

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

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State of Alaska
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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.)	FIFTY-SECOND
)	JOINT NOTICE OF
EXXON CORPORATION, and EXXON)	EXPENDITURES FROM
SHIPPING COMPANY,)	THE INVESTMENT
)	FUND
Defendants.)	
_____)	

The United States and the State of Alaska (“the Governments”) jointly provide this notice of their expenditure of \$61,600 from the Exxon Valdez Oil Spill Investment Fund (“Investment Fund”). The entire expenditure is from the Habitat Sub-Account of the 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.¹

The Governments provide notice of this fifty-second expenditure of \$61,600 from the Habitat Sub-Account to purchase Small Parcel KAP 3000 (Torsen).² The entire amount that is the subject of this Notice will be provided to the United States. Resolution

¹ 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.

² The Trustee Council unanimously authorized these funds at its February 21, 2013 meeting in Resolution 13-02. Resolution 13-02 is appended to this Notice as Attachment A, pp. 3-16.

13-02 of the Trustee Council, authorizing funds for the purchase of Small Parcel KAP 3000, required that the fair market value of the parcel as established by an appraisal satisfactory to the State and the United States fall within the range of \$60,000 - \$100,000. An appraisal dated April 30, 2013 established the fair market value as \$61,600.³

The Trustee Council has not met since the Governments' filing on March 18, 2013 of their Fifty-First Joint Notice of Expenditures. The Governments will submit the meeting notes for the February 21, 2013 meeting once they have been approved by the Trustee Council.

RESPECTFULLY SUBMITTED this 18th day of July, 2013 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: /s/ JENNIFER L. SCHORR
Assistant Attorney General
State of Alaska
Department of Law
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501-1994
Telephone: (907) 269-5274
Facsimile: (907) 278-7022
Email: jennifer.schorr@alaska.gov
Alaska Bar #0811082

³ A copy of the transmittal letter for the appraisal, an excerpt from the appraisal, is appended to this Notice as Attachment B.

FOR THE UNITED STATES

/s/ ERIKA M. ZIMMERMAN (consent)
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
c/o NOAA/Damage Assessment
7600 Sand Point Way, NE
Seattle, Washington 98115
Telephone: (206) 526-6608
Facsimile: (907) 526-6665
Email: Erika.Zimmerman@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of July, 2013, a copy of the foregoing FIFTY-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 Fourth Avenue North Nashville, TN 37219	Douglas J. Serdahely Patton Boggs LLP 601 W. 5 th Avenue, Suite 700 Anchorage, AK 99501	Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071
Christine O'Sullivan 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 4210 University Drive Anchorage, AK 99508- 4650
Erika M. Zimmerman U.S. Department of Justice c/o NOAA/Damage Assessment 7600 Sand Point Way NE Seattle, WA 98115		

/s/Jennifer L. Schorr, AAG



THE STATE
of **ALASKA**

GOVERNOR SEAN PARNELL

Department of Law

CIVIL DIVISION

1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Main: 907.269.5100
Fax: 907.276.3697

July 17, 2013

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 \$61,600 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). The entire expenditure is 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:

United States

Amount: \$61,600 from the Habitat Sub-Account

Beneficiary

account: 14X5198

name: Natural Resource Damage Assessment and Restoration Fund
(NRDAR)

Beneficiary

account: 14010001

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

Mr. Gary Bader
Treasury Division, Department of Revenue

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July 17, 2013

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

This transfer should take place when most financially advantageous, preferably on or before July 23, 2013. If you have any questions, please call Elise Hsieh at (907) 265-9330.

Sincerely,



Jennifer L. Schorr
Assistant Attorney General
State of Alaska



Erika M. Zimmerman
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*
Christine O'Sullivan, Alaska Department of Fish and Game, *via email*
Barbara Mason, Alaska Department of Fish and Game, *via email*
Carol Petrabor, Alaska Department of Fish and Game, *via email*
Bronze Ickes, Alaska Department of Revenue, *via email*
Bob Mitchell, 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*
Linda Kilbourne, Exxon Valdez Oil Spill Trustee Council Restoration Office, *via email*

**RESOLUTION 13-02 OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING SMALL PARCEL KAP 3000 (TORSEN)**

We, the undersigned, duly authorized members of the *Exxon Valdez* Oil Spill Trustee Council (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 as follows:

1. The owner of small parcel KAP 3000 (Torsen or Seller) Lot 1 U.S. Survey 13916, as described in Attachment A, has indicated an interest in selling this small parcel.
2. KAP 3000 has attributes that, if it is acquired and protected, will restore, replace, enhance and rehabilitate injured 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 *Exxon Valdez* oil spill (EVOS) has been documented.
3. 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 Bald Eagle Protection Act and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects caused by activities on the lands. However, restoration, replacement, and enhancement of resources injured by the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws and regulations to protect resources, scientists and other resources 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.

