

**Womac, Cherri G (EVOSTC)**

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**From:** Hsieh, Elise M (EVOSTC)  
**Int:** Wednesday, December 22, 2010 8:40 AM  
**To:** Womac, Cherri G (EVOSTC)  
**Subject:** Fwd: Activity in Case 3:91-cv-00083-HRH State of Alaska v. EXXON Corporation et al Notice (Other)

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Begin forwarded message:

**From:** [cmecfmail@akd.uscourts.gov](mailto:cmecfmail@akd.uscourts.gov)  
**Date:** December 21, 2010 3:00:27 PM HST  
**To:** [cmecfmail@akd.uscourts.gov](mailto:cmecfmail@akd.uscourts.gov)  
**Subject:** Activity in Case 3:91-cv-00083-HRH State of Alaska v. EXXON Corporation et al Notice (Other)

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**U.S. District Court**

**District of Alaska**

**Notice of Electronic Filing**

The following transaction was entered by Schorr, Jennifer on 12/21/2010 at 4:00 PM AST and filed on 12/21/2010

**Case Name:** State of Alaska v. EXXON Corporation et al  
**Case Number:** 3:91-cv-00083-HRH  
**Filer:** State of Alaska  
**WARNING: CASE CLOSED on 01/14/1993**  
**Document Number:** 305

**Docket Text:**

**NOTICE 42nd Joint Notice of Expenditures From The Investment Fund by State of Alaska (Attachments: # (1) Exhibit Attachment A&B)(Schorr, Jennifer)**

**3:91-cv-00083-HRH Notice has been electronically mailed to:**

Douglas J. Serdahely [dserdahely@pattonboggs.com](mailto:dserdahely@pattonboggs.com), [blaporte@pattonboggs.com](mailto:blaporte@pattonboggs.com),

dnewsome@alaska.net, mbussey@pattonboggs.com, rjennings@pattonboggs.com,  
SThigpen@PattonBoggs.com

Elise M. Hsieh elise.hsieh@alaska.gov, gail.byers@alaska.gov, stefan.estonilo@alaska.gov

Jennifer L. Schorr Jennifer.Schorr@alaska.gov, gail.byers@alaska.gov,  
steve.mulder@alaska.gov

**3:91-cv-00083-HRH Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1105331613 [Date=12/21/2010] [FileNumber=762323-0]  
] [1fb50954f9c7a3e824ecb7c420df89e173a502f86830eba1ca0bb54715dccb85a17  
c36eda1382f7fb310dcaff7c55fc0de942c24f5e51b242b0c288bc4e2313f]]

**Document description:**Exhibit Attachment A&B

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1105331613 [Date=12/21/2010] [FileNumber=762323-1]  
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a9d879e96a256d370a0ce71ddd78cf88d7473a88a75ee3feebe7b4076fd7f]]

JOHN J. BURNS  
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,

v.

EXXON CORPORATION, and EXXON  
SHIPPING COMPANY,

Defendants.

No. 3:91-CV-0083 (HRH)

**FORTY-SECOND  
JOINT NOTICE OF  
EXPENDITURES FROM  
FROM THE INVESTMENT  
FUND**

The United States and the State of Alaska ("the Governments") jointly provide this notice of their expenditure of \$5,808,393 from the Research Sub-Account of the Exxon Valdez Oil Spill Investment Fund ("Investment Fund"), \$125,000 from the Habitat Sub-Account of the Investment Fund, and \$1,281,750 in previously-disbursed funds from the State of Alaska GEFONSI 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>

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<sup>1/</sup> A copy of the notice provided to the Investment Fund pursuant to paragraph 27 of the Third

The Governments provide notice of this forty-second expenditure for the following: (1) the expenditure of up to \$7,008,393 from the Research Sub-Account and from funds previously disbursed to fund to fund up to one-third of the cost of construction of the Cordova Center;<sup>2/</sup> (2) the expenditure of \$81,750 from funds previously disbursed for information technology contract work.<sup>3/</sup>; and (3) the expenditure of \$125,000 from the Habitat Sub-Account for acquisition of lands in Valdez, Alaska.<sup>4/</sup> Of the \$7,215,143 that is the subject of this Notice, \$7,215,143 will be provided to the State of Alaska.

The Trustee Council has met once since the Governments' filing on September 9, 2010 of their Forty-First Joint Notice of Expenditures. The Governments will submit the meeting notes for the November 3, 2010 meeting once they have been approved by the Trustee Council. The meeting notes for the Trustee Council's August 26, 2010 meeting are appended to this Notice at Attachment B.

