

RICHARD A. SVOBODNY  
ACTING ATTORNEY GENERAL

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State of Alaska  
Department of Law  
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Attorneys for the State of Alaska

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	No. 3:91-CV-0083 (HRH)
	)	
v.	)	<b>THIRTY-FOURTH</b>
	)	<b>JOINT NOTICE OF</b>
EXXON CORPORATION, and EXXON	)	<b>EXPENDITURES FROM</b>
SHIPPING COMPANY,	)	<b>THE INVESTMENT FUND</b>
	)	<b>AND FROM MONIES</b>
Defendants.	)	<b>PREVIOUSLY DISBURSED</b>
	)	

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The United States and the State of Alaska (“the Governments”) jointly provide this notice of their expenditure of \$547,481.00 from the Research Investment Sub-Account and of \$5,185,000.00 from the Habitat Investment Sub-Account of the Exxon Valdez Oil Spill Investment Fund (“Investment Fund”). The Governments’ natural resource trustee agencies will use these funds for purposes consistent with the Memorandum of Agreement and Consent Decree entered by this Court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991 (“MOA”).

On September 25, 1991, the United States and the State of Alaska settled their claims against the Exxon Corporation, Exxon Shipping Company, Exxon Pipeline Company, and the T/V *Exxon Valdez* arising from the Exxon Valdez Oil Spill (“EVOS”). All funds resulting from

these settlements were subsequently ordered by this Court to be placed in an interest-bearing account in the Court Registry Investment System (“CRIS”) administered through the United States District Court for the Southern District of Texas.

On June 7, 2000, this Court entered its Third Amended Order for Deposit and Transfer of Settlement Proceeds (“Third Amended Order”). The Third Amended Order allows the Governments the option of investing the money in an account outside the United States Treasury. On September 29, 2000, upon application by the Governments, the Court entered an Order Re: Transfer of Funds from the Exxon Valdez Liquidity Account and the Reserve Fund to an Investment Fund Within the Alaska Department of Revenue, Division of Treasury, authorizing transfer of settlement proceeds to an account within the State. On October 5, 2000, all funds and securities were transferred from the CRIS to the Investment Fund. The Third Amended Order further allows the Governments to establish separate sub-accounts within the primary account “as the Trustee Council determines appropriate.” On October 1, 2002, three sub-accounts were created in the Investment Fund: the Research Investment Sub-Account, the Habitat Investment Sub-Account, and the Koniag Investment Sub-Account. These sub-accounts were established to carry out the Trustee Council’s decision in its Resolution of March 1, 1999 to manage separately the remaining assets of the Joint Trust Funds for the specific purposes of funding a long term research and monitoring program, the acquisition of lands along the Karluk River, and the establishment of a fund to purchase small parcels of land that may become available in the future.

Paragraph 27 of the Third Amended Order provides that “funds in an Investment Fund shall remain on deposit in that Fund until such time as the EVOS Trustees unanimously resolve to expend all or part of the funds.” The funds may then be expended, for purposes consistent with the MOA, upon the joint notification of the Governments to the Investment Fund and the Court. The notification is to inform the Court of the proposed uses of the funds in the same

manner and to the same extent as was the Governments' practice when the funds were in the registry of the Court.<sup>1/</sup>

The Governments provide this Notice for the following purposes: 1) acquisition of small parcel KEN 3005<sup>2/</sup>; 2) project 090841, entitled "CYP1A1 Gene Expression Verification Study – Re-Evaluation of Sea Otter Samples From the *Exxon Valdez* Oil Spill"<sup>3/</sup>; 3) restoration to the Natural Resource Damage Assessment and Restoration Fund of the Department of the Interior monies that had previously been transferred to that agency for the acquisition of habitat from the English Bay Corporation pursuant to a 1997 purchase agreement authorized by the Trustee Council and, through administrative error, were subsequently used for Phase I of the FY 2003 Work Plan but are now needed for the final closing under the purchase agreement<sup>4/</sup>; 4) acquisition of lands on Afognak Island (Shuyak acquisition)<sup>5/</sup>; 5) acquisition of lands on Afognak Island (Uganik acquisition)<sup>6/</sup>; and 6) acquisition of timber rights on lands on Afognak Island (5A

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<sup>1/</sup> A copy of the notice provided to the Investment Fund pursuant to paragraph 27 of the Third Amended Order for Deposit and Transfer of Settlement Proceeds is appended to this Notice as Attachment A, pp. 1-2.

<sup>2/</sup> The Trustee Council unanimously agreed to provide \$45,000 for this purpose at its May 29, 2009 meeting, as reflected in Resolution 09-06 appended to this Notice. Attachment A, pp. 3-10.

<sup>3/</sup> Appended to this Notice at Attachment A, pp. 11-12, is Trustee Council Resolution 09-05, which documents the Council's unanimous agreement, at its May 29, 2009 meeting, to authorize the expenditure of \$205,735 for this project.

<sup>4/</sup> The Trustee Council voted unanimously at its May 29, 2009 meeting to provide \$341,746 from the Research Investment Sub-Account of the Investment Fund to the Department of the Interior for this purpose. See Resolution 09-07, Attachment A, pp. 13-16. The prior transfer of money for this acquisition was the subject of our Joint Application For Thirtieth Disbursement From Settlement Account, filed on September 4, 1997 (Docket #161).

<sup>5/</sup> The Trustee Council unanimously agreed to provide \$1,900,000 for this purpose at its September 29, 2008 meeting, as reflected in Resolution 08-16 appended to this Notice. Attachment A, pp. 11-17.

<sup>6/</sup> The Trustee Council unanimously agreed to provide \$2,008,000 for this purpose at its September 29, 2008 meeting, as reflected in Resolution 08-17 appended to this Notice. Attachment A, pp. 18-24.

acquisition)<sup>7</sup>/.

Of the \$5,705,481.00 that is the subject of this Notice, \$547,481.00 will be provided to the United States, and \$5,158,000.00 will be provided to the State of Alaska.

The Trustee Council has met once since the Governments' filing on May 22, 2009 of their Thirty-Third Joint Notice of Expenditure from the Investment Fund and from Monies Previously Disbursed. The Governments will submit the meeting notes for the May 29, 2009 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's May 13, 2009 meeting are appended to this Notice at Attachment B.

RESPECTFULLY SUBMITTED this 4th day of June, 2009 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

RICHARD A. SVOBODNY  
ACTING ATTORNEY GENERAL

By: s/CRAIG J. TILLERY  
Deputy Attorney General  
State of Alaska  
Department of Law  
1031 West Fourth Avenue, Suite 200  
Anchorage, Alaska 99501-1994  
Telephone: (907) 269-8488  
Facsimile: (907) 276-8554  
Email: Craig.Tillery@alaska.gov  
Alaska Bar #7906055

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<sup>7</sup> The Trustee Council unanimously agreed to provide \$1,205,000 for this purpose at its September 29, 2008 meeting, as reflected in Resolution 08-18 appended to this Notice. Attachment A, pp. 25-31.