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

5. The purchase of small parcel KAP 3000 is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

6. Acquisition of the parcel is consistent with the Final Restoration Plan.

THEREFORE, we authorize the transfer of \$107,600 to the United States Fish and Wildlife Service: \$7,600 to conduct due diligence activities and up to \$100,000 to purchase all of the Seller's rights and interests in small parcel KAP 3000, as described in Attachment A. The purchase of this small parcel is subject to the following conditions:

- a. The fair market value of the parcel as established by an appraisal satisfactory to the State of Alaska and United States must fall within the range of \$60,000 - \$100,000;
- b. Authorization for the purchase of this small parcel shall terminate if a purchase agreement is not executed by February 21, 2015;
- c. A title search satisfactory to the State of Alaska and the United States will be completed, and the Seller shall be willing and able to convey fee simple title by warranty deed;
- d. No timber harvesting, road development or any alteration of the land will be initiated on KAP 3000 prior to the purchase of this parcel without the express written agreement of the State of Alaska and the United States;
- e. A hazardous materials survey satisfactory to the State of Alaska and United States will be completed;

- f. An appropriate federal agency will undertake any necessary environmental compliance measures;
- g. Purchase of the parcel is otherwise consistent with any other applicable federal requirements; and
- h. A conservation easement on parcel KAP 3000 will be conveyed to the State of Alaska that is satisfactory to the United States and the State of Alaska Departments of Law and Natural Resources. It is the intent of the Council that the conservation easement will provide:
 - 1. that any development on parcel KAP 3000 shall be of limited impact and consistent with the goals of restoration; and
 - 2. 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.

The funds authorized above are to be distributed as follows:

U.S. Fish and Wildlife Service	\$107,600
TOTAL APPROVED TO UNITED STATES	\$107,600

By unanimous consent, we hereby 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 to make available \$107,600, for the purposes noted above, from the appropriate account(s) designated by the Executive Director.

Approved by the Council at its meeting of February 21, 2013 held in Anchorage, Alaska, as affirmed by our signatures affixed below.


TERRI MARCERON
Forest Supervisor
Chugach National Forest
U.S. Department of Agriculture

MICHAEL C. GERAGHTY
Attorney General
Alaska Department of Law

PAT POURCHOT
Special Assistant to the Secretary of the
Interior for Alaska Affairs
Office of the Secretary
U.S. Department of the Interior

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

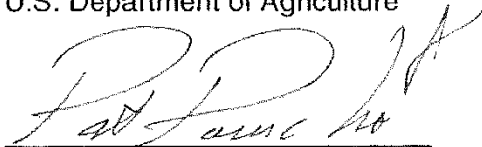
CORA CAMPBELL
Commissioner
Alaska Department of Fish and Game

LARRY HARTIG
Commissioner
Alaska Department of Environmental
Conservation

Attachment A - Restoration Benefits Report and Maps for Torsen Parcel, Shasta Creek,
Kodiak

Approved by the Council at its meeting of February 21, 2013 held in Anchorage, Alaska, as affirmed by our signatures affixed below.

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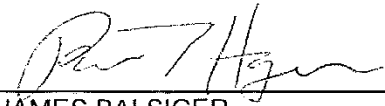
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for JAMES BALSIGER
Administrator, Alaska Region
National Marine Fisheries Service
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Attachment A - Restoration Benefits Report and Maps for Torsen Parcel, Shasta Creek, Kodiak

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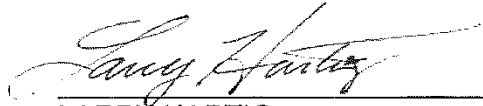
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Attachment A - Restoration Benefits Report and Maps for Torsen Parcel, Shasta Creek, Kodiak

Torsen Parcel, Shasta Creek, Kodiak

Owner: Ernest Torsen
Physical Location: This parcel is located on Shasta Creek, a tributary of the Karluk River, Kodiak Island, Alaska.
Acreage: 87.99 acres
Brief Description: Native Allotment on Shasta Creek
Agency Sponsor: U.S. Fish and Wildlife Service
Appraised Value:

Parcel Description. This parcel, aka Lot 1, U.S. Survey 13916, is a Native allotment comprising 87.99 acres granted to Mr. Torsen by the Bureau of Land Management (BLM). It is located on Shasta Creek a tributary to the Karluk River on Kodiak Island, Alaska. The parcel is located in Section 28, T. 30 S., R. 31 W. of the Seward Meridian. It is bounded by BLM lands to the east, west and south and Koniag lands to the north. Originally this parcel was BLM land. Lands were conveyed to Mr. Torsen under provisions of the Alaska Native Veterans Allotment Act. The parcel is in a natural condition at this time. The parcel is composed of a low tundra mountain which slopes into Shasta Creek.

The Torsen Native allotment was nominated under the *Exxon Valdez* Oil Spill Trustee Council (Council) Small Parcel program in July of 2011 and has been under consideration by the U.S. Fish and Wildlife Service (Service) for several years. This nomination was deferred from Council consideration until approximately 2,082 acres of federal lands managed by the BLM that surround the allotment could be incorporated into the Kodiak National Wildlife Refuge (Refuge), consolidating land ownership. The BLM has recently concurred with the Service's proposal, pursuant to Alaska National Interest Land Conservation Act Section 103(b), to make a minor adjustment to the Refuge boundary that formally incorporates these lands in to the Refuge. Acquisition of the Torsen Native allotment would complete the consolidation of these lands under a single management regime to facilitate the preservation and effective management of water quality, fish and wildlife habitats in this area.

Linkage to Restoration:

Restoration Benefits.

Shasta Creek is a main tributary of the Karluk River, Kodiak's largest river. The Karluk River supports one of only two freshwater king fisheries on Kodiak Island. The king fishery has seriously declined over the past 20 years to the point that sport fish opportunities, once a significant activity on the river, are almost non-existent. The reasons for the decline of the run have not been identified and maybe a result of several factors including bycatch from off shore fisheries, ocean warming and lack of primary food sources. King salmon on Kodiak Island rely on Pacific Herring as a primary food source. Pacific Herring are also known to spawn in the nearshore waters of the Karluk

Page 1 of 2

River Lagoon. The 2010 Injured Resources & Services Update (adopted in May 2010) by the Council lists Pacific Herring as "not recovered". The Karluk drainage is also known to provide critical winter feeding habitat for pigeon guillemots, a species also listed as "not recovered" in the 2010 Injured Resources & Services Update. Acquisition of the Torsen parcel would help support recovery of these injured resources. Shasta Creek is also used by resident Dolly Varden.

The area also supports recreational use by kayakers, nature viewers, fishers, birdwatchers and hikers, particularly those floating down the Karluk River, which Shasta Creek flows into. Shasta Creek is one of the designated campsites on the Karluk River downstream of the Kodiak National Wildlife Refuge. So anyone floating the Karluk River and staying at the campsite would likely notice development on the Torsen parcel.

Potential Threats.

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

Proposed Management.

Upon acquisition, this parcel will be managed by the Kodiak Refuge consistent with applicable federal laws and policy.