RESPECTFULLY SUBMITTED this 21<sup>ST</sup> day of December, 2010 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

JOHN J. BURNS  
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

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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 authorized these funds at its November 3, 2010 meeting as reflected in Resolution 11-2 appended to this Notice at Attachment A, pp. 3-6.

<sup>3/</sup> The Trustee Council unanimously authorized these funds at its November 3, 2010 meeting as reflected in Resolution 11-03 appended to this Notice at Attachment A, pp. 7-8.

<sup>4/</sup> The Trustee Council unanimously authorized these funds at its March 17, 2008 meeting as reflected in Resolution 08-04 appended to this Notice at Attachment A, pp. 9-23.

Email: Craig.Tillery@alaska.gov  
Alaska Bar #7906055

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: Michael.Zevenbergen@usdoj.gov

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21<sup>ST</sup> day of December, 2010, a copy of the foregoing FORTY-SECOND JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND, together with attachments A and B thereto, was served by U.S. mail, first class, postage paid, 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 & Game PO Box 115526 Juneau, AK 99811-5526	John F. Clough III Clough & Associates PO Box 211187 Auke Bay, AK 99821-1187	Cherri Womac AK Dept. of Fish & Game Exxon Valdez Oil Spill Trustee Council Office 441 W. 5 <sup>th</sup> Ave., Suite 500 Anchorage, AK 99501
Michael Zevenbergen U.S. Department of Justice c/o NOAA/Damage Assessment 7600 Sand Point Way NE Seattle, WA 98115		

s/Michelle Melgar

**DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL**

**SEAN PARNELL, GOVERNOR**

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

December 20, 2010

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 \$5,933,393 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). This expenditure consists of \$5,808,393 from the Research Investment Sub-Account and \$125,000 from the Habitat 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: \$5,933,393 (\$5,808,393 from the Research Sub-Account; \$125,000 from the Habitat Sub-Account)  
Beneficiary: State of Alaska  
Account: GeFONSI 33070, Account 22177  
Name: Exxon Valdez Settlement Account

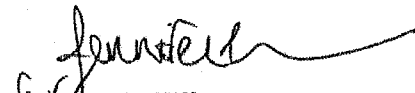


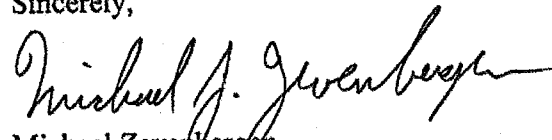
Mr. Gary Bader  
Treasury Division, Department of Revenue

Page 2  
December 20, 2010

The transfer should take place when most financially advantageous, preferably on or before December 30, 2010, or as soon thereafter as possible. If you have any questions, please call Elise Hsieh at (907) 265-9330.

Sincerely,

  
for Craig Tillery  
Deputy Attorney General  
State of Alaska

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

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

**RESOLUTION 11-02 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING THE CORDOVA COMMUNITY CENTER**

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 2011 in the amount of \$7,000,000 (plus interest earned on that amount after it is made available to the State) or one-third the cost of construction of the Cordova Center, whichever is less. In addition, unanimous agreement has been reached to expend funds to the appropriate state agency for management of the Cordova Center project in the amount of \$8,393. All funds are designated to the State of Alaska, and are to be distributed as follows:

Alaska Department of Fish & Game	\$7,008,393
Total State of Alaska	\$7,008,393
<b>TOTAL APPROVED</b>	<b>\$7,008,393</b>

Funds shall be spent in accordance with the following conditions:

1. A portion of the facility shall be used as described in the October 2010 Cordova Center proposal, to provide administrative support for the *Exxon Valdez* oil spill Trustee Council ("Trustee Council") restoration program, including educating the public and building scientific knowledge relating to the impacts of the 1989 *Exxon Valdez* Oil Spill ("EVOS") and restoration of those impacts and further restoration goals.
2. The City of Cordova will provide, before any expenditure from the EVOS Restoration Fund, documentation demonstrating to the satisfaction of the Alaska Department of Law and National Oceanic and Atmospheric Administration that the city has firm commitments for the funding of all the anticipated costs of construction of the

Cordova Center, and that the Cordova Center will be used for the EVOS-related purposes as described in the October 2010 proposal.