FOR THE UNITED STATES

s/MICHAEL ZEVENBERGEN (consent)  
Trial Attorney  
Environmental Enforcement Section  
Environment & Natural Resources Division  
United States Department of Justice  
801 B Street, Suite 504  
Anchorage, Alaska 99501-3657  
Telephone: (907) 271-3456  
Facsimile: (907) 271-5827  
Email: regina.belt@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of June, 2009, a copy of the foregoing THIRTY-FOURTH JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND AND FROM MONIES PREVIOUSLY DISBURSED, together with attachments A and B thereto were served by U.S. mail, first class, postage prepaid, on the following:

James F. Neal Neal & Harwell 2000 One Nashville Place 150 Forth Avenue North Nashville TN 37219	Douglas J. Serdahely Patton Boggs LLP 601 W. 5 <sup>th</sup> Avenue, Suite 700 Anchorage, AK 99501	Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071
Matt vanSteenwyk AK Dept. of Fish and Game PO Box 115526 Juneau, AK 99811-5526	John F. Clough III Clough & Associates PO Box 211187 Auke Bay, AK 99821-1187	Cherri Womac Alaska Department of Fish & Game Exxon Valdez Oil Spill Trustee Council Office 441 W. 5 <sup>th</sup> Ave., Suite 500 Anchorage, AK 99501

s/Stefan Estonilo

SARAH PALIN, GOVERNOR

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

Environmental  
1031 WEST 4<sup>th</sup> AVENUE,  
SUITE 200  
ANCHORAGE, ALASKA

June 3, 2009

Mr. Gary Bader  
Chief Investment Officer  
Treasury Division, Dept. of Revenue  
P.O. Box 110405  
Juneau, AK 99811-0405

Re: *Exxon Valdez* Oil Spill Investment Fund

Dear Mr. Bader:

The Exxon Valdez Trustee Council has unanimously determined to expend \$5,705,481.00 in joint trust funds for restoration purposes consistent with the terms of the Memorandum of Agreement and Consent Decree entered by the federal district court in *United States v. State of Alaska*, No. A91-081 CIV (D. Alaska) on August 28, 1991. This entire amount is to be expended from the Research sub-account. Under the terms of the Reimbursable Services Agreement between the Alaska Department of Fish and Game and the Alaska Department of Revenue, please transfer the following amounts from cash held in the *Exxon Valdez* Oil Spill Investment Fund to the accounts described below:

**State of Alaska**

Amount: \$5,158,000.00 (Entire amount from the Habitat Sub-Account)  
State of Alaska  
Exxon Valdez Settlement Account  
GeFONSI 33070  
Account 22177

**United States**

Amount: \$547,481.00 (Entire amount from the Research Sub-Account)  
Beneficiary  
account: 14X5198  
name: Natural Resource Damage Assessment and Restoration Fund  
(NRDAR)

Beneficiary

Mr. Gary Bader  
Treasury Division, Department of Revenue

Page 2  
June 3, 2009

account: 14010001  
name: Department of the Interior  
Financial Management Services National Business Center

Beneficiary Bank

account: 021030004  
name: Treasury, NYC

OBI Text

Natural Resource Damage Assessment Restoration Fund 14X5198  
EVOS Exxon Valdez, Civil Settlement, FY06 Joint Funds

***Beneficiary Reference***

A91-082Civil

The transfer should take place when most financially advantageous, preferably on or before June 12, 2009, or as soon thereafter as possible. If you have any questions, please call Elise Hsieh at (907) 269-5274 or (907)265-9331.

Sincerely,



Craig Tillery  
Deputy Attorney General  
State of Alaska



Michael Zeyenbergen  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
United States of America

cc: Regina Belt, U.S. Department of Justice  
Matt vanSteenwyk, Alaska Department of Fish and Game *via email and U.S. Mail*  
Christine O'Sullivan, Alaska Department of Fish and Game *via email and U.S. Mail*  
Sue Bump, Alaska Department of Revenue *via email and U.S. Mail*  
Bob Mitchell, Alaska Department of Revenue *via email and U.S. Mail*  
Bronze Ickes, Alaska Department of Revenue *via email and U.S. Mail*  
James McKnight, Alaska Department of Revenue *via email and U.S. Mail*  
Cherri Womac, Exxon Valdez Oil Spill Trustee Council Restoration Office

**RESOLUTION 09-06 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING SMALL PARCEL KEN 3005**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council"), after review and consideration of relevant information regarding restoration of resources injured by the *Exxon Valdez* Oil Spill ("EVOS") find as follows:

1. The owner of small parcel KEN 3005 has indicated an interest in selling said parcel.
2. An appraisal of the parcel approved by the state review appraiser determined that the fair market value of the parcel is \$45,000.
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. Acquisition of this parcel will protect approximately 227 linear feet of shoreline and an additional 200 feet of freshwater lake frontage. The parcel also provides important access to Safety Cove State Marine Park.
4. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska 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 effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the *Exxon Valdez* oil spill ("EVOS") present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.



5. There has been widespread public support within Alaska as well as on a national basis, for the acquisition of lands.

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

THEREFORE, we resolve to provide funds for the State of Alaska to purchase all the seller's rights and interests in small parcel KEN 3005 as recommended by the Executive Director of the Trustee Council ("Executive Director"), 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 shall be forty five thousand dollars (\$45,000) for small parcel KEN 3005;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 30, 2010;

(c) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the State of Alaska Department of Natural Resources;

(d) a title search satisfactory to the State of Alaska and the United States is completed, 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 State of Alaska and the United States prior to purchase of this parcel;

- (f) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;
- (g) compliance with the National Environmental Policy Act; and
- (h) a conservation easement on parcel KEN 3005 shall be conveyed to the United States which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law.

It is the intent of the Trustee Council that the above-referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except 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 and the Restoration Plan as approved by the Trustee Council.


By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from 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 United States Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Price for the above-referenced parcel from the appropriate account designated by the Executive Director.

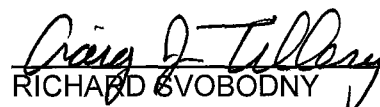
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

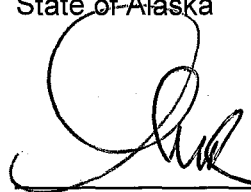
Approved by the Council at its meeting of May 29, 2009, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

  
JOE L. MEADE  
Forest Supervisor  
Forest Service Alaska Region  
U.S. Department of Agriculture

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

  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
RICHARD SVOBODNY  
Acting Attorney General  
State of Alaska

  
CRAIG R. O'CONNOR  
Special Counsel  
National Oceanic & Atmospheric  
Administration

  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A - Restoration Benefits Report and Map

### KEN 3005, Best Parcel

<b>Owner:</b>	Douglas Best
<b>Physical Location:</b>	The parcel is an in-holding in Safety Cove State Marine Park located in Day Harbor near Seward, AK
<b>Acreage:</b>	2.05 acres
<b>Brief Description:</b>	ASLS 78-119, Plat 80-22 in Section 26, T2S, R1E, SM.
<b>Agency Sponsor:</b>	Alaska Department of Natural Resources
<b>Appraised Value:</b>	\$45,000

**Parcel Description.** The property is located at the head of Safety Cove on the western side of Day Harbor near Seward, Alaska. The parcel encompasses 2.05 acres within Alaska State Land Survey 78-119 and is the only private property within the 960-acre Safety Cove State Marine Park. The property is located north of a three-acre fresh water lake located above the gravel storm berm at the head of the cove. Behind this parcel the land rises steeply and is surrounded by large rocky cliffs and mountains. The parcel provides excellent and strategic access to Safety Cove State Marine Park and contains the only usable beach in the marine park boundaries. The parcel provides 227 feet of beach frontage on Safety cove and an additional 200 feet of freshwater lake frontage.

