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**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)

**SIXTY-FIFTH
JOINT NOTICE OF
EXPENDITURES FROM
THE INVESTMENT
FUND**

The United States and the State of Alaska ("the Governments") jointly provide this notice ("Notice") of their expenditure of \$5,486,000 from the Exxon Valdez Oil Spill Investment Fund ("Investment Fund"). This expenditure is entirely 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

Sixty-Fifth Joint Notice Of Expenditures From Investment Fund
(Case 3:91-CV-0083 (HRH))

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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

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lands along the Karluk River, and the establishment of a fund to purchase small parcels of land that may become available in the future.¹

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.²

The Governments provide Notice of this sixty-fifth expenditure in the amount of \$5,486,000 from the Habitat Sub-Account, authorizing funding for purchase of the Termination Point Parcel, KAP 3003, on Kodiak Island.³ The entire amount that is the subject of this Notice will be provided to the State of Alaska.

¹ The Koniag Sub-Account funds, which had been set aside for the protection, and potential purchase, of certain lands on Kodiak Island held by Koniag, Inc. (Koniag), were transferred to the Habitat Sub-Account on March 14, 2014 after the final payment due Koniag (after its termination of the Master Agreement for Protection of Certain Lands and Resources Between Koniag, Inc., the United States of America, and the State of Alaska and associated easements) was made, and the Koniag Investment Sub-Account was terminated. The payment was the subject of the Governments’ Fifty-Fifth Joint Notice of Expenditures from the Investment Fund.

² 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.

³ The Trustee Council unanimously authorized the purchase of this parcel at its November 12, 2015 meeting in Resolution 15-03. *Sixtieth Joint Notice of Expenditures from the Investment Fund*, Attachment B pp. 1-4 at Dkt. No. 468-2. A description of the

The Trustee Council has not met since the Governments' filing on January 26, 2017 of their Sixty-Fourth Joint Notice of Expenditures. The Governments will submit the meeting notes for the Trustee Council's last meeting on January 11, 2017 once they have been approved by the Trustee Council.

RESPECTFULLY SUBMITTED this 13th day of March, 2017 at Anchorage, Alaska.

FOR THE STATE OF ALASKA

JAHNA LINDEMUTH
ATTORNEY GENERAL

By: /s/ JENNIFER L. SCHORR
Assistant Attorney General
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FOR THE UNITED STATES

/s/ ERIKA M. WELLS (consent)
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources
Division
United States Department of Justice

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Termination Point Parcel is included at Attachment A, pp. 3-7.

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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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of March, 2017, a copy of the foregoing SIXTY-FIFTH 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. 5th Avenue, Suite 700 Anchorage, AK 99501 | Patrick Lynch O'Melveny & Meyers 400 South Hope Street Los Angeles, CA 90071 |
| Jennifer Reiersen 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 4230 University Drive, Ste. 220 Anchorage, AK 99508- 4650 |
| Erika M. Wells U.S. Department of Justice c/o NOAA/Damage Assessment 7600 Sand Point Way NE Seattle, WA 98115 | | |

/s/Londa Wright

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Sixty-Fifth Joint Notice Of Expenditures From Investment Fund
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THE STATE
of ALASKA

GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION

1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Main: 907-269-5100
Fax: 907-276-3697

March 9, 2017

Mr. Bob Mitchell
State Investment Officer
Treasury Division, Dept. of Revenue
P.O. Box 110405
Juneau, AK 99811-0405

Re: *Exxon Valdez* Oil Spill Investment Fund

Dear Mr. Mitchell:

The *Exxon Valdez* Trustee Council has unanimously determined to expend \$5,486,000 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 is entirely from the Habitat Sub-Account of the Investment Fund.

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:

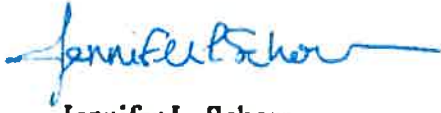
State of Alaska

Amount: \$5,486,000 from the Habitat Sub-Account

Beneficiary: State of Alaska
Account: GeFONSI 33070, Account 22177, ADF&G IRIS Fund 3291
Name: Exxon Valdez Settlement Account

This transfer should take place when most financially advantageous, preferably on or before March 20, 2017. If you have any questions, please email Elise Hsieh at elise.hsieh@alaska.gov.

Sincerely,



Jennifer L. Schorr
Assistant Attorney General
Environmental Section
State of Alaska
Department of Law



Erika M. Wells
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
United States of America

cc: Jennifer Reiersen, Alaska Department of Fish and Game, *via email*
Michelle Kaelke, Alaska Department of Fish and Game, *via email*
Carol Petraborg, Alaska Department of Fish and Game, *via email*
Bronze Ickes, Alaska Department of Revenue, *via email*
Bruce Nessler, 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*

**Termination Point Parcel
KAP3003**

| | |
|-------------------------|--|
| Property Name: | Termination Point |
| Owner: | Leisnoi, Inc. |
| Agency Sponsor: | State of Alaska or Kodiak Island Borough |
| Appraised Value: | \$5,451,000 |
| Funding Request | \$5,486,000 (including \$35,000 closing costs) |

Overview

The Great Land Trust seeks \$5,451,000, as determined by an appraisal, plus closing costs, to fund the conservation of approximately 1,060 acres. This 1,060-acre parcel, known as Termination Point, is owned by Leisnoi, Inc. and is located on the northeastern end of Kodiak Island, within the Kodiak Island Borough and situated in the Gulf of Alaska.