3. The City will provide a written commitment that it will fund all operation and maintenance costs of the Cordova Center and not request those funds from the Trustee Council; the City will be responsible for all ongoing costs after construction.
4. The Trustee Council will fund the expenditure of up to \$7,000,000 (plus interest earned on that amount after it is made available to the State) or one-third of the cost of construction of the Cordova Center, whichever is less. Funds will be distributed on a quarterly basis to pay for not more than one-third of the billings for the construction phase of the project.
5. The City will provide meeting space for Trustee Council-related meetings and workshops (including Trustee Council meetings, meetings of researchers conducting EVOS-related work, and Public Advisory Committee meetings) free of any facility charges for the life of the facility (estimated at 50+ years). The Conference Center will include a main auditorium and theater with a capacity of 220 people each, a multipurpose community room, and a small meeting room.
6. In the Museum component of the Cordova Center, 3,450 square feet of the total 5,925 square feet will be dedicated to EVOS-related exhibits and interpretive displays for the life of the facility unless otherwise approved by the Trustee Council. The Museum will include both a permanent EVOS display as well as a temporary gallery for traveling and temporary exhibits on EVOS.
7. The Museum includes the Science Discovery and Education Room (850 square feet), 100% of which is devoted to EVOS-related activities for the life of the facility, including the Science Discovery Program and various marine science educational programs unless otherwise approved by the Trustee Council. The Science Discovery and Education Room will include a lab equipped with wet and dry sinks and storage for scientific equipment.

8. The Library in the Cordova Center will contain 3,450 square feet (out of a total of 5,652 square feet) of EVOS materials for the life of the facility unless otherwise approved by the Trustee Council. Subject to the agreed space limitations, the Library shall accept all EVOS-related documents approved for transfer to it by the Trustee Council. The Library will also serve as a resource for EVOS-related media inquiries, filmmakers, researchers, and authors.


9. All of the facilities and services described above will be provided to the Trustee Council or any successor organization free of any use or maintenance charges in consideration for the payments from the EVOS Restoration Fund towards the Cordova Center's construction costs.


10. The foregoing conditions must be made legally binding through a contract or other appropriate form of agreement, reviewed and approved by the Alaska Department of Law.


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 \$7,008,393 from the appropriate accounts as designated by the Executive Director.

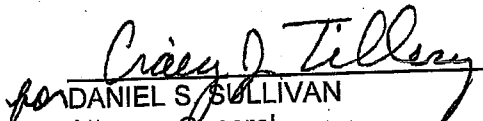
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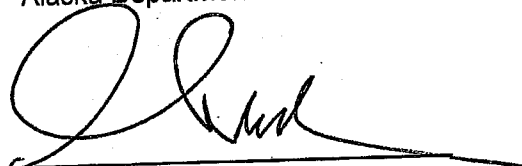
Approved by the Trustee Council at its meeting of November 3, 2010 held in Anchorage,  
Alaska, as affirmed by our signatures affixed below.

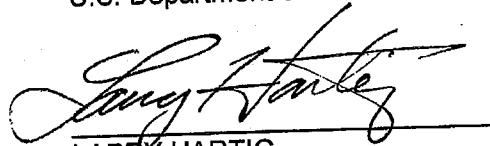
  
STEVE ZEMKE  
Trustee Alternate  
Chugach National Forest  
U. S. Department of Agriculture

  
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

  
DANIEL S. SULLIVAN  
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 11-03 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
AUTHORIZING AN INFORMATION TECHNOLOGY SERVICES CONTRACT**


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 \$75,000 for the remainder of FFY 2011 ending September 30, 2011 plus applicable General Administration (GA) for an information technology services contract. Project management fees are not applicable to the information technology services contract. The contractor is John Wojtacha of Superior Computer Solutions and he will be tasked with providing computer support services during the remainder of federal fiscal year. Tasks include desktop support, server maintenance and web site management. The monies are to be distributed according to the following schedule:

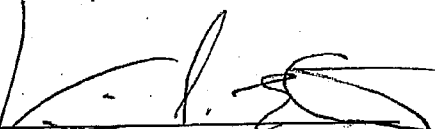
Alaska Department of Fish and Game (includes 9% GA)	\$81,750
TOTAL TO STATE OF ALASKA – FFY11	\$81,750
<b>TOTAL APPROVED</b>	<b>\$81,750</b>

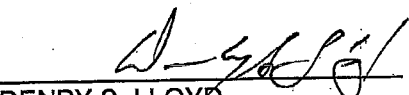
By unanimous consent, we hereby request the Alaska Department of Law and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to take such steps as may be necessary to make available funds for the Information Technology Services contract from the appropriate account designated by the Executive Director.

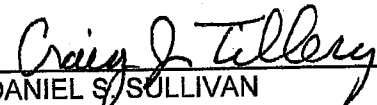
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Approved by the Trustee Council at its meeting of November 3, 2010 held in Anchorage,  
Alaska as affirmed by our signatures affixed below.