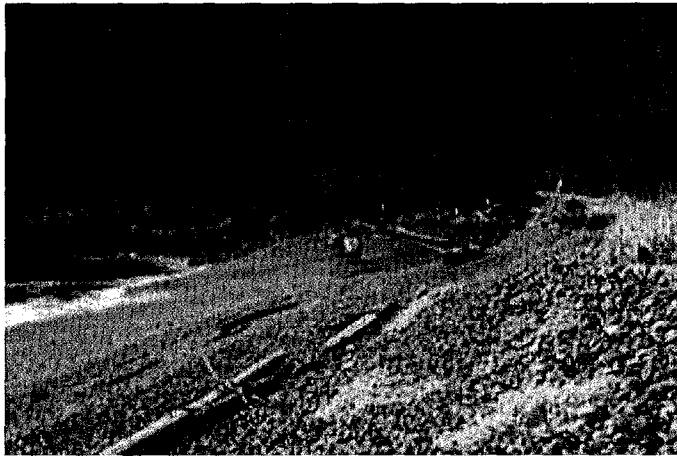
The parcel is heavily timbered with Sitka Spruce, hemlock and alder. The under story is a mix of salmon berry, blueberry, devils club and moss. The shoreline and intertidal is gravel and cobble. The parcel is currently undeveloped with few signs of human use.



#### **Linkage to Restoration:**

##### **Restoration Benefits.**

Restoration benefits will accrue to recreation. Acquisition will secure and enhance access to Safety Cove State Marine Park and remove the threat of conflicting use in perpetuity. Additionally, a variety of injured resources utilize the habitat provided by this parcel and are regularly found in the area. Sea otters utilize the intertidal habitat and river otters move between the ocean and the lake using trails worn between the two water bodies. Mussel colonies are found in the intertidal and provide food for Harlequin ducks commonly found in the area. The head of Day Harbor is identified as a waterfowl concentration area. Loons utilize the fresh water lake adjacent to this parcel and it is thought that the old growth Sitka spruce found on the parcel provide marbled murrelet habitat. The area immediately off shore is identified as a Pacific herring spawning area in the Cook Inlet ESI atlases. In addition, the rocky cliffs surrounding Safety Cove are important mountain goat habitat with the goats giving birth in the spring at lower elevations.



**Table 1: Injured Resources and Services – Summary of anticipated benefits.**

Not Recovering	Recovery Unknown	Recovering	Services
Pacific Herring	Marbled murrelets	Intertidal communities	Recreation
Pigeon Guillemot	Subtidal Communities	Mussels	Commercial fishing
		Sediments	Passive use
		Sea Otters	
		Harlequin Ducks	

#### **Potential Threats.**

The owner is very interested in selling this parcel. He would prefer that the parcel become part of Safety Cove Marine Park however, he is not in a position to donate the parcel and a sale to a third party is highly likely should the State be unable to purchase the parcel. All comparables for this appraisal were 2006 (1) or 2007 (5) sales in Day Harbor indicating that demand is relatively strong for recreational parcels in this immediate area.

Conversion of this property to a lodge or recreational cabin site would severely impact the public's ability to access Safety Cove Marine Park leading to potential user conflicts over time. Development on this parcel has the potential to negatively affect the intertidal and nearshore habitat as well as the heavily forested uplands.



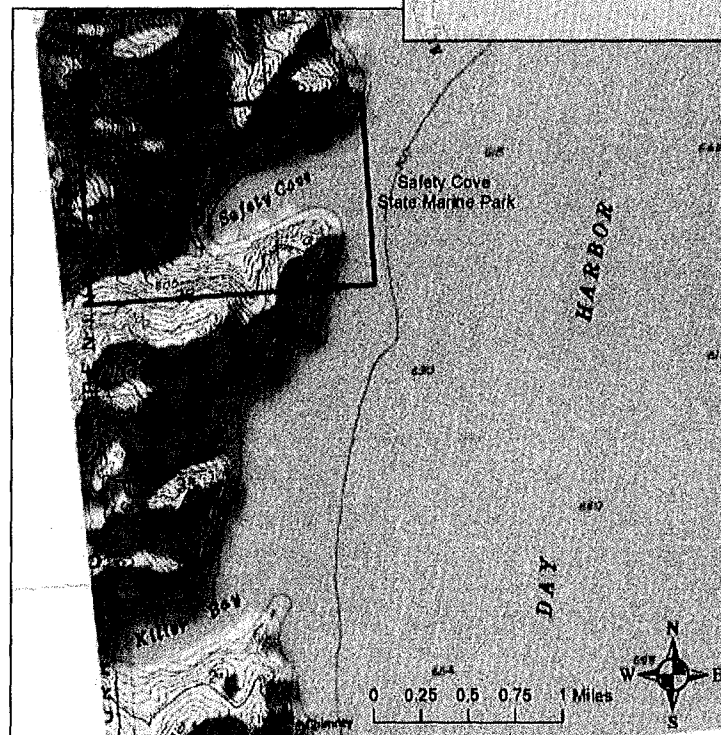
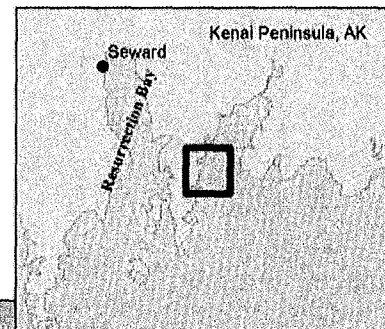
#### **Proposed Management.**

This parcel was identified in the Management Plan for State Marine Parks as an in-holding that may impact recreation values of the park should it be developed. The Safety Cove State Marine Park plan recommends purchase if the owners are willing sellers. Justification for purchase was based on the need to prevent conflicts between the public and in-holders should development occur. The management plan recommends management of the marine park as a natural zone with minimal development, which is consistent with EVOS restoration goals and objectives.



