

**RESOLUTION 12-03 OF THE *EXXON VALDEZ* OIL SPILL TRUSTEE COUNCIL  
REGARDING PORT GRAHAM HABITAT PROTECTION, PTG 01**

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:

On March 17, 2008, the Council resolved through Resolution 08-06 to provide \$32,700 in funding to the U.S. Department of Interior National Park Service (National Park Service) for due diligence expenses in support of Port Graham Habitat Protection Efforts focusing on the PTG 01 project. A portion of the funds, \$20,200, was spent before the authorization's September 30, 2009 expiration. The National Park Service is requesting reauthorization of the remaining funds, \$12,500, to update the appraisal.


In addition, we authorize an additional \$7,085, which includes applicable GA, to the National Park Service for due diligence activities for Port Graham PTG 01.

United States Department of Interior, National Park Service	\$7,085
<b>TOTAL APPROVED FOR ADDITIONAL FUNDING:</b>	<b>\$7,085</b>

Authorization of the approved funding shall run from March 27, 2012, to September 30, 2013.

By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make funds available in the amount of \$7,085 from the appropriate account as designated by the Executive Director.

Approved by the Council at its meeting of March 27, 2012, held in Anchorage, Alaska, as affirmed by our signatures affixed below:

  
\_\_\_\_\_  
STEVE ZEMKE  
Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture

  
for \_\_\_\_\_  
MICHAEL C. GERAGHTY  
Attorney General  
Alaska Department of Law

\_\_\_\_\_  
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 – Resolution 08-06 and Attachments; Port Graham Benefits Report  
1994, Parcel Map  
Attachment B – Port Graham Benefits Report (Revised 2012), Parcel Map

Approved by the Council at its meeting of March 27, 2012, held in Anchorage, Alaska, as affirmed by our signatures affixed below:

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STEVE ZEMKE  
Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture



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KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
Office of the Secretary  
U.S. Department of the Interior

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MICHAEL C. GERAGHTY  
Attorney General  
Alaska Department of Law

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JIM BALSIGER  
Administrator, Alaska Region  
National Marine Fisheries Service  
U.S. Department of Commerce

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CORA CAMPBELL  
Commissioner  
Alaska Department of Fish and Game

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Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture

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MICHAEL C. GERAGHTY  
Attorney General  
Alaska Department of Law

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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



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CORA CAMPBELL  
Commissioner  
Alaska Department of Fish and Game

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Trustee Alternate  
Chugach National Forest  
U.S. Department of Agriculture

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MICHAEL C. GERAGHTY  
Attorney General  
Alaska Department of Law

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KIM ELTON  
Senior Advisor to the Secretary  
for Alaska Affairs  
Office of the Secretary  
U.S. Department of the Interior

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Administrator, Alaska Region  
National Marine Fisheries Service  
U.S. Department of Commerce

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CORA CAMPBELL  
Commissioner  
Alaska Department of Fish and Game



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LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

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1994, Parcel Map

Attachment B – Port Graham Benefits Report (Revised 2012), Parcel Map



**RESOLUTION 08-06 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING PORT GRAHAM HABITAT PROTECTION**

We, the undersigned, duly authorized members of the *Exxon Valdez Oil Spill Trustee Council* do hereby certify that, 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. A91-083 CIV, and United States of America v. Exxon Corporation, et al., No. A91-082 CIV, U.S. District Court for the District of Alaska, for necessary Natural Resource Damage Assessment and Restoration activities for fiscal year 2007, as described in Attachment A.

This resolution authorizes the distribution of \$32,700 of FY 08 funding for due diligence expenses in support of Port Graham Habitat Protection Efforts focusing on parcel PTG 01, as described in Attachment A, to be distributed according to the following schedule:

Department of Interior, National Park Service	\$32,700
<b>TOTAL APPROVED FOR DISTRIBUTION</b>	<b>\$32,700</b>

Authorization of the approved funding shall run from March 17, 2008 to September 30, 2009.

By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make funds available in the amount of \$32,700 from the appropriate account as designated by the Executive Director.