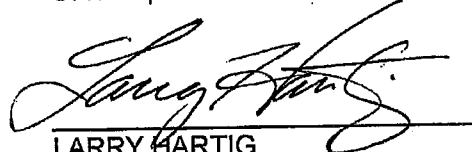
  
STEVE ZEMKE  
Alternate Trustee  
Chugach Nation Forest  
U.S. Department of Agriculture

  
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 DANIEL S. SULLIVAN  
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 08-04 OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
VALDEZ DUCK FLATS SMALL PARCEL PWS 05**

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 court-appointed referee in Case No. 3VA-04-25 CI in the Superior Court for the State of Alaska, Third Judicial District At Valdez, has indicated an interest in selling PWS 05, consisting of 20.9 acres, to The Conservation Fund for conveyance to the State.
2. An appraisal commissioned by the court-appointed referee estimates the fee simple fair market value of PWS 05 at \$150,000.
3. The Trustee Council previously authorized \$125,000 for the purchase of sellers' rights and interests in small parcel PWS 05 on December 4, 2000.
4. As set forth in Trustee Council Resolution 01-02 (attached) and as described in the Final Report for Restoration Project 97230, Conceptual Plan for the Valdez Duck Flats, the Valdez Duck Flats have attributes that 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. The Duck Flats are important habitat for a large number of out-migrating pink salmon in Port Valdez. Harbor seals and sea otters are known to feed in the Duck Flats and the mid to lower intertidal habitats at the mouth of the Flats support mussels, which have been heavily



impacted by the oil spill. Mussels constitute an important food source for several species injured by the spill such as harlequin ducks and black oystercatchers. This parcel is located near the site of the U.S. Forest Service visitor center and fish viewing area, which receives 120,000 visitors each year.

5. Existing laws and regulations, including, but not limited to, 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 natural resources, and acquisition of equivalent resources and services injured, lost or reduced as a result of the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, biologists, 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 likely have a beneficial effect on recovery of injured resources and lost or reduced services provided by these resources.

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

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

8. The Conservation Fund has offered to purchase PWS 05 in fee on an interim basis.

THEREFORE, we resolve to provide \$125,000 for the State of Alaska to purchase all the seller's rights and interests in small parcel PWS 05 and to provide funds necessary for closing costs recommended by the Executive Director of the Trustee Council ("Executive Director"), and approved by the Trustee Council pursuant to the following conditions:

(a) authorization for funding for PWS 05 as described in the foregoing paragraph shall terminate if a purchase agreement is not executed by December 31, 2009;

(b) 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;

(c) completion of a hazardous substances survey satisfactory to the State of Alaska and the United States;

(d) compliance with the National Environmental Policy Act must be ensured;

(e) a title search and review to the satisfaction of the State of Alaska and the United States for the respective interests acquired by each government must be completed;

(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 on these Lands prior to purchase of the parcel; and

(g) a conservation easement similar to that used in other acquisitions funded by the Council which will enable the United States to enforce on a non-exclusive basis

the restoration objectives of this acquisition. The form and substance of this easement and the related deed for the State must also be satisfactory to the Alaska Department of Law and the United States Department of Justice.

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 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 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.

The only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint settlement funds is \$125,000, and no additional amounts or interest are herein authorized to be paid to the seller from such joint funds.

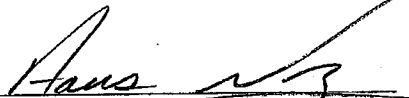
Approved by the Trustee Council at its meeting of March 17, 2008 held in  
Anchorage, Alaska, as affirmed by our signatures affixed below:



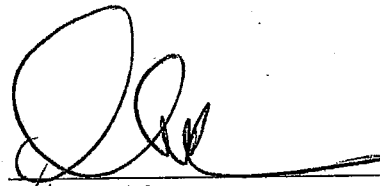
Joe L. Meade  
Forest Supervisor  
Forest Service Alaska Region  
U. S. Department of Agriculture



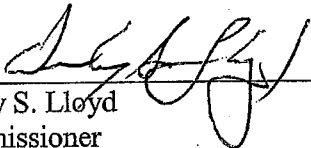
Talis J. Colberg  
Attorney General  
Alaska Department of Law



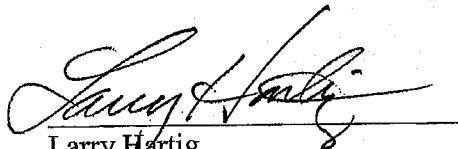
Randall Luthi  
Deputy Director  
U.S. Fish and Wildlife Service  
U.S. Department of Interior  
*HANS NEIDIG For  
Randall Luthi*



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 - Restoration 01-02 and Vicinity Map

**ATTACHMENT A**  
**RESOLUTION 01-02**

**RESOLUTION OF THE  
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL  
REGARDING  
VALDEZ DUCK FLATS SMALL PARCEL PWS 05**

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

1. The owners of one of the Valdez Duck Flats small parcels, PWS 05, have indicated an interest in selling PWS 05, consisting of 32.66 acres, to the United States as part of the Council's program for restoration of natural resources and services that were injured or reduced as a result of the EVOS. A State highway right-of-way encumbers 9.42 acres of this parcel.