MacSwain and Associates completed an appraisal report on this property. The appraisal is consistent with EVOSTC, USPAP, and UASFLA appraisal standards and reviewed by Johnson Appraisal Company. The timber value on the property has been appraised by Forest & Land Management, Inc. Leisnoi, Inc. would retain certain rights, such as the ability to install appropriate signage, maintain certain rights to archaeological sites and artifacts, engage in subsistence activities, and maintain ownership of any potential carbon credit value. The land would be conserved with a conservation easement held by the State of Alaska or the Kodiak Island Borough with additional enforcement rights held by the Bureau of Land Management (BLM). In both scenarios the property will be managed for conservation and public use. Koniag, Inc. owns the subsurface estate below this property. Negotiations with Koniag, Inc. regarding acquisition of the subsurface estate are ongoing.

The Protection of this Kodiak Archipelago parcel would contribute to EVOSTC area-wide goals of species recovery and habitat protection. Species in the Kodiak Archipelago affected by EVOS are dependent on the coastal, wetland, and upland habitats provided by the Termination Point parcel.

Property Description and Habitat

The Termination Point parcel is approximately 4 air miles north of the city of Kodiak and is located between Monashka Bay and Narrow Strait, and east of Monashka Mountain, along the northeast coast of Kodiak Island. The parcel is undeveloped and accessible via the road system. The Termination Point parcel contains approximately 4.6 miles of convoluted shoreline that is characterized by rocky cliffs and protected beaches. The coastline has numerous nearshore rocks and extensive kelp beds. The parcel consists of rolling wooded uplands to an elevation of 500 feet. The uplands of the parcel are covered with Sitka spruce and have an understory of shrubs and grasses. Termination Point serves coastal wildlife communities such as sea otters and birds identified by the EVOSTC as Injured Species.

Termination Point is located within the Audubon Society-recognized Marmot Bay Colonies Important Bird Area (IBA), which is an area of global importance for the Tufted Puffin. The IBA contains 8 known seabird colonies, and collectively these colonies contain 12 seabird

species. The Termination Point parcel is known to provide coastal forage areas, colony and nesting habitat for several of the sea and shore bird species, including Pelagic Cormorants and Tufted Puffin. The United States Fish and Wildlife Service's National Wetlands Inventory approximates 56.8 acres of wetland habitat within the parcel, described as freshwater forested/shrub wetlands, freshwater emergent wetlands, estuarine and marine wetlands, and freshwater pond.

Restoration Benefits

The productive intertidal area and the adjacent Narrow Strait are important feeding areas for Marbled Murrelets and Pigeon Guillemots, as well as other marine birds. The mature Sitka spruce forest of Termination Point offers prime nesting habitat for Marbled Murrelets, a species for which recovery has been difficult to determine. A number of other Injured Species would benefit from acquisition of the Termination Point parcel, including sea otters, Pelagic Cormorants, Kittlitz's Murrelets, and Pigeon Guillemots. Conservation of the Termination Point parcel would provide permanent habitat protection for these species and assist the EVOSTC in reaching and maintaining its recovery objectives in the Kodiak Archipelago.

The Termination Point parcel also contains important wetlands, including Fish and Wildlife Service-identified nationally declining freshwater forest/shrub, freshwater emergent, estuarine and marine wetlands. Estuarine wetlands provide habitat for Intertidal Communities and other Injured Species. Marine wetlands provide habitat for Subtidal Communities. Acquisition of this parcel would assure high function of these wetlands, which would benefit Injured Species.

Continuous kelp beds occur along the coast of the Termination Point parcel, which provides important juvenile fish habitat that could bolster injured commercial, sport and subsistence fisheries, particularly salmon fisheries.

The Termination Point parcel is approximately 4 air miles or 12 road miles from the city of Kodiak, which is the third largest fishing port in the United States. The parcel would add another 1,060 acres to lands open to the public in the Kodiak area and contribute to recreation and tourism, which were identified by the EVOSTC as an Injured Service. The parcel possesses high recreational qualities for the residents of Kodiak because of its proximity to town and road access. The area is used by the public on a regular basis for both beach and existing trail use and is popular with local hikers and bird viewing groups. The parcel is unique because it could provide for a variety of road-accessible year-round recreational opportunities.

The Termination Point parcel also provides subsistence resources for the village residents of Ouzinkie. Three cultural resource sites containing middens and barabara depressions (remnant house pits) have been documented on the parcel. The purchase of this parcel would contribute to the perpetual health of the local native peoples and benefit subsistence harvest levels, which is identified as an Injured Human Service.