Approved by the Council at its meeting of March 17, 2008, held in Anchorage, Alaska, as affirmed by our signatures affixed below:



Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

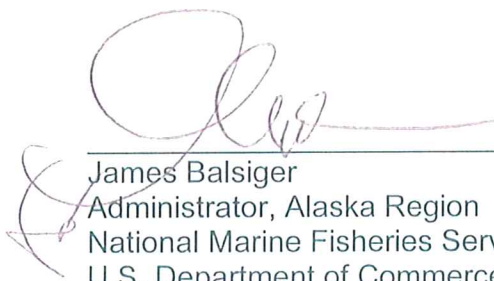


Talis J. Colberg  
Attorney General  
Alaska Department of Law

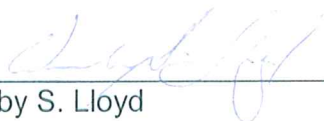


Randall Luthi  
Director  
Minerals Management Service  
U.S. Department of Interior

HANS NEIDIG For  
Randall Luthi



James Balsiger  
Administrator, Alaska Region  
National Marine Fisheries Service  
U.S. Department of Commerce



Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game



Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A – Port Graham Estimate of Due Diligence Costs; Port Graham Benefits Report 1994; Parcel Maps

ATTACHMENT A

**Port Graham  
Estimate of Due Diligence Costs**

**Initial Costs**

Appraisal	\$20,000
Appraisal review	\$3,000
Hazmat	\$4,250
Subsurface Assessment	\$2,000
Preliminary Commitment for Title Insurance	\$750

**Total Estimated Initial Costs** **\$30,000**

**Budget Summary**

Budget Category	FY 08-09
Personnel	\$0.0
Travel	\$0.0
Contractual	\$30,000
Commodities	\$0.0
Equipment	\$0.0
Subtotal	\$30,000
General Administration	\$2,700
Total Request	\$32,700



Restoration Benefits Report for Habitat Acquisition  
Port Graham Corporation  
Parcels PTG 01 through 07

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Region and Locale

Kenai Peninsula. Parcels are located on the southeast coastline of the peninsula within Kenai Fjords National Park.

Proposed Acquisition Description

Port Graham (PTG) parcels 01 through 07 are located along the deep water fjords of Kenai Fjords National Park. The park is characterized by a highly indented coastline, interspersed protected waters and extremely scenic uplands. The fjords support tide-water glaciers, many that have receded dramatically this century. Upland slopes are predominately steep, though there are relatively flat areas; soils are generally shallow. Coastal parts of the parcels are covered by a temperate rainforest dominated by Sitka spruce and western hemlock. Under story vegetation is typical of that found with this forest type. More inland parts of the parcels are covered with shrub and tundra vegetation types. Parcels PTG 05 and PTG 01 contain Delight, Desire and Addison Creeks that support commercial red and pink salmon fisheries.

Kenai Fjords National Park provides the most dramatic fjord system in the United States that is protected as a national park. Waters adjacent to the park are teeming with marine life and are often occupied with harbor seals, sea otters, Northern sea lions, porpoises and Minke, Humpback, Orca and Gray whales. Several species of salmon, including pink salmon and red salmon injured by the Exxon Valdez Oil Spill (EVOS), are supported by the park's upland habitat. Numerous species of marine and other birds, including harlequin ducks, marbled and Kittlitz's murrelets, pigeon guillemots, black oystercatchers, cormorants, common loons and bald eagles injured by the EVOS, are found throughout the area and use park uplands. The park is a birder's paradise. Upland areas also support black bear, moose, mountain goat, river otter, mink, marten, wolverine, coyote, snowshoe hare, and porcupine.