2. An appraisal approved by the state and federal review appraisers estimates the fee simple fair market value of PWS 05 is \$125,000.

3. As set forth in Attachment A (Restoration Benefits Report) and as described in the Final Report for Restoration Project 97230, Conceptual Plan for the Valdez Duck Flats, the Valdez Duck Flats have attributes that 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. The Duck Flats are important habitat for a large number of out-migrating pink salmon in Port Valdez and the and this parcel supports spawning populations located in a small stream that flows through the parcel. Harbor seals and sea otters are known to feed in the Duck Flats, and the mid to lower intertidal habitats at the mouth of the flats supports mussels,

which are heavily impacted by the EVOS. Mussels constitute an important food source for several species injured by the spill such as harlequin ducks and black oystercatchers. This parcel is the site of the Forest Service visitor center and fish viewing area, which receive 120,000 visitors each year.

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 EVOS present a unique situation. Without passing judgement on the adequacy or inadequacy of existing laws and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgement, 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 the recovery of injured resources and lost or diminished services provided by these resources.

5. There is widespread public support for the acquisition of this parcel.

6. Purchase of this parcel is an appropriate means to restore a portion of the injured resources and services in the spill area. Acquisition of this parcel is consistent with the Restoration Plan and Final Environmental Impact Statement.

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

THEREFORE, we resolve to provide funds for the United States to purchase all of the seller's

rights and interests in the small parcel PWS 05 and to provide funds necessary for closing costs recommended by the Executive Director of the Council ("Executive Director") and approved by the Trustee Council, pursuant to the following conditions:

(a) the amount of funds to be provided by the Trustee Council to the United States shall be one hundred and twenty five thousand dollars (\$125,000) for small parcel PWS 05;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 21, 2001;

(c) completion of a title search satisfactory to the State of Alaska and the United States and the seller is willing and able to convey fee simple title by general warranty deed;

(d) no timber harvest, road development or alteration of the land will be initiated by the owner prior to the purchase without the express agreement of the State of Alaska and the United States;

(e) completion of a hazardous materials survey satisfactory to the State of Alaska and the United States;

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

(g) a conservation easement on parcel PWS 05, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed by the seller to the State of Alaska. It is the intent of the Council that, except as described below, any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcel excepting such limited commercial use as may be consistent with applicable state or federal law and the goals of restoration to prefill conditions of any

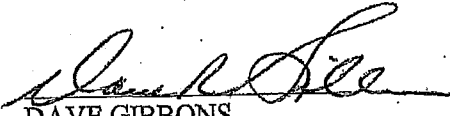


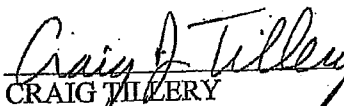
natural resource injured, lost or destroyed as a result of the EVOS and the services provided by that resource or replacement or substitution for the injured, lost or destroyed resources and affected resources as described in the Memorandum of Agreement and Consent Decree between the United States and the State of Alaska entered August 28, 1991 ("MOA") and the Restoration Plan as approved by the Trustee Council ("Restoration Plan"). The conservation easement will allow for the continued operation and maintenance of the Crooked Creek Visitor Center and fish viewing area by the Forest Service and may provide for improvement of the facilities consistent with local zoning and the protection of the natural resources and services provided by this parcel.


By unanimous consent, following execution of the purchase agreement between the seller and the United States 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 United States to be funded from the joint trust 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 December 4, 2000 held in Anchorage, Alaska, as affirmed by our signatures affixed below:

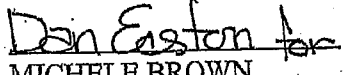
  
DAVE GIBBONS  
Alaska Region  
USDA Forest Service

  
CRAIG TILLEY  
Assistant Attorney General  
State of Alaska

  
MARILYN HEIMAN  
Special Assistant to the  
Secretary for Alaska  
U.S. Department of the Interior

  
JAMES BALSIGER  
Director, Alaska Region  
National Marine Fisheries  
Service

  
FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game

  
MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation

### PWS 05, Valdez Duck Flats

<b>Owner:</b>	Court Appointed Referee
<b>Physical Location:</b>	The parcel is located 0.5 miles north of the city of Valdez, Richardson Highway, Valdez, Alaska. U.S. Survey 349
<b>Acreage:</b>	20.9
<b>Legal Description:</b>	Parcel 1 of USS 349 T. 8 S., R. 6. W., Section 32 Copper River Meridian
<b>Agency Sponsor:</b>	ADF&G
<b>Appraised Value:</b>	Trustee Council offered \$125,000 based on an approved appraisal in 2000.

