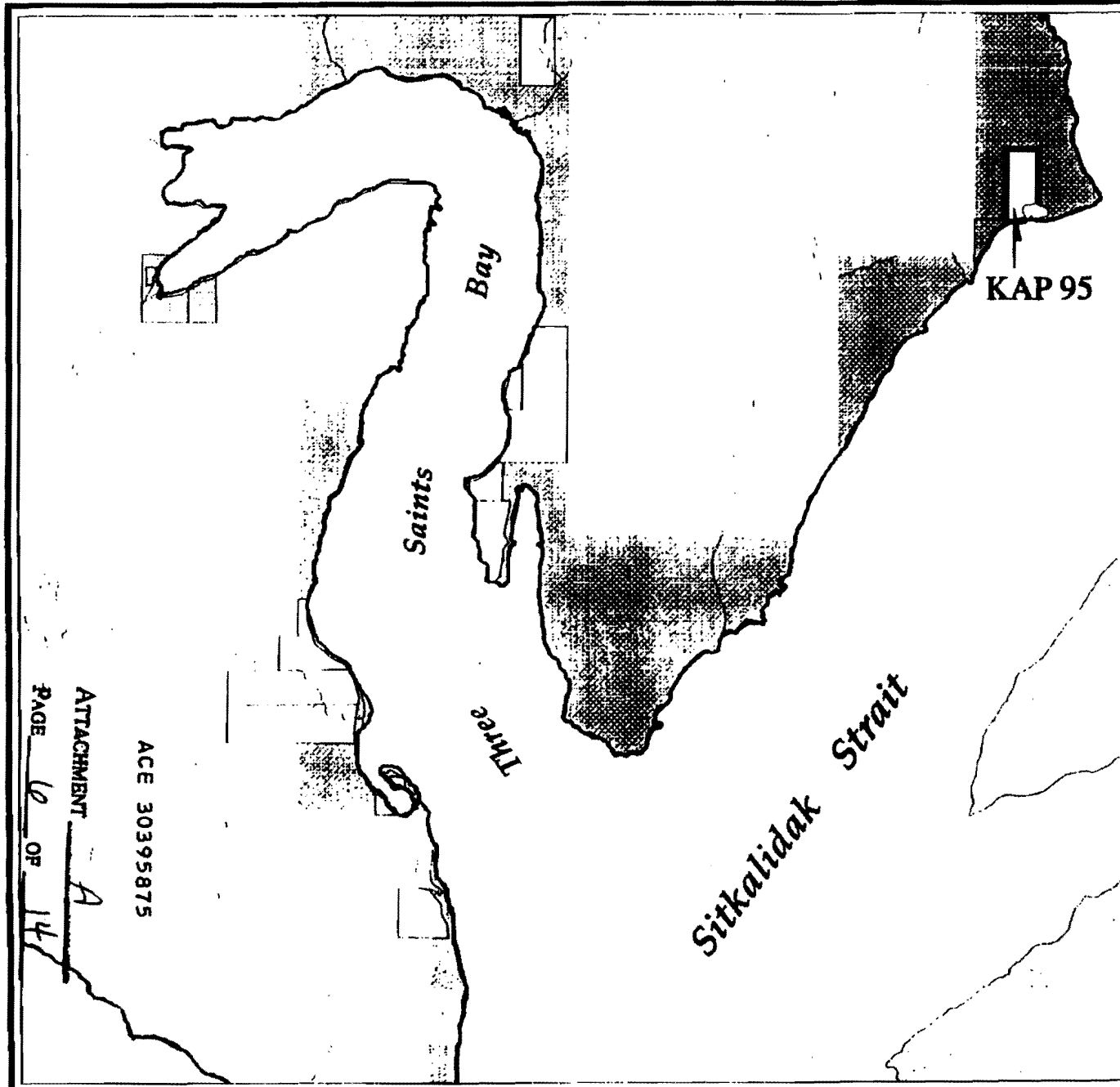
Parcel KAP 95 is located on the northern shore of Sitkalidak Strait, west of Old Harbor, within the Kodiak National Wildlife Refuge. The parcel is an easy three mile skiff ride from Old Harbor, and is the only unprotected private land between Old Harbor and Three Saints Bay. The surrounding lands have previously been acquired by the USFWS from the Old Harbor Native Corporation through funding provided by the *Exxon Valdez* Oil Spill Trustee Council. The Inga parcel would also be acquired for inclusion in the Kodiak National Wildlife Refuge.