Although the park was established amidst great controversy in 1980, it is now the major attraction for the city of Seward's booming tourism economy. A 1996 MOU signed by the City, NPS, USFS, State Parks and the Chamber of Commerce supports the construction of an interagency, cooperatively run Visitor Center/Administrative Offices/Conference Center on City-owned land near the Seward Small Boat Harbor. Numerous businesses, related to the park, have been created in the city since that time. Several businesses, such as Kenai Fjords Tours, Major Marine Tours, and Mariah Charters, have matured into companies of significant size. Because of increased demand, companies are still adding capacity to carry more visitors to see the park, its magnificent landscape, and its wildlife. The Anchorage Daily News runs daily advertisements throughout the year for several commercial companies providing

boat tours of the park. The Alaska Railroad runs daily summer trains to Seward, which are scheduled to connect to these tours. National magazines carry monthly advertisements for guided trips to the park. Large cruise ship companies have discovered Seward (110 dockings in 1996) and their passengers fill the park's visitor center as they disembark into town and seek out points of interest. Many of the cruise ship tourists take flight-seeing tours of the park and have helped stimulate yet more jobs. Half the park's 1994 commercial use licenses were for flight-seeing businesses.

The parcels in this package contain most of the resources and services injured from the oil spill. By protecting the habitat upon which these resources depend, the Trustee Council's goal of providing restoration benefits through protective measures can be accomplished on the Kenai Peninsula.

**Parcel Acreage and Ratings.** All parcels have been appraised. Combined, the parcels total 46,621 acres, more or less. Parcels have been evaluated by the Trustee Council's Habitat Work Group (1993 & 1994) and score from high to low. High and moderate parcels comprise about 29,000 acres; low rated parcels comprise 18,000 acres.

#### Other Information

Most of these parcels were conveyed to Port Graham Corporation in 1995 and 1996 under the authority of the Alaska Native Claims Settlement Act. Port Graham's remaining acreage entitlement of 4,290 acres is scheduled to be conveyed in future years. All future conveyances will be within Kenai Fjords National Park. Habitat protection would include conveyed lands and future conveyances. The Port Graham Corporation has expressed willingness to negotiate sale of some or all of their lands within the park on a fee simple basis. The subsurface estate of these parcels has or will be conveyed to the Chugach Alaska Corporation. This subsurface estate has been appraised, but an offer will not be presented at this time.

A number of additional parcels have been rated by the Trustee Council's staff on the Kenai Peninsula near the villages of Port Graham and English Bay. Ratings were from moderate to low value. Lands within the boundaries of Kenai Fjords National Park represent the best potential to acquire lands which have the highest potential to contribute to the Trustee Council's restoration goals.

#### Restoration Benefits

**Injured Resources and Services.** Sixteen of the 19 listed injured resources and services used to rate the parcels are present on or directly associated with the lands in this package. The following list contains those rated by the Trustee Council staff as having high or moderate potential to benefit restoration.<sup>1</sup> Injured resources on or immediately adjacent to these lands

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<sup>1</sup>Rating done by the Habitat Protection Work Group (HPWG),



include: spawning pink salmon, spawning red salmon, feeding and likely spawning Dolly Varden, spawning Pacific herring, nesting bald eagles, feeding black oystercatchers, feeding and haulout areas for harbor seals, molting harlequin ducks, intertidal & subtidal biota (including some dense mussel beds, kelp and eelgrass areas), probable nesting marbled murrelets, feeding and probable nesting pigeon guillemots, high use areas and latrine sites for river otters, and feeding sea otters. Public services provided by these lands include: nationally known and advertised recreation and tourism destinations, pristine wilderness settings, and several archaeologic and historic cultural resource sites. Additionally, commercial pink and red salmon fisheries are supported by Delight and Desire Creeks in PTG 05 and Addison Creek in PTG 01. Furthermore, these lands and adjacent coastal waters provide habitat for clams, common loons, cormorants, killer whales, Kittlitz's murrelets, mussels, rockfish, sediments, and passive use, injured resources and services added since the original ratings.

Acquisition of this package will result in habitat protection for not only the lands acquired, but for a much larger area. These lands are within the designated boundaries of Kenai Fjords National Park, an area comprised of 669,000 acres. As such, adding these lands back into park status will ensure that the thousands of acres of protected habitat in the park are not fragmented by various man-made developments and extractive activities. Both the lands acquired, and the lands in the park will provide protection for injured resources and services injured by the oil spill.

Currently, this area is receiving steadily increasing recreational visitation. Both large commercially-operated and small privately-owned boats ply the fjords in greater numbers. The area is well known by sport fishermen who seek out salmon and halibut. Kayakers, campers, photographers and birders from around the world have discovered the park and use it regularly.