**Parcel Description.** The parcel fronts the east side of the Richardson Highway due east of the Valdez Townsite located in an area near the city harbor known as the Valdez Duck Flats. The parcel is located adjacent to a parcel previously purchased by EVOS.

The Valdez Duck Flats are a large and unique complex of intertidal mud flats and salt marsh covering approximately 1,000 acres. The flats are flooded regularly by incoming tides that mix with seven freshwater streams creating a productive estuary environment. Millions of salmon fry from these streams and the nearby Solomon Gulch hatchery feed and rear throughout the Duck Flats, assisted by the counter-clockwise currents that flow through Port Valdez. The Duck Flats also provide nesting, molting and staging habitat for 52 species of marine birds, 8 species of waterfowl, 18 species of shorebirds and numerous other passerines and raptors. Harbor seals and sea otters also forage throughout the area for mussels and clams.

The injured resources and services that potentially benefit from acquisition of this parcel include pink salmon, intertidal/Subtidal habitats and recreation/tourism.

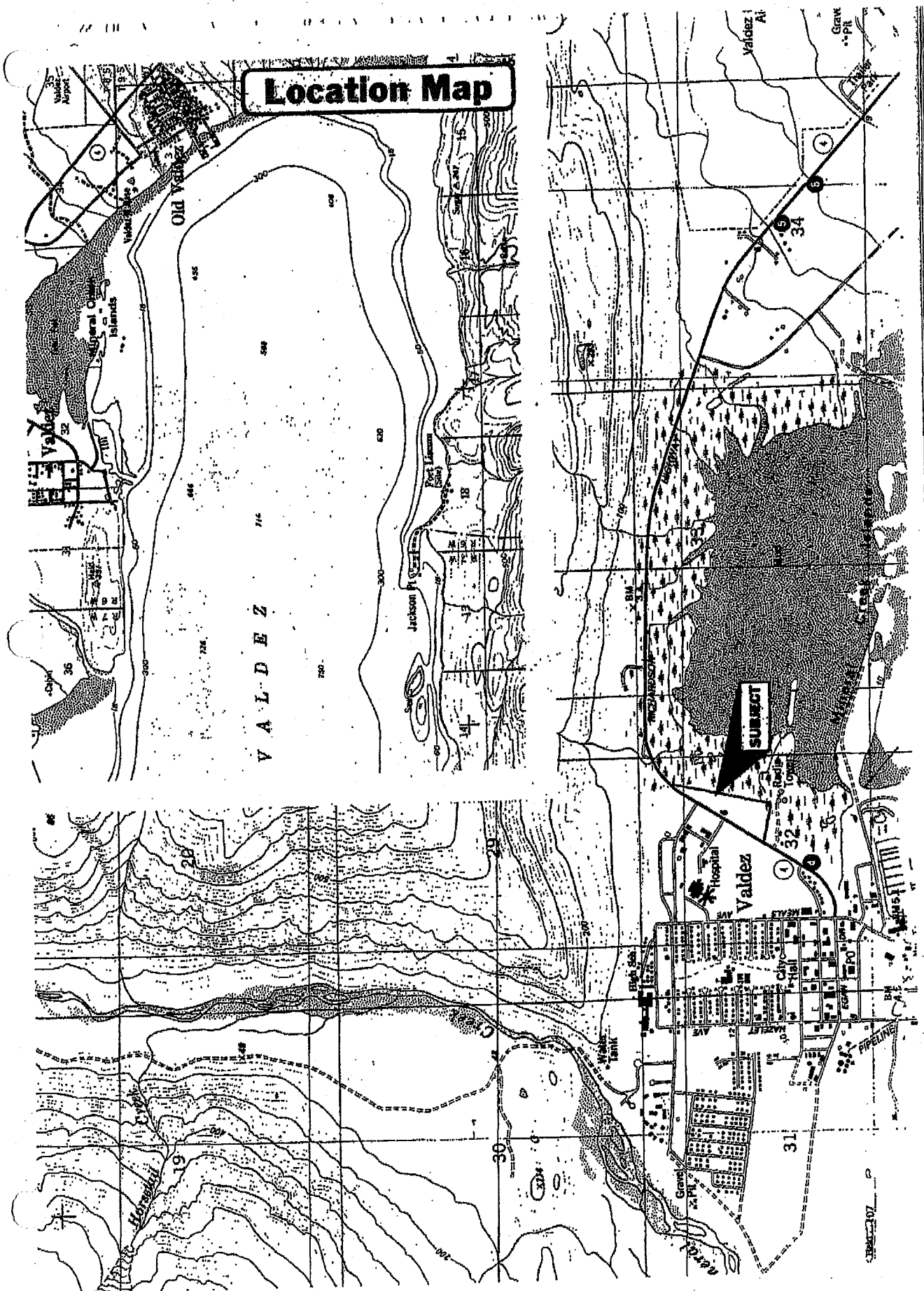
**Potential Threats.** Threats to the resources on this parcel are based largely on facilities expansion. Facilities expansion may include filling of wetlands for parking or public access, highway improvements and interpretive site development. Public ownership of this site would ensure continued public access and visitor enhancements consistent with restoration goals.