The site and area have been used by local residents for subsistence purposes, primarily hunting for brown bear and Sitka black-tailed deer, harvesting salmon, and berry picking. Near shore marine waters adjacent to this property are particularly important for feeding marbled murrelets, and are also used by pigeon guillemots, harlequin ducks, and other sea ducks. Because Three Saints Bay is the site of the original Russian settlement of Alaska, cultural sites likely exist on the property, although it has not been intensively explored for these sites.

The accessibility of the Inga parcel, and the presence of a fresh water lake on the property, contribute to its significant development potential for subdivision and sale of private lots. Such potential development could have far-ranging impacts on the surrounding National Wildlife Refuge lands. Development of this parcel would be expected to contribute to degradation of water quality and fish and wildlife habitat. The acquisition of this parcel will preserve the biological, wilderness, recreational, and subsistence restoration benefits of the previous Old Harbor large parcel acquisitions.

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**Habitat Protection
Small Parcels**

**Kodiak Island,
Alaska**

Parcel : KAP 95,
Heirs of Fedosia Inga

- Former Old Harbor Lands
- Purchased with EVOS Restoration Funds
- Privately Owned Small Parcels
- Outside of Kodiak NWR

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



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**Parcel ID: Larsen Bay 10-Acre Parcel
Matilda Christensen**

Rank: N/A **Acreage:** 10 **Agency Sponsor:** USFWS
Appraised Value: \$13,000
Location: Uyak Bay, Kodiak Island
Landowner: Matilda Christensen
Address: P.O. Box 102
Old Harbor, AK 99643

This parcel is located on the eastern shore of Uyak Bay, south of Amook Island, within the Kodiak National Wildlife Refuge. It is at the southern end of the land conveyed by Koniag, Inc., to the Larsen Bay Tribal Council, and further conveyed to tribal members, including Matilda Christensen. The surrounding Native corporation lands are scheduled to be purchased by USFWS at the end of September 1998 from Koniag, Inc., through funding provided by the *Exxon Valdez* Oil Spill Trustee Council. The Christensen parcel, as well as the Koniag lands, would become part of the Kodiak National Wildlife Refuge.

The Christensen parcel and surrounding area have been used by residents of the area for subsistence purposes primarily in the form of hunting for brown bear and Sitka black-tailed deer, harvesting salmon, and berry picking. The accessibility and natural values of the property give it significant development potential. A salmon spawning stream runs through the parcel, entering the bay immediately to the north. The associated riparian habitat is used for nesting by harlequin ducks. A small colony of pigeon guillemots occurs near the property, where they feed in near shore marine waters that also host marbled murrelets, and wintering sea ducks and loons. The property contains one documented bald eagle nest, and three additional nests occur within one half mile. Cultural sites likely exist on the property, but it has not been intensively explored for these sites.

Developments have been occurring on a number of these tracts, which are subject to borough taxation. These developments are generally cabin sites used for recreational and subsistence hunting and fishing purposes, often by individuals who purchased them from the original tribal member owners. Continued development in this area could adversely impact water quality and fish and wildlife habitat. The acquisition of this parcel will help to preserve the wilderness, recreational, and subsistence restoration benefits of the Koniag large parcel acquisitions.