Flight-seeing is increasingly popular, and a growing number of tourists see the park in this way. The number of commercial users in the park is on a steady upward trend; between 1995 and 1996 the number of businesses operating in Kenai Fjords with a Park Service commercial use license increased from 34 to 43.

Park management will maintain habitat acquired in its natural condition, thereby protecting injured resources and services from further injury. Park rangers, other park staff and volunteers in the park will regularly patrol the park to ensure a high level of compliance with park regulations and Trustee Council restoration goals. At the same time, services like recreation and tourism can continue to occur and increase, in balance with restoration needs. The park already provides some remote visitor cabins. Cultural sites of particular importance to the Native community will be protected consistent with state and federal laws. The commercial red and

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"Comprehensive Habitat Protection Process: Large Parcel Evaluation & Ranking," as presented to the Council November 30, 1993, The list of injured resources and services has been expanded to 30 as of the Trustee Council meeting on 8/29/96.

pink salmon fisheries associated with Delight, Desire and Addison Creeks will be maintained by protection of spawning and rearing habitat.

Should the parcels not be acquired, private management would determine the nature and rate of change to the land. Development could take many forms. While the unspoiled and wild landscape of the park provides protection for injured resources and services and is a prime visitor attraction, the same landscape could be severely altered with lodges, cabins and docks in bays with greatly increased boat and aircraft traffic. Developed parcels would fracture habitat into smaller blocks, and protection for injured resources and services would be diminished. Most biologists agree that large, protected natural areas provide better habitat for populations of animals, such as those injured by the EVOS, than parcels interrupted by human developments.

In future years forested areas of the park could be logged. Logging would begin to impact the habitat of injured resources and services on lands logged and possibly on surrounding lands. Even small logging operations would severely impair the scenic, wilderness and recreational qualities of the otherwise undisturbed area.

**Proposed Management Structure.** Lands acquired would be managed by the National Park Service pursuant to the National Park Service's Organic Act, 16 USC 1, and the Alaska National Interest Lands Conservation Act (ANILCA), 16 USC 3101. These two laws provide the key legislative mandates for management. For Kenai Fjords National Park, ANILCA section 201 (5) says,

Kenai Fjords National Park... shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Ice Field, its outflowing glaciers, and coastal fjords and islands in their natural state; and to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes....

These mandates from Congress mesh well with the Trustee Council's restoration goals for the injured resources and services. The very core of the Park Service mission is both protection and use. On the one hand, most areas will be left in their natural state thus providing undisturbed habitat for the many species that will benefit from such protection. On the other hand, services like recreation and tourism can continue to occur. People from Alaska, from the rest of the USA, and from around the world could visit the park, marvel at its scenery, and learn about its natural resources.