**Proposed Management.** The purpose of acquisition is to preserve and protect in perpetuity the ecological, natural, physical and scenic values of the subject property for the benefit of fish and wildlife resources and services that were injured in the *Exxon Valdez* oil spill. If this parcel is acquired, ADF&G will manage the parcel to protect environmentally sensitive estuarine habitat.

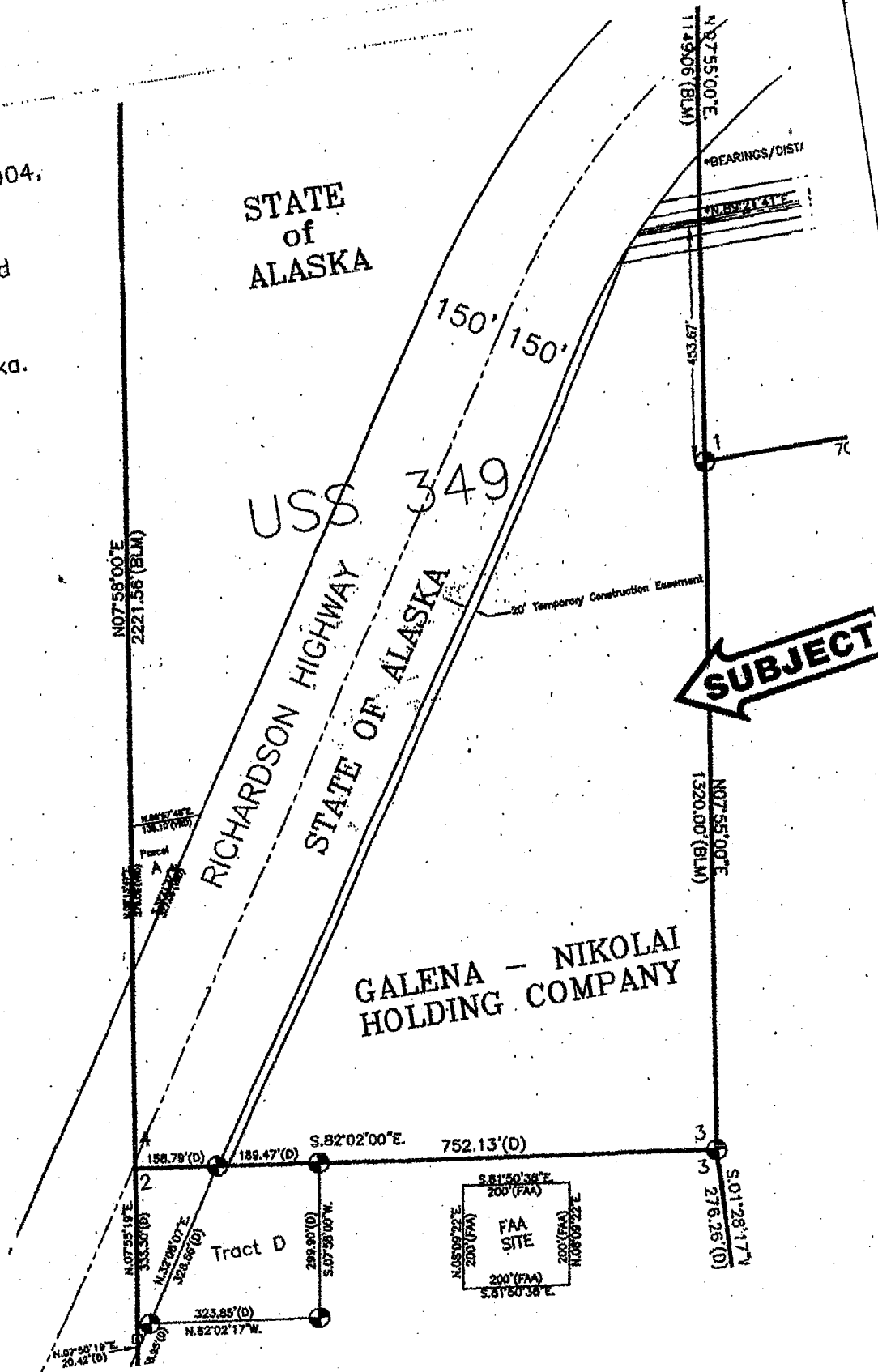
**Appraised Value.** The Trustee Council via Resolution 01-02 offered \$125,000 for the parcel based upon an approved appraisal in December 2000.