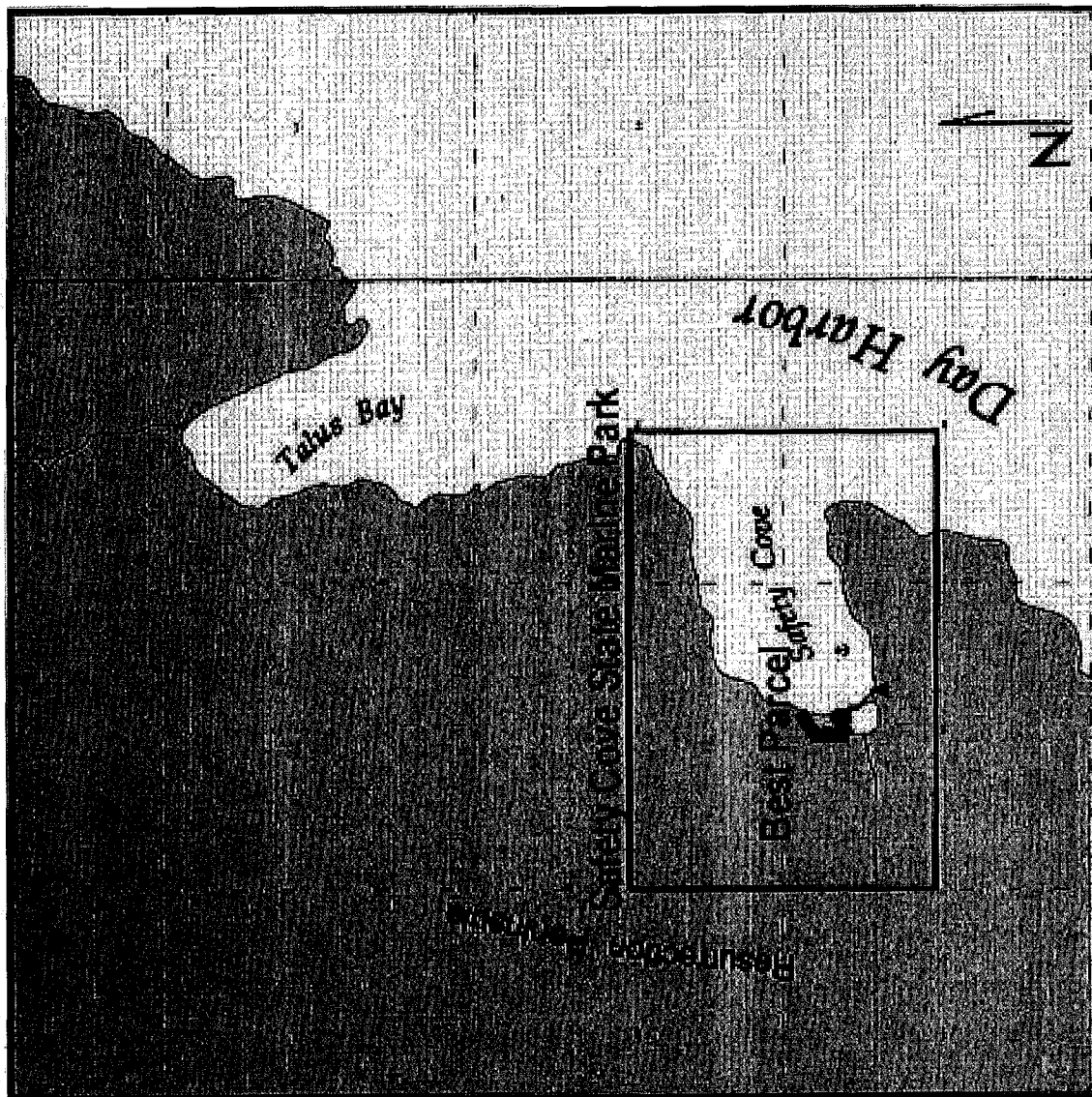
This parcel will be managed by the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, consistent with the management intent for Safety Cove State Marine Park and for the purposes of protecting resources and services injured by the *Exxon Valdez* Oil Spill.

**Appraised Value.** \$45,000



**Best Parcel, Safety Cove State Marine Park  
Kenai Peninsula, Alaska**

The Best Parcel (red outline) is located within Safety Cover State Marine Park (green outline).



ONE MILE USGS Quadrangle Blying Sound D-6

# Safety Cove State Marine Park

Safety Cove State Marine Park is located on the western side of Day Harbor approximately 27 miles from Seward by boat. A small lake is located at the head of the cove. Some camping opportunities also exist at the head of the cove.

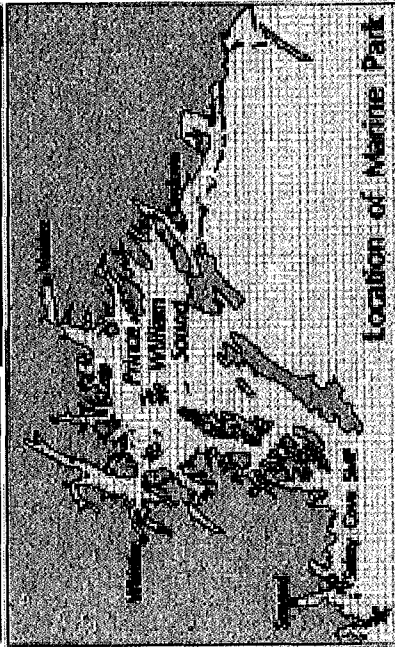
Approximate acreage of the marine park: 960 acres.

State Marine Parks  
Land Status / Land Use

- LEGEND -

- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park
- State Park

Produced by:  
Department of Fish & Marine Resources  
by the Division of Land, Vegetation & Wildlife



Location of Marine Park

**RESOLUTION 09-05 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING CYP1A1 GENE EXPRESSION VERIFICATION STUDY –  
RE-EVALUATION OF SEA OTTER SAMPLES FROM THE EXXON VALDEZ OIL SPILL**

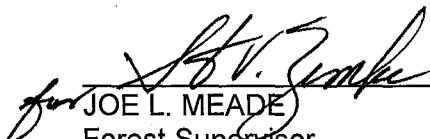
We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District 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 in the amount of \$205,735. Phase Two project funds will be expended only upon written approval by the *Exxon Valdez* Oil Spill Trustee Council Executive Director.

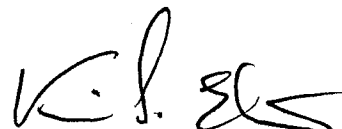
	<b>Project Total</b>
U.S. Geological Survey	\$205,735
<u>TOTAL TO UNITED STATES OF AMERICA</u>	<u>\$205,735</u>
<b>TOTAL APPROVED</b>	<b>\$205,735</b>

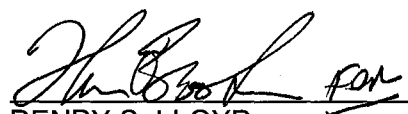
By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make available funds for Miles Project 090841, CYP1A1 Gene Expression Verification Study – Re-Evaluation of Sea Otter Samples from the *Exxon Valdez* Oil Spill from the appropriate account designated by the Executive Director.




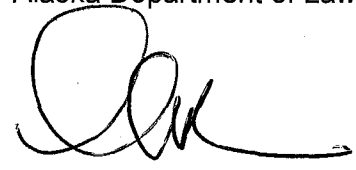
Approved by the Council at its meeting of May 29, 2009 held in Anchorage, Alaska as affirmed by our signatures affixed below.

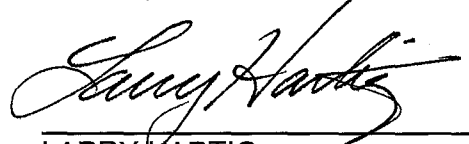
  
for JOE L. MEADE  
Forest Supervisor  
Forest Service Alaska Region  
U.S. Department of Agriculture

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

  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
for RICHARD SVOBODNY  
Acting Attorney General  
Alaska Department of Law

  
CRAIG R. O'CONNOR  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

**RESOLUTION 09-07 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING RESTORATION OF FUNDS INTENDED FOR PURCHASE OF  
ENGLISH BAY CORPORATION LANDS BY U.S. DEPARTMENT OF THE INTERIOR  
PURSUANT TO THE 1997 TRUSTEE COUNCIL RESOLUTION**

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 2009, as described in Attachment A.