#### Terms and Conditions

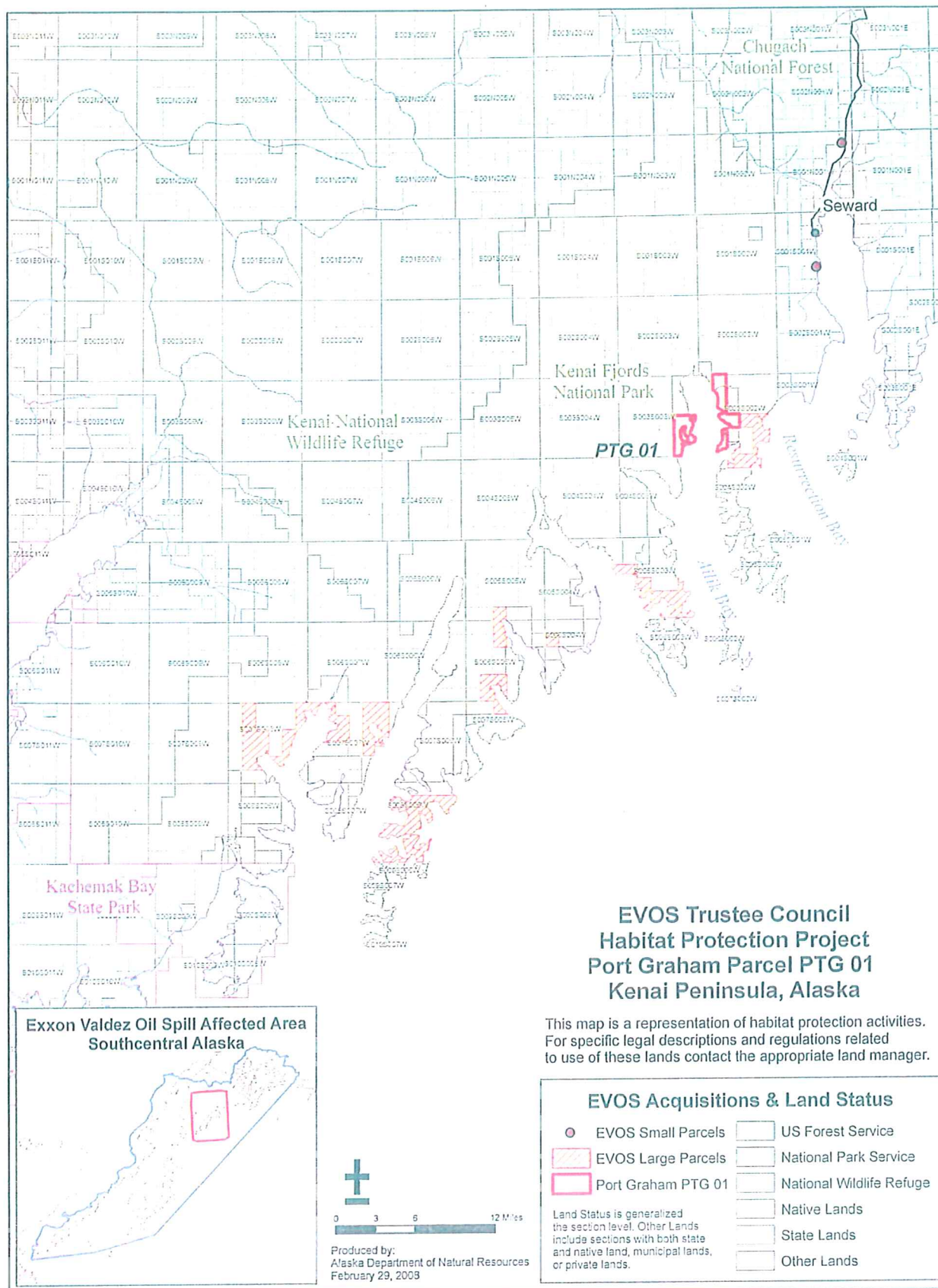
Fee simple acquisition of all parcels.

**Sources of Revenue.** Civil restoration fund monies.

Recommendation

Fee simple acquisition of all parcels.