Small Parcel Evaluation Process, 1995





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# 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

August 26, 2010

Chaired by: Kim Elton  
Trustee Council Member

Trustee Council Members Present:

Steve Zemke, USFS \*  
• Kim Elton, USDO  
Craig O'Connor, NOAA \*\*

Jennifer Schorr, ADOL \*\*\*  
Denby Lloyd, ADF&G \*\*\*\*\*  
Larry Hartig, ADEC \*\*\*\*

- Chair
- \* Steve Zemke alternate for USFS
- \*\* Craig O'Connor alternate for James Balsiger
- \*\*\* Jennifer Schorr alternate for Daniel Sullivan
- \*\*\*\* Dan Easton alternate for Larry Hartig (9:30-10:45 a.m.)
- \*\*\*\*\* Denby Lloyd plane delayed arrived at 12:30 p.m.

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The meeting convened at 9:35 a.m., August 26, 2010 in Anchorage at the EVOS Conference Room.

### 1. Approval of the Agenda

APPROVED MOTION: Motion to approve the August 26, 2010 agenda

Motion by O'Connor, second by Zemke

### 2. Approval of June 23, 2010 meeting notes

APPROVED MOTION: Motion to approve the June 23, 2010 meeting notes

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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 O'Connor

Public comment opened at 9:40 a.m.

**Two public comments were offered.**

Public comment closed at 9:50 a.m.

**Public Advisory Committee (PAC) comments offered by Douglas Mutter, USDOJ Designated Federal Officer.**

**Meeting recessed at 10:45 a.m.**

**Meeting resumed at 12:30 p.m.**

3. Public Advisory Committee Selection

APPROVED MOTION: Motion to approve forwarding the following to the Secretary of the Interior for appointment to serve on the EVOS Trustee Council's Public Advisory Committee's 2010-2012 Term:

- Aquaculture/Mariculture – Gary Fandrei
- Commercial Fishing – Victoria Baker
- Commercial Tourism – Amanda Bauer
- Conservation/Environmental – Jennifer Gibbins
- Native Landowner – David Totemoff
- Public at Large – Jason Brune
- Recreational User – Stacy Studebaker
- Science/Technical – John French
- Sport Hunting and Fishing – Kurt Eilo
- Subsistence – Patience Andersen Faulkner

Motion by Lloyd, second by Hartig

4. FY 2011 Administrative Budget

APPROVED MOTION: Motion to approve the FFY 2011 Annual Program Development Implementation (APDI) Budget of \$1,834,123 including GA as identified in the FFY 2011 Work Plan

Motion by O'Connor, second by Zemke



5. Project 11100808 Amendment, Esler – Nearshore Synthesis  
– sea otters and sea ducks

APPROVED MOTION: Motion to approve the Esler Project 11100808 Amendment, Nearshore Synthesis – sea otters and sea duck in the amount of \$103, 200 including GA which is included in the FFY 2011 Work Plan.

Motion by O'Connor, second by Lloyd

6. FFY 2011 Work Plan

APPROVED MOTION: Motion to approve FFY 2011 Work Plan in the amount of \$4,686,848 including GA

Motion by Schorr, second by Lloyd

7. Draft Integrated Herring Restoration Program

APPROVED MOTION: Motion to approve adopting the Integrated Herring Restoration Program (IHRP) dated July 21, 2010

Motion by Zemke, second by O'Connor

8. Draft Supplemental Environmental Impact Statement (DSEIS)

APPROVED MOTION: Motion to approve finalizing the July 2010 Draft Supplemental Environmental impact Statement, updating the investment figures, and proceeding with a review of the Record of Decision (ROD). If approved, the Final SEIS will be noticed in the federal register and the ROD can be signed 30 days later

Motion by O'Connor, second by Hartig

9. Adjourn

Motion to adjourn by Elton

Off the record 1:25 p.m.