This Resolution authorizes the transfer of \$341,746 from the Research Investment subaccount of the *Exxon Valdez* Oil Spill Investment Fund, administered by the Alaska Department of Revenue, to the Department of the Interior for the purpose of restoring the habitat funds originally set aside for the purchase of those lands identified in the Trustee Council's February 14, 1997 resolution and in the purchase agreement between the United States Department of the Interior and the English Bay Corporation dated May 20, 1997.


Department of the Interior, National Park Service	\$341,746
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<b>TOTAL APPROVED FOR DISTRIBUTION</b>	<b>\$341,746</b>
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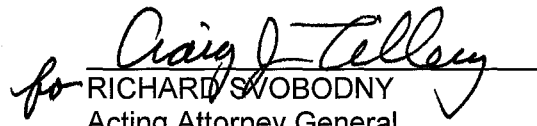
By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make funds available in the amount of \$341,746 from the appropriate account as designated by the Executive Director.

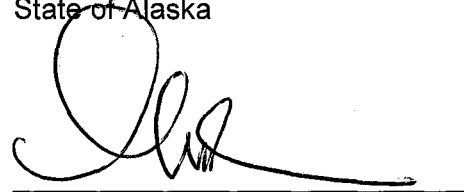
Approved by the Council at its meeting of May 29, 2009, held in Anchorage, Alaska, as affirmed by our signatures affixed below.

  
JOE L. MEADE  
Forest Supervisor  
Forest Service Alaska Region  
U.S. Department of Agriculture

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

  
DENBY S. LLOYD  
Commissioner  
Alaska Department of Fish and Game

  
RICHARD SWOBDNY  
Acting Attorney General  
State of Alaska

  
CRAIG R. O'CONNOR  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

  
LARRY HARTIG  
Commissioner  
Alaska Department of Environmental  
Conservation

Attachment A: Memo Dated May 18, 2009, to EVOS Trustee Council, Liaisons, and Counsel from Elise Hsieh, EVOS Executive Director

# Exxon Valdez Oil Spill Trustee Council

441 W. 5<sup>th</sup> Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



## MEMORANDUM

**TO:** Trustee Council, Liaisons and Counsel

**FROM:** Elise Hsieh  
Interim Executive Director

**DATE:** May 18, 2009

**SUBJECT:** Restoration of funds intended for purchase of English Bay Corporation lands by the Department of the Interior pursuant to 1997 Trustee Council resolution

### Background:

At its February 14, 1997 meeting, the Trustee Council voted to expend \$14,100,000 for the purchase of 32,470 acres of land within the Kenai Fjords National Park and islands within the Alaska Maritime National Wildlife Refuge adjacent to the Park, the surface estate of which had been conveyed or was to be conveyed to the English Bay Corporation under the Alaska Native Claims Settlement Act (ANCSA). The resolution confirming this vote states that the purchase price was adjustable up or down in accordance with the actual acreage ultimately conveyed to the Corporation (at a rate of \$418.6433 per acre).

On May 20, 1997, the United States Department of the Interior, pursuant to the Trustee Council's February 14, 1997 resolution, signed a purchase agreement to acquire 32,537 acres of land from the English Bay Corporation for a total price of \$15,371,420.22. Of this amount, \$1,243,346 was to be paid by the United States from another source, namely the restitution funds obtained pursuant to the settlement of the United States' criminal case against Exxon Corp.; the remaining \$14,128,074.22 was to be paid from the civil settlement monies administered by the Trustee Council.

On September 3, 1997, the EVOSTC Executive Director Molly McCammon, notified the United States Department of Justice and the Alaska Department of that all of the terms and conditions in the Trustee Council's 1997 resolution had been satisfied. She requested they

seek from the federal district court a disbursement of funds from the Court Registry Investment System (where the monies were invested at that time) in the amount of \$14,128,074.22. That amount was disbursed to the United States Department of the Interior under an order dated September 5, 1997 and deposited in the Natural Resource Damage Assessment and Restoration Fund (NRDA-R Fund). This Fund is administered by the Office of the Secretary.

As conveyance of the ANCSA lands to the English Bay Corporation proceeded, monies were provided from the NRDA-R Fund to the National Park Service (NPS) to carry out the purchase agreement in staged closings. At this point in time, NPS has acquired 31,531.79 acres in two previous closings. The third and final closing (on some 843 acres) will immediately follow the conveyance of English Bay's final ANCSA selections in this transaction, expected in July or August of this year. The costs for this third closing are anticipated at \$398,000, including land cost, title insurance, and the performance of due diligence. There are already \$56,254 in available funds designated for this purchase from the Restitution Funds held by the Federal Government. The remaining amount, needed from the funds approved in 1997 by the Council, is \$341,746.

Due to a change of NRDA-R Fund staff and a misunderstanding in 2002-2003 about the character of inactive English Bay balances residing in the NRDA-R Fund, the monies remaining at that time for use in carrying out the purchase agreement with the English Bay Corporation were used instead to fund a portion of Phase I of the Trustee Council's FY03 Work Plan. A January 9, 2003 report to the Trustee Council's Executive Director indicating that \$1,239,036 was "available" from the NRDA-R Fund had mistakenly included in that figure (in addition to lapsed and returned funds and interest earned) \$414,430 in funds that were intended for the United States' remaining obligations under the purchase agreement with the English Bay Corporation. That \$414,430 instead became part of the \$1,055,700 in existing funds that was used to fund the federal portion of Phase I of the FY '03 Work Plan. Because that \$414,430 should have come instead from the Investment Fund, the Department of the Interior seeks to have those monies restored to its NRDA-R Fund in order to complete the final phase of the English Bay acquisition.

Recommendation: Approve the transfer of \$341,746 from the Research Investment subaccount of the *Exxon Valdez* Oil Spill Investment Fund, administered by the Alaska Department of Revenue, to the Department of the Interior for the purpose of restoring the habitat funds originally set aside for the purchase of those lands identified in the Trustee Council's February 14, 1997 resolution and in the purchase agreement between the United States Department of the Interior and the English Bay Corporation dated May 20, 1997.

**RESOLUTION 08-16**  
**OF THE**  
**EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**  
**SHUYAK, PARCELS 2A AND 2B**

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. Shuyak, Inc. ("Shuyak"), owns the surface estate of lands located on Afognak Island, Alaska, including the lands as described in Attachment A and generally depicted on the map at Attachment B as parcels 2A and 2B, referred to collectively herein as the Lands. Rocky Mountain Elk Foundation and The American Land Conservancy (Sellers) have an option agreement to acquire the Lands.

2. The Lands were conveyed pursuant to the authority in the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Lands Conservation Act (ANILCA) to Afognak Joint Venture (AJV). The subsurface estate associated with the Lands was conveyed to Koniag, Inc. an Alaska Native Regional Corporation.

3. Shuyak, Inc. was formerly a member of the AJV that has partitioned its interests and certain lands from the AJV and has received a conveyance of such lands (the Lands) in such partition.