# HABITAT PROTECTION ACQUISITION PARCELS KENAI PENINSULA, ALASKA

Parcel: PTG01

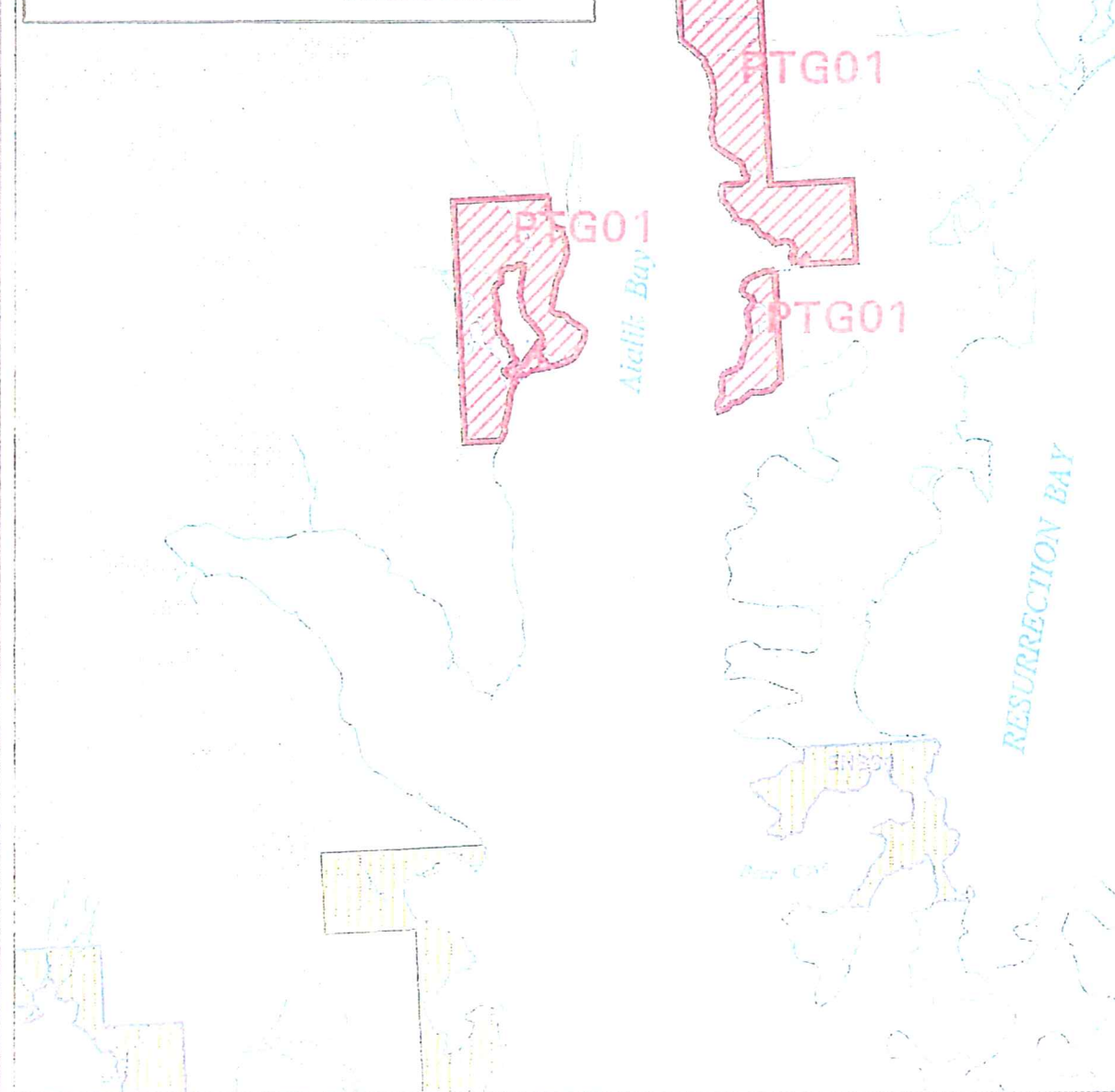
0 2.0 4.0 miles

Universal Transverse Mercator Projection

## LEGEND

- |   |   |
|---|---|
|  National Parks, Monuments, or Preserves; or BLM |  English Bay Corp Selected |
|  National Wildlife Refuges                       |  Port Graham Corp Selected |
|  State Patented or Tentatively Approved          |   |

SOURCES:  
Land status provided by the  
Department of Natural Resources,  
Division of Land and Land Records  
Information Section, 1993, and  
US National Park Service, 1993.



**PTG 01 (Revised 2012), Aialik Bay**

<b>Owner:</b>	Port Graham Corporation
<b>Physical Location:</b>	These parcels are located on the eastern shore of Aialik Bay within the boundaries of Kenai Fjords National Park
<b>Acreage:</b>	2265 acres
<b>Brief Description:</b>	Head of Aialik Bay
<b>Agency Sponsor:</b>	U.S. Department of the Interior, National Park Service
<b>Appraised Value:</b>	\$2,000,000 (in 2009)

**History of Trustee Council Consideration:**

Through Resolution 08-06, on March 17, 2008, the Trustee Council (TC) approved and dispersed due diligence funds to the National Park Service (NPS) for the Port Graham Project 01 (PTG 01). However, today the project has been scaled back from the original scope approved in TC Resolution 08-06 (see attached map of the subject properties)

As originally approved, this project included both tracts currently under consideration but also contained an additional two tracts: a 2250 acre tract on the west side of Aialik Bay owned by the Port Graham Corporation (PGC), as well a 4.8 acre parcel owned by Alaska Wildland Adventures (AWA). However, neither party is interested in selling those tracts at this time. The original project proponents were not satisfied with the values set by the 2009 appraisal and the landowners began to re-consider their options. Today PGC, under new leadership, has expressed great interest in assessing the current market values of the two parcels in the revised PTG 01.