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Habitat Protection

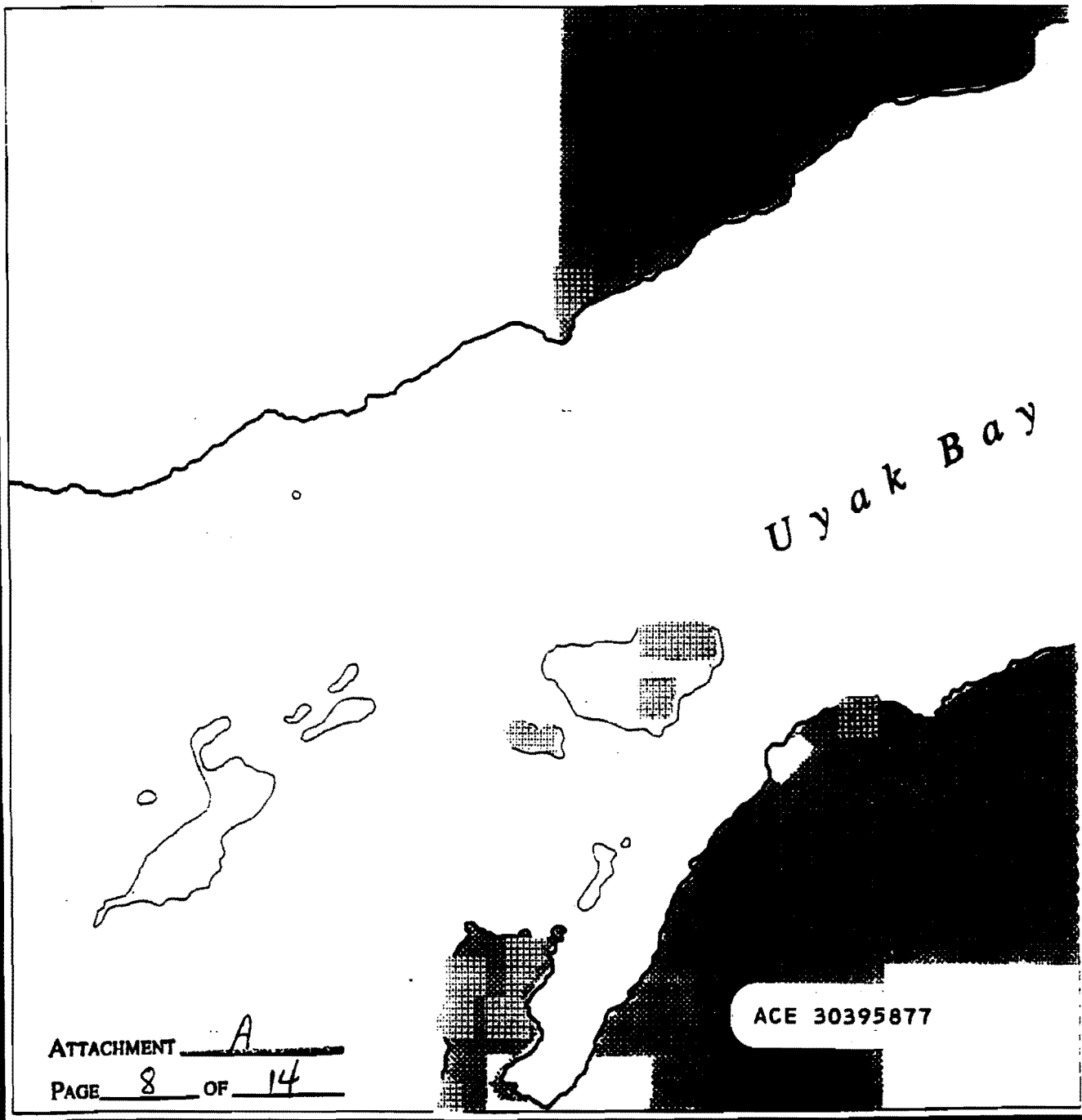
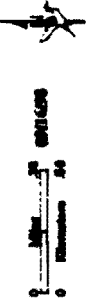
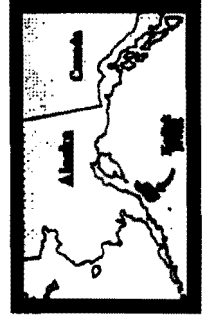
Small Parcels

Kodiak Island, Alaska

Larsen Bay 10 Acre Parcel
Matilda Christiansen

- Matilda Christiansen
10 Acre Parcel
- Former Koning Lands
- Small Parcels
- 10 Acre Parcels
- Outside of Kodiak NWR

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



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