4. The Lands are within the oil spill area as defined by the Council in the Final Restoration Plan approved November 2, 1994.

5. Pursuant to a Resolution adopted June 27, 2007, the Council authorized funds for an appraisal of the Lands. The appraisal has been completed and reviewed by

the state and federally approved review appraiser. The fair market value for parcels 2A and 2B is \$2,900,000.

6. Pursuant to a Resolution adopted March 17, 2008 the Council authorized the expenditure of up to \$10,000,000 for the purchase of parcels on Northern Afognak.

7. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the oil spill has been documented through the Council's habitat acquisitions analysis. The restoration benefits to oil spill injured resources and services are documented in Trustee Council Resolution 02-02.

8. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska 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 effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the Exxon Valdez oil spill present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

9. There has been widespread public support within Alaska as well as on a national basis for the acquisition of lands.

10. The purchase of this Land is an appropriate means to restore a portion of the injured resources and services in the oil spill area. Acquisition of this parcel is

consistent with the Final Restoration Plan.

11. The Lands are the objective of a Forest Legacy grant and the utilization of Council funds as match furthers the restoration objectives of the Council as well as the objectives of the Forest Legacy Program.

THEREFORE, we resolve to provide matching funds for the State of Alaska to purchase all the Seller's rights and interests in the Lands as described in Exhibit A at a purchase price of two million, nine hundred thousand dollars (\$2,900,000) pursuant to the following conditions:

(a) the amount of funds (hereinafter referred to as the "Match") to be provided by the Council to the State of Alaska shall be one million, nine hundred thousand dollars (\$1,900,000) for parcels 2A and 2B;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 30, 2009;

(c) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the State of Alaska Department of Natural Resources;

(d) a title search satisfactory to the State of Alaska and the United States is completed, and the Sellers are willing and able to convey fee simple title by limited warranty deed;



(e) no timber harvesting, road development or any alteration of the land will be initiated on the Lands without the express agreement of the State of Alaska and the United States prior to purchase of this parcel;

(f) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;

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

(h) a conservation easement on parcels 2A and 2B shall be conveyed to the United States which must be satisfactory in form and substance to the United States Department of Justice and the State of Alaska Department of Law.

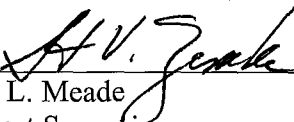
It is the intent of the Council that the above-referenced conservation easement will provide that any facilities or other development on the Lands shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to pre-spill 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 and the Restoration Plan as approved by the Trustee Council.

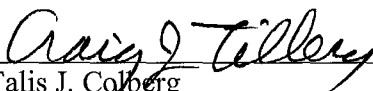
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director ("Executive Director") of the Trustee Council that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural

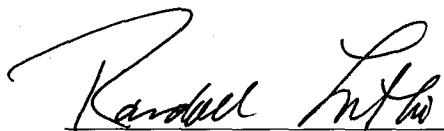
Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Match for the above-referenced parcels from the appropriate account designated by the Executive Director.

Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

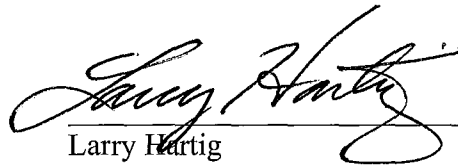
*for*   
Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

*for*   
Talis J. Colberg  
Attorney General  
Alaska Department of Law

  
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

\_\_\_\_\_  
Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

\_\_\_\_\_  
Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

  
Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Match for the above-referenced parcels from the appropriate account designated by the Executive Director.

Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

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

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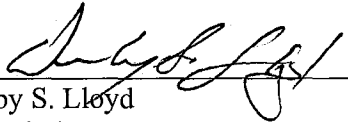
Talis J. Colberg  
Attorney General  
Alaska Department of Law

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Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

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Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce



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Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

---

Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

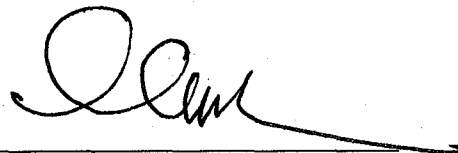
Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Match for the above-referenced parcels from the appropriate account designated by the Executive Director.

Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Approved by the Council at its meeting of September 29, 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  
 Deputy Director  
 U.S. Fish and Wildlife Service  
 U.S. Department of Interior

\_\_\_\_\_  
 Craig O'Connor  
 Special Counsel  
 National Oceanic & Atmospheric  
 Administration  
 U.S. Department of Commerce

\_\_\_\_\_  
 Denby S. Lloyd  
 Commissioner  
 Alaska Department of Fish and Game

\_\_\_\_\_  
 Larry Hartig  
 Commissioner  
 Alaska Department of Environmental  
 Conservation

**RESOLUTION 08-17**  
**OF THE**  
**EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**  
**UGANIK PARCELS 3A AND 3B**

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. Uganik, Inc. ("Uganik"), owns or will own the surface estate of lands located on Afognak Island, Alaska, including the lands as described in Attachment A and generally depicted on the map at Attachment B as parcels 3A and 3B, referred to collectively herein as the Lands. Rocky Mountain Elk Foundation and The American Land Conservancy (Sellers) have an option agreement to acquire the Lands.

2. The Lands were conveyed pursuant to the authority in the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Lands Conservation Act (ANILCA) to Afognak Joint Venture (AJV). The subsurface estate associated with the Lands was conveyed to Koniag, Inc. an Alaska Native Regional Corporation.

3 Uganik, Inc. was formerly a member of the AJV that is partitioning its interests and certain lands from the AJV and has received or will receive a conveyance of such the Lands in such partition.

4. The Lands are within the oil spill area as defined by the Council in the Final Restoration Plan approved November 2, 1994.

5. Pursuant to a Resolution adopted June 27, 2007, the Council authorized funds for an appraisal of the Lands. The appraisal has been completed and reviewed by

the state and federally approved review appraiser. The fair market value for parcels 3A and 3B is \$2,000,000.

6. Pursuant to a Resolution adopted March 17, 2008 the Council authorized the expenditure of up to \$10,000,000 for the purchase of parcels on Northern Afognak.

7. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the oil spill has been documented through the Council's habitat acquisitions analysis. The restoration benefits to oil spill injured resources and services are identified in Trustee Council Resolution 02-02.

8. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska 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 effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the Exxon Valdez oil spill present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

9. There has been widespread public support within Alaska as well as on a national basis for the acquisition of lands.

10. The purchase of this Land is an appropriate means to restore a portion of the injured resources and services in the oil spill area. Acquisition of this parcel is

consistent with the Final Restoration Plan.

THEREFORE, we resolve to provide funds for the State of Alaska to purchase all the Seller's rights and interests in the Lands as described in Exhibit A and to provide funds necessary for closing costs, 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 State of Alaska shall be two million dollars (\$2,000,000) for parcels 3A and 3B;

(b) the amount of funds authorized for closing costs are \$8,000.

(c) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 30, 2009;

(d) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the State of Alaska Department of Natural Resources;

(e) conveyance to Seller of title to the Lands.