**Parcel Description.** These parcels are comprised of two tracts (2,242 acres and 428 acres) owned by PGC (2265 acres combined as determined by NPS acreage calculations) and are located between Coleman Bay and Aialik Glacier on the east shore of Aialik Bay within the boundaries of Kenai Fjords National Park. Both parcels are in a natural undeveloped state at this time, with the exception of an NPS cabin on a 5-acre parcel that the NPS leases from PGC to provide for public use. The parcels contain rugged cliffs, coastal temperate rainforest, and tidally influenced shoreline. Pocket areas above the mean high tide mark contain beach grass communities.

PGC lands within the park were designated as the first priority for fee simple acquisition in the 1988 NPS Land Protection Plan because these lands “are important in terms of scenic qualities, wildlife habitat, cultural resources and visitor uses.” The Plan points out that the lands are surrounded by NPS land in “the heart of the Kenai Fjords.”



## **Linkage to Restoration**

### **Restoration Benefits**

As identified by the TC, injured species that are not recovering and will benefit from acquisition of these parcels include Pacific Herring.<sup>1</sup> Injured species with unknown recovery status that will benefit from acquisition of these lands include Marbled and Kittlitz's Murrelets. Injured species still recovering that will benefit include intertidal communities, Barrow's Goldeneyes, Black Oystercatchers, Harlequin Ducks, Sea Otters, and Mussels. The Aialik Bay area, including these parcels, is also used by Bald Eagles, River Otters, Common Murres, Common Loons, Cormorants, Harbor Seals, Killer Whales, Pink Salmon, Sockeye Salmon, and Dolly Varden char.

The area supports recreational use by kayakers, nature viewers, fishers, birdwatchers and hikers. The majority of visitors to Kenai Fjords National Park (approximately 55,000 people annually) tour Aialik Bay and observe the untrammeled natural beauty and wildlife of these parcels. Much of these parcels are prominently visible to park visitors on tour boats or kayaks in Aialik Bay.

Additionally, the Aialik Bay Public Use Cabin is located on the PGC parcel. The NPS currently leases 5 acres containing the cabin for rental to the public. The popular cabin is heavily used by recreational visitors throughout the summer (approximately 400 user nights annually).

The parcels also have significant cultural values, including several archeological sites containing prehistoric elements in relatively pristine condition.

### **Potential Threats**

Under private ownership, uses that would be incompatible with the NPS management are allowable. Such uses include subdivision, development, limited timber cutting, hunting, and denial of public use and access. These uses would significantly change the character of the Park and would adversely affect natural resources and visitor experiences.

The PGC and AWA jointly developed a lodge on another PGC parcel within Aialik Bay in 2009 and closed surrounding private lands to public use except lodge guests. At the time the 4.8 acre parcel was purchased by AWA, the real estate listings promoted it as a site suitable for development as a lodge. If listed on the real estate market, it is possible that the parcels would be marketed in a similar manner.

### **Proposed Management**

Upon acquisition, these parcels will be managed by the NPS as part of Kenai Fjords National Park, consistent with applicable federal laws and policy. The purpose of the Park, as defined in the Alaska National Interest Lands Conservation Act, is to "maintain unimpaired the scenic and environmental integrity of ...coastal fjords and islands in their

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<sup>1</sup> See 2010 Injured Resources & Services Update, *Exxon Valdez* Oil Spill Trustee Council, available at <http://www.evostc.state.ak.us/Recovery/status.cfm>.