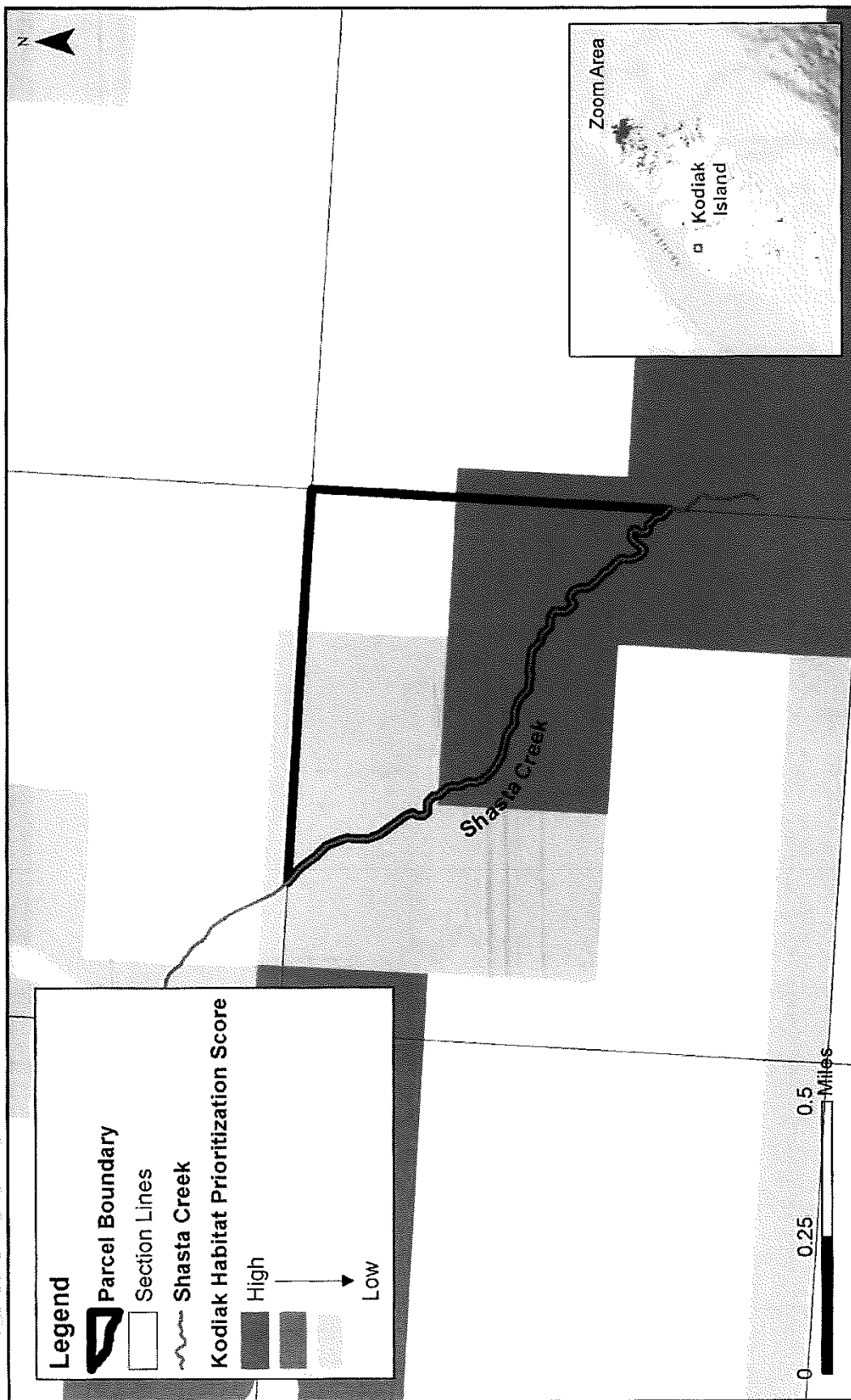
Request.

Torsen Funding and Conditional-Purchase Authorization Request: The Service requests due diligence (appraisal, appraisal review, environmental reviews, and title work) funding in the amount of \$7,600. In addition, the Service requests that the Council conditionally authorize the purchase of this parcel:

- a. if the estimated fair market value falls within the bracketed value of \$60,000 - \$100,000; and
- b. due diligence reports are acceptable to ADNR and ADOL; and
- c. provided that the Council Executive Director, ADNR and ADOL find that it is in best interest of the Council to move forward with acquisition of the parcel.