(f) a title search satisfactory to the State of Alaska and the United States is completed, and the Seller is willing and able to convey fee simple title by limited warranty deed;

(g) no timber harvesting, road development or any alteration of the land will be initiated on the Lands without the express agreement of the State of Alaska and the United States prior to purchase of this parcel;

(h) a hazardous materials survey satisfactory to the State of Alaska and United States is completed;

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

(j) a conservation easement on parcels 3A and 3B shall be conveyed to the United States which must be satisfactory in form and substance to the United States Department of Justice and the State of Alaska Department of Law.

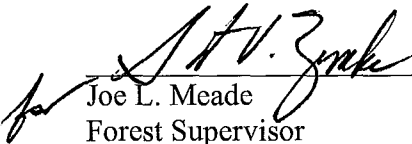
It is the intent of the Council that the above-referenced conservation easement will provide that any facilities or other development on the Lands shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to pre-spill 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 and the Restoration Plan as approved by the Council.

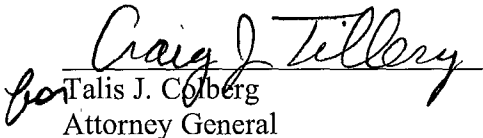
By unanimous consent, following execution of the purchase agreement between the Seller and the State of Alaska and written notice from the Executive Director ("Executive Director") of the Council that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Price and closing costs for the above-referenced parcels from the appropriate account designated by the Executive Director.

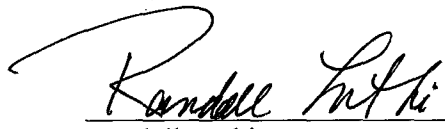


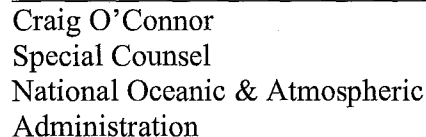
Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

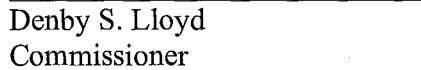
Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

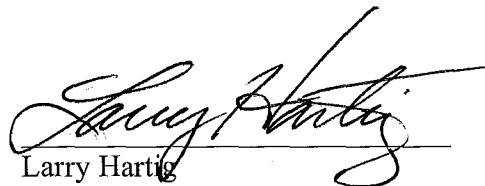
  
Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

  
Talis J. Colberg  
Attorney General  
Alaska Department of Law

  
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

  
Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

  
Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

  
Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

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

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Talis J. Colberg  
Attorney General  
Alaska Department of Law

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Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

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Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce



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Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

---

Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

Such amount represents the only amount due under this resolution to the Sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the Sellers from such joint funds.

Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

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

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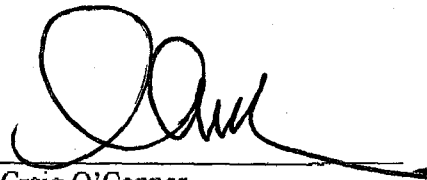
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

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Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

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Talis J. Colberg  
Attorney General  
Alaska Department of Law



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Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

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Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

**RESOLUTION 08-18**  
**OF THE**  
**EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**  
**AFOGNAK TIMBER HARVEST UNIT 5A**

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. Rocky Mountain Elk Foundation and The American Land Conservancy (RMEF/ALC), own the timber rights of lands located on Afognak Island, Alaska, as described in Attachment A and generally depicted on the map at Attachment B as parcel 5A, referred to herein as the Timber Rights.

2. The Timber Rights were acquired by RMEF/ALC from Afognak Joint Venture (AJV) in December 2005 concurrent with a grant-funded acquisition on the western side of Perenosa Bay. The remaining rights associated with the surface estate and the corresponding subsurface estate, were previously acquired by the State of Alaska using Trustee Council funds.

3. RMEF/ALC purchased the Timber Rights on parcel 5A based upon a 2004 appraised value of \$1,200,000. An opinion as to the relevance of the 2004 value conclusion has been secured from the appraiser and review appraiser. The appraiser and reviewer have determined that there has been no significant change in the conclusion of value reported for the Timber Rights as of September 20, 2004.

4. The Timber Rights are within the oil spill area as defined by the Council in the Final Restoration Plan approved November 2, 1994.

5. Pursuant to a Resolution adopted March 17, 2008 the Council authorized the expenditure of up to \$10,000,000 for the purchase of parcels on Northern Afognak.

6. The Timber Rights provide important habitat for various species of fish and wildlife for which significant injury resulting from the oil spill has been documented through the Council's habitat acquisitions analysis. The restoration benefits to oil spill injured resources and services are identified in Trustee Council Resolution 02-02.

7. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Alaska 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 effects from activities on the lands. However, restoration, replacement and enhancement of resources injured by the Exxon Valdez oil spill present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

8. There has been widespread public support within Alaska as well as on a national basis for the acquisition of interests in lands.

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

THEREFORE, we resolve to provide funds for the State of Alaska to purchase the Timber Rights in the Lands as described in Exhibit A and to provide funds necessary for closing costs, 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 shall be one million, two hundred thousand dollars (\$1,200,000) for Parcel 5A timber rights;

(b) funds in the amount of \$5,000 are authorized for closing costs;

(c) authorization for funding for any acquisition described in the foregoing paragraphs shall terminate if a purchase agreement is not executed by September 30, 2009;

(d) filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of the Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the State of Alaska Department of Natural Resources;

(e) a title search satisfactory to the State of Alaska and the United States is completed, and the seller is willing and able to convey fee simple title by limited warranty deed;

(f) no timber harvesting, road development or any alteration of the land will be initiated on the land without the express agreement of the State of Alaska and the United States prior to purchase of this parcel;

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

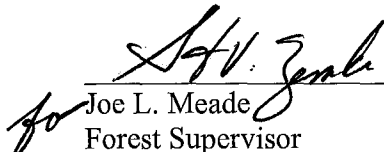
(h) the Timber Rights will be subordinated to and subject to the existing conservation easement on Parcel 5A and must be satisfactory in form and substance to the United States Department of Justice and the State of Alaska Department of Law.

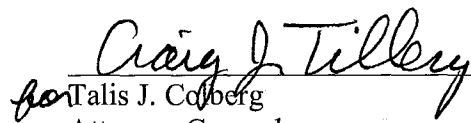
It is the intent of the Council that the above-referenced conservation easement be consistent with the existing easement on the surface estate and the goals of restoration to pre-spill conditions of any natural resource injured, lost, or destroyed as a result of the EVOS, and the services provided by 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 and the Restoration Plan as approved by the Trustee Council.

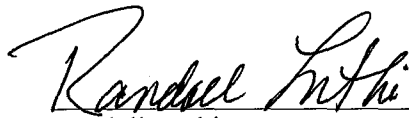
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and written notice from the Executive Director ("Executive Director") of the Council that the terms and conditions set forth herein and in the purchase agreement have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Price for the above-referenced Timber Rights and closing costs from the appropriate account designated by the Executive Director.