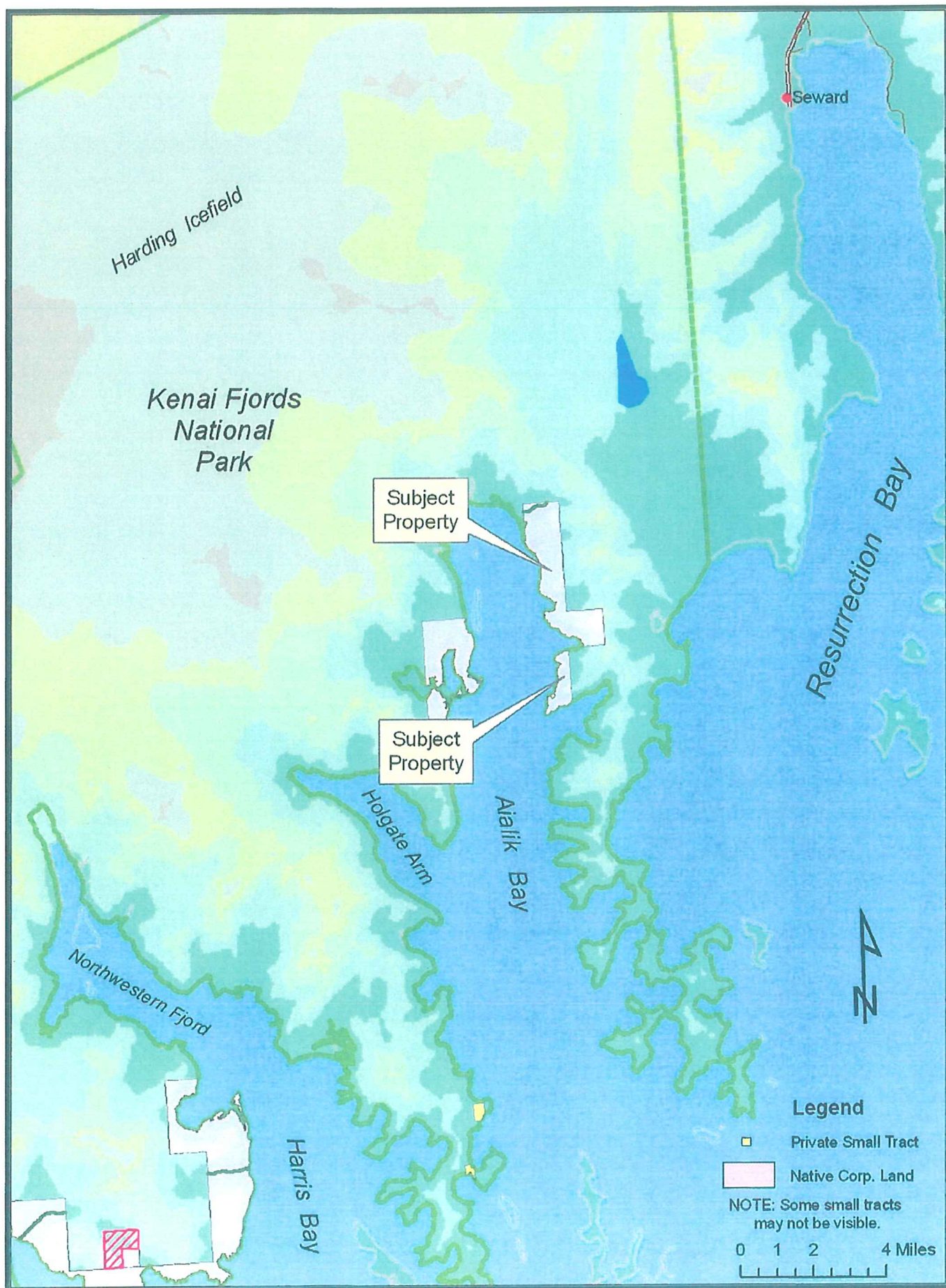
natural state and to protect seals, sea lions, other marine mammals, and marine and other birds...”

**Request**

Request the TC reauthorize use of due diligence funds in the amount of \$12,500, which were disbursed to the NPS in 2008. In addition, request an additional \$6,500 for the NPS for due diligence activities for Port Graham PTG 01.

Attachment: Map of Subject Properties





Kenai Fjords National Park