Potential Threats

The Termination Point parcel is a privately-owned oceanfront property that is easily accessible to the town of Kodiak. The property is at risk of being logged or subdivided, or both. Protection of this parcel conserve habitat preventing habitat loss and fragmentation and would ensure

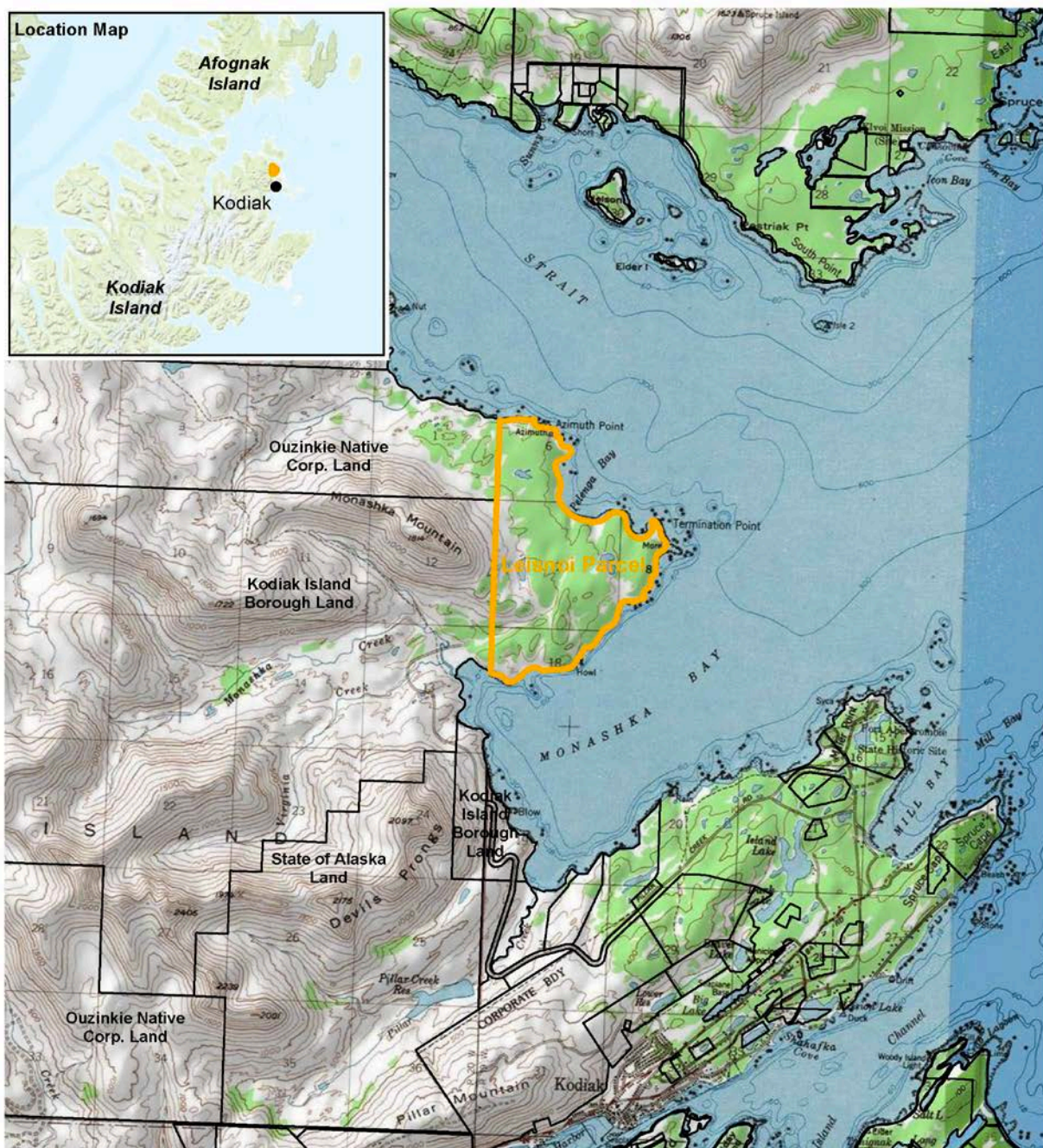
that residents of and visitors to Kodiak would have access to a popular recreational area. It is located within the Marmot Bay Colonies IBA, which is threatened by habitat fragmentation, nutrient pollution, and water pollution.

Proposed Management

The property would be managed by the State of Alaska or the Kodiak Island Borough.

Funding Request

\$5,486,000



Leisnoi Inc. Land - Termination Point

March 3, 2015

Leisnoi Inc. Surface Owner, Koniag Corp. Subsurface Owner

Approximate Legal Description & Acreage:

Tract C of T27S, R19W, Seward Meridian, and located in the Kodiak Island Borough, Kodiak Recording District, Alaska, containing 1,060 acres, more or less.



0 0.75 1.5 Miles

Great Land Trust
EVOS Habitat Prioritization



Photo: Termination Point coast



Photo: Trail and coastal forest habitat



Photo: Termination Point and coastal wetlands



Photo: Coastal forest and wetland habitat