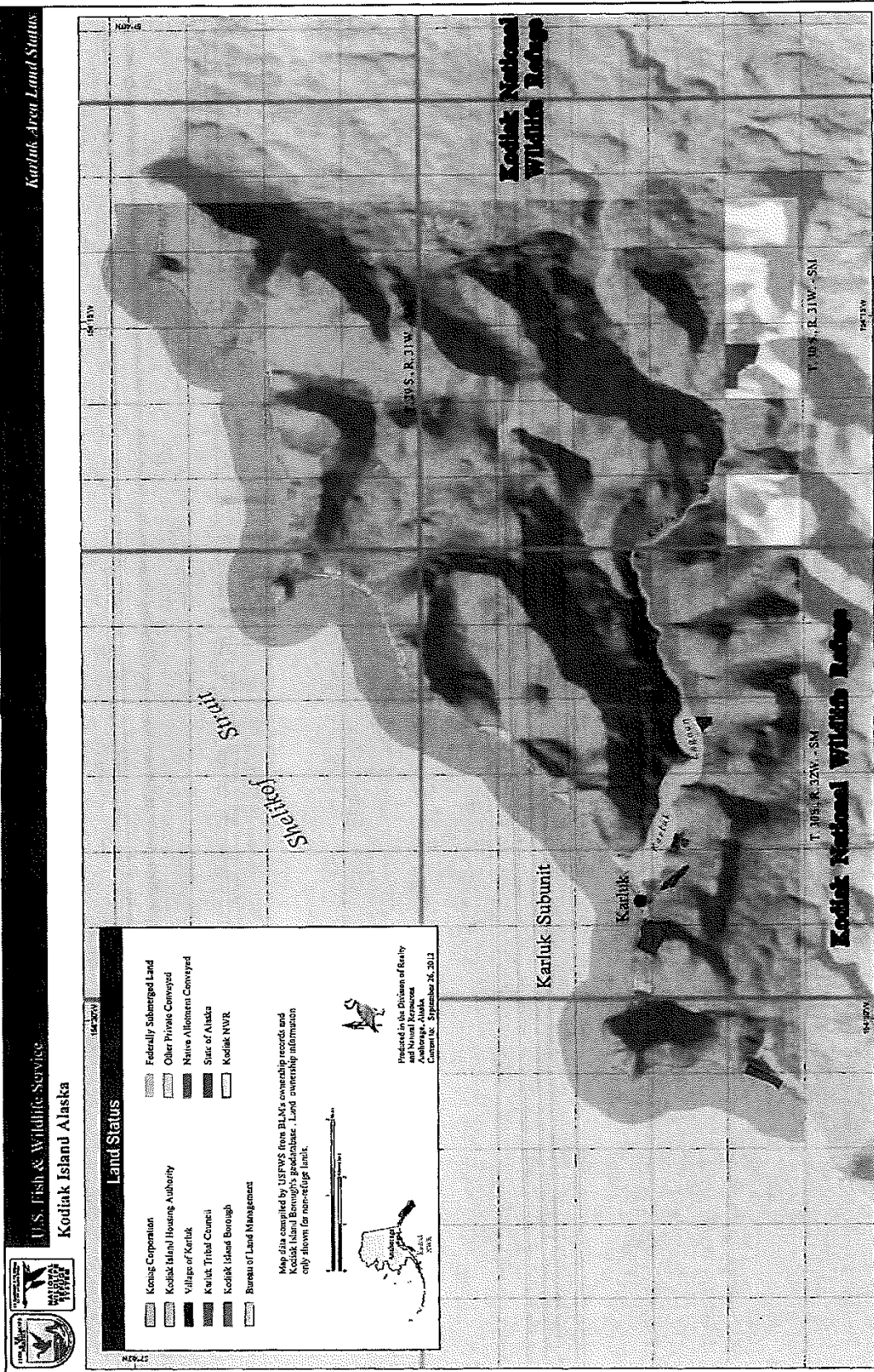
The authorization would be valid for a two-year period.