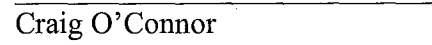
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

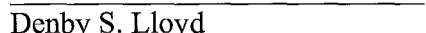
Approved by the Council at its meeting of September 29, 2008 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

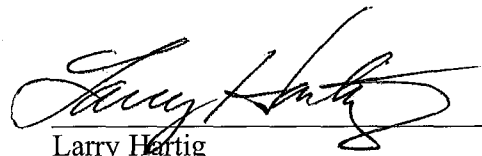
*for*   
Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture

*for*   
Talis J. Colberg  
Attorney General  
Alaska Department of Law

  
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

  
Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

  
Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

  
Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation



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

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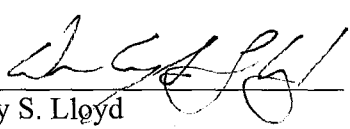
Talis J. Colberg  
Attorney General  
Alaska Department of Law

---

Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

---

Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce



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Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

---

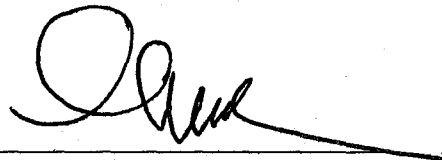
Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

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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  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior

---

Craig O'Connor  
Special Counsel  
National Oceanic & Atmospheric  
Administration  
U.S. Department of Commerce

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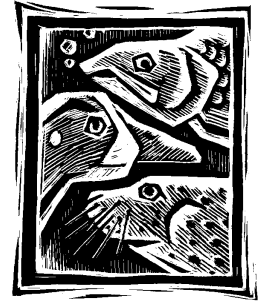
Denby S. Lloyd  
Commissioner  
Alaska Department of Fish and Game

---

Larry Hartig  
Commissioner  
Alaska Department of Environmental  
Conservation

# Exxon Valdez Oil Spill Trustee Council

441 W. 5<sup>th</sup> Ave., Suite 500 • Anchorage, AK 99501-2340 • 907 278 8012 • fax 907 276 7178



## TRUSTEE COUNCIL MEETING NOTES

Anchorage, Alaska

May 13, 2009

Chaired by: Larry Hartig

Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS \*

Kim Elton, US DOI

Craig O'Connor, NOAA \*\*

Craig Tillery, ADOL \*\*\*

Tom Brookover, ADF&G\*\*\*\*

•Larry Hartig, ADEC

- Chair
- \* Steve Zemke alternate for Joe Meade
- \*\* Craig O'Connor alternate for James Balsiger
- \*\*\* Craig Tillery alternate for Richard Svobodny
- \*\*\*\* Tom Brookover alternate for Denby Lloyd

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The teleconference convened at 10:00 a.m., May 13, 2009 in Anchorage at the EVOS Conference Room.

### 1. Approval of the Agenda

APPROVED MOTION: Motion to approve the May 13, 2009 agenda as presented

Motion by O'Connor, second by Tillery

### 2. Approval of March 9, 2009 meeting notes

APPROVED MOTION: Motion to approve the May 13, 2009 meeting notes as presented

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#### Federal Trustees

U.S. Department of the Interior  
U.S. Department of Agriculture  
National Oceanic and Atmospheric Administration

#### State Trustees

Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation  
Alaska Department of Law

Motion by Zemke, second by Tillery

Public comment opened at 10:03 a.m.

**No public comments were offered.**

3. Amendment to Project 070836-A

APPROVED MOTION: Motion to approve the Boufadel Project 070836-A, Factors Responsible for Limiting the Degradation Rate of *Exxon Valdez* Oil in Prince William Sound Beaches in the amount of \$437,497; this amount includes G&A (\$36,124)

Motion by O'Connor, second by Tillery

4. Adjourn

APPROVED MOTION: Motion to adjourn

Motion by O'Connor, second by Tillery

Off the record 10:30 a.m.

DANIEL S. SULLIVAN  
ATTORNEY GENERAL

CRAIG J. TILLERY  
Deputy Attorney General  
State of Alaska  
Department of Law  
1031 West Fourth Avenue, Suite 200  
Anchorage, Alaska 99501-1994  
Telephone: (907) 269-8488  
Facsimile: (907) 276-8554  
Email: Craig.Tillery@alaska.gov

Attorneys for the State of Alaska

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	No. 3:91-CV-0083 (HRH)
	)	
v.	)	<b>NOTICE OF ERRATUM</b>
	)	<b>IN THIRTY-FOURTH</b>
EXXON CORPORATION, and EXXON	)	<b>JOINT NOTICE OF</b>
SHIPPING COMPANY,	)	<b>EXPENDITURES FROM</b>
	)	<b>THE INVESTMENT</b>
Defendants.	)	<b>FUND AND FROM</b>
	)	<b>MONIES PREVIOUSLY</b>
	)	<b>DISBURSED</b>

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The State of Alaska hereby notifies the Court of an erratum appearing on page 1 of its Thirty-Fourth Joint Notice of Expenditures from the Investment Fund and From Monies Previously Disbursed (Thirty-Fourth Joint Notice), filed on June 4, 2009 (Clerk's Docket # 295). The Thirty-Fourth Joint Notice provided notice of expenditures from the Research Investment Sub-Account and from the Habitat Investment Sub-Account of the Exxon Valdez Oil Spill Investment Fund ("Investment Fund").

Specifically, the Thirty-Fourth Notice stated in the first paragraph that

\$5,185,000.00 would be expended from the Habitat Investment Sub-Account of the Investment Fund; the correct amount is \$5,158,000.00. See Thirty-Fourth Joint Notice, Attachment A, p.1. (Clerk's Docket # 295).

RESPECTFULLY SUBMITTED, July 16, 2009, at Anchorage, Alaska.

FOR THE STATE OF ALASKA

DANIEL S. SULLIVAN  
ATTORNEY GENERAL

By:

s/CRAIG J. TILLERY  
Deputy Attorney General  
State of Alaska  
Department of Law  
1031 West Fourth Avenue, Suite 200  
Anchorage, Alaska 99501-1994  
Telephone: (907) 269-8488  
Facsimile: (907) 276-8554  
Email: Craig.Tillery@alaska.gov  
Alaska Bar #7906055

FOR THE UNITED STATES

s/Michael J. Zevenbergen (consent)  
Senior Counsel  
Environmental Enforcement Section  
Environment & Natural Resources Division  
United States Department of Justice  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115  
Telephone: (206) 526-6607  
Facsimile: (206) 526-6665  
Email: michael.zevenbergen@usdoj.gov

# **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 16<sup>th</sup> day of July, 2009, a copy of the foregoing  
NOTICE OF ERRATUM IN THIRTY-FOURTH JOINT NOTICE OF EXPENDITURES  
FROM THE INVESTMENT FUND were served by U.S. mail, first class, postage prepaid, on the following:

James F. Neal Neal & Harwell 2000 One Nashville Place 150 Fourth Avenue, North Nashville TN 37219	Douglas J. Serdahely Patton Boggs LLP 601 W. 5 <sup>th</sup> Avenue, Suite 700 Anchorage, AK 99501	Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071
Matt VanSteenwyk Alaska Department. of Fish & Game PO Box 115526 Juneau, AK 99811-5526	John F. Clough III Clough & Associates PO Box 211187 Auke Bay, AK 99821-1187	Cherri Womac Alaska Department of Fish & Game Exxon Valdez Oil Spill Trustee Council Office 441 W. 5 <sup>th</sup> Ave., Suite 500 Anchorage, AK 99501

s/Leilani Tufaga