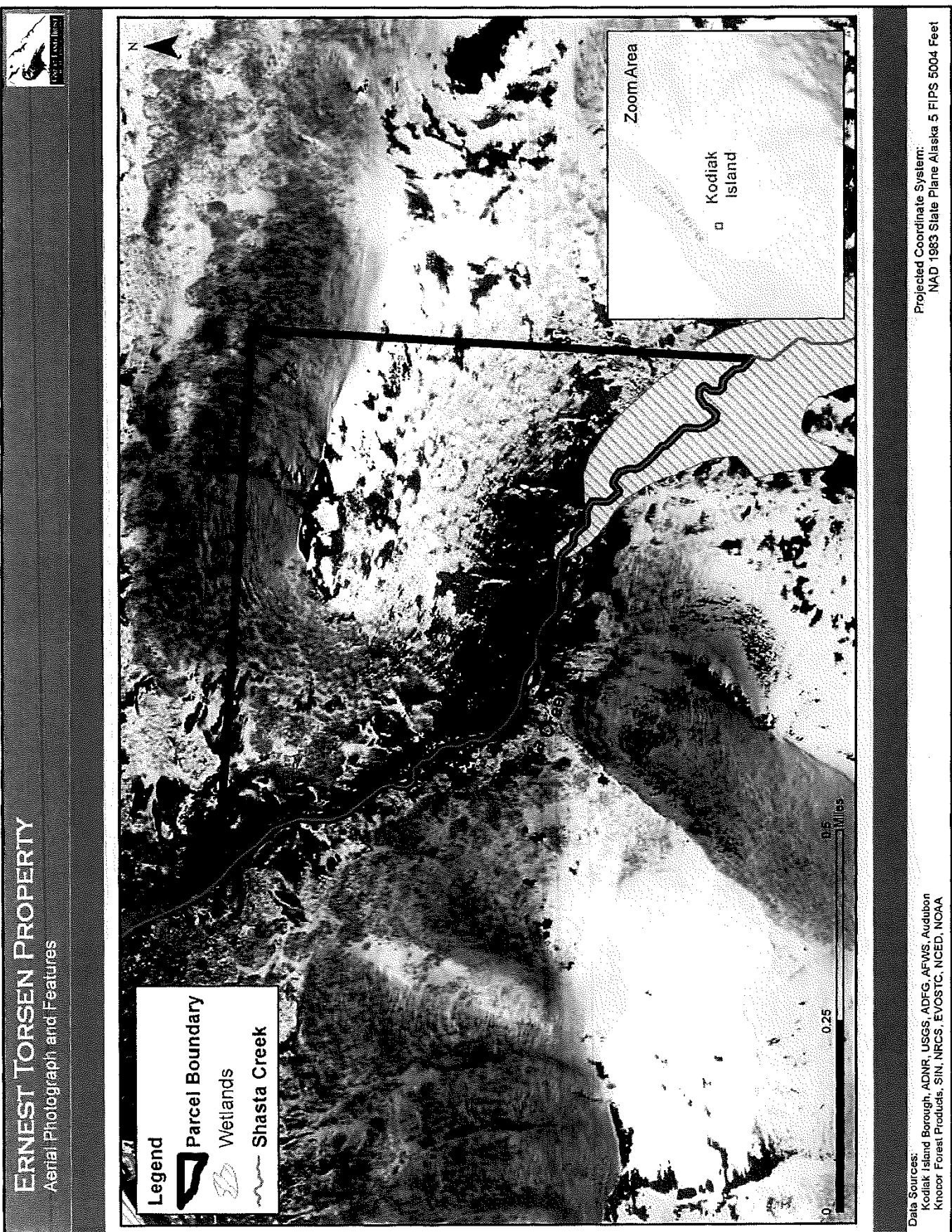
ERNEST TORSEN PROPERTY Kodiak Prioritization Overlay



Data Sources:
Kodiak Island Borough, ADNIR, USGS, ADFG, AFWS, Audubon
Knocor Forest Products, SIN, NRCS, EVOSTC, NCED, NOAA

Projected Coordinate System:
NAD 1983 State Plane Alaska 5 FIPS 5004 Feet





ERNEST TORSTEN PROPERTY

Aerial Photograph and Features

Legend



Parcel Boundary



Wetlands



Shasta Creek

Data Sources:
Kodiak Island Borough, ADNIR, USGS, ADFG, AFWS, Audubon
Knobor Forest Products, SIN, NRCS, EVOSTC, NCED, NOAA

Projected Coordinate System:
NAD 1983 State Plane Alaska 5 FIPS 5004 Feet

Affiliated Appraisers of Alaska

501 W. Northern Lights Blvd., Suite 201
Anchorage, Alaska 99503
(907) 274-1949 / Fax (907) 277-2304
tom.dunagan@gmail.com

April 30, 2013

Ivars Stolcers, Realty Specialist
U.S. Fish and Wildlife Service
Division of Realty and Natural Resources
1011 E. Tudor Road, MS-211
Anchorage, Alaska 99503

RE: A self contained appraisal of Ernest E. Torsen Native Allotment Lot 1, U.S. Survey No. 13916, Kodiak, Alaska.

Dear Mr. Stolcers,

As requested, the above referenced property was inspected for the purpose of estimating the market value of the fee simple interest. Market value assumes cash or cash equivalent basis.

Located within this report are descriptive information, valuation data, analyses, and conclusions used in valuing the property. Values are based on current market conditions and surveys and subject to the Contingent and Limiting Conditions found in the report. This appraisal conforms to the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA).


As a result of my investigation and analyses, it is my opinion the market value of the subject fee simple interest, effective as of April 9, 2013, is:

SIXTY-ONE THOUSAND SIX HUNDRED DOLLARS
(\$61,600)

I hope you find the details of this appraisal relevant to your decisions regarding the subject property. If you have any questions, please call.

Sincerely,

AFFILIATED APPRAISERS OF ALASKA



Thomas R. Dunagan
Real Estate Appraiser AA-38

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Affiliated Appraisers of Alaska