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**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

STATE OF ALASKA,)	
)	
Plaintiff,)	No. 3:91-CV-0083 (HRH)
)	
v.)	SEVENTY-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 ("Notice") of their expenditure of \$745,000 from 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.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 seventy-second expenditure in the amount of \$745,000 from the Habitat Sub-Account, which includes \$120,000 for purchase of the Kenai River Fair Parcel, KEN 4016³ and \$625,000 for purchase of the Kenai River Lofstedt Parcel, KEN 4011.⁴

¹ The Koniag Sub-Account has been terminated. The funds previously held in that sub-account were transferred to the Habitat Sub-Account on March 14, 2014. See *Fifty-Fifth Joint Notice of Expenditures from the Investment Fund*. Dkt. No. 349.

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 this expenditure at its October 17, 2018 meeting in Resolution 18-03. *Seventy-First Joint Notice of Expenditures from the Investment Fund*, Attachment A, Dkt. No. 392-1, pp. 4-14. A description of the parcel is attached to this Notice as Attachment A, pp. 3-7.

⁴ The Trustee Council unanimously authorized this expenditure at its April 9, 2018 meeting in Resolution 18-01. *Sixty-Ninth Joint Notice of Expenditures from the Investment Fund*,

Of the \$745,000 that is the subject of this Notice, \$120,000 will be provided to the United States and \$625,000 will be provided to the State of Alaska.

The Trustee Council has not met since the Governments' filing on December 21, 2018 of their Seventy-First Joint Notice of Expenditures. The Governments will submit the meeting notes for the Trustee Council's last meeting on October 17, 2018, once they have been approved by the Trustee Council.

RESPECTFULLY SUBMITTED this 19th day of April, 2019.

FOR THE STATE OF ALASKA

KEVIN G. CLARKSON
ATTORNEY GENERAL

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Attachment A, Dkt. No. 390-1, pp. 5-14. A description of the parcel is attached to this Notice as Attachment A, pp. 8-12.

SEVENTY-SECOND JOINT NOTICE OF EXPENDITURES
FROM THE INVESTMENT FUND
(Case 3:91-CV-0083 (HRH))

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FOR THE UNITED STATES

BRUCE S. GELBER
Deputy Assistant Attorney General
Environment & Natural Resources Division
United States Department of Justice

s/ ERIKA M. WELLS (consent)
Trial Attorney, Oregon No. 055004
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
c/o NOAA/Damage Assessment
7600 Sand Point Way, NE
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SEVENTY-SECOND JOINT NOTICE OF EXPENDITURES
FROM THE INVESTMENT FUND
(Case 3:91-CV-0083 (HRH))

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 2019, a copy of the foregoing, SEVENTY-SECOND JOINT NOTICE OF EXPENDITURES FROM THE INVESTMENT FUND, was served by the Court's CM/ECF system upon all persons registered to receive filings in this matter.

s/ Kendra M. Mons-Verley



U.S. Department of Justice

Environment and Natural Resources Division

*Environmental Enforcement Section
7600 Sand Point Way NE
Seattle, Washington 98115*

Erika M. Wells
*Direct (206) 526-6608
erika.wells@usdoj.gov*

April 3, 2019

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 \$745,000 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 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: \$120,000 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. Bob Mitchell
Treasury Division, Department of Revenue

April 3, 2019

Beneficiary Bank

Account: 021030004
Name: Treasury, NYC

OBI Text

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

Beneficiary Reference

A91-082Civil

State of Alaska

Amount: \$625,000 from the Habitat Sub-Account

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

This transfer should take place when most financially advantageous, preferably on or before April 19, 2019. If you have any questions, please email Elise Hsieh at elise.hsieh@alaska.gov.

Sincerely,



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



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

cc: Jennifer Chapman, 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*
Jesse Blackwell, 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*

Kenai River Fair Property

Prepared by U.S. Fish and Wildlife Service

September 14, 2018

Property Name:	Kenai River Fair Property, KEN 4016
Owner:	Fair Family Trust
Agency Sponsor	U.S. Fish and Wildlife Service
Funding Request	\$120,000 including due diligence and closing costs
Acreage	Approximately 47.14 acres
Legal Description	T. 5N., R. 9W. Section 31, Seward Meridian, USFWS Tract 39

Overview:

This project is a 47.14 acre unimproved parcel fronting on the north bank of the Kenai River for approximately 1,400 feet and is accessible by boat. If acquired, the U.S. Fish and Wildlife Service (Service) can process a minor boundary adjustment to include the parcel in the Kenai National Wildlife Refuge (Kenai NWR). This acquisition is fee simple (both surface and subsurface estates). The Kachemak Heritage Land Trust (KHLT) currently holds a conservation easement (Easement) on the property that in general protects the conservation values of the property. However, the Easement allows construction of a privately owned cabin and outbuildings, gardens, domestic water source, sewage disposal system and underground utility service. Upon purchase, a new conservation easement would prohibit private development and the parcel would be managed for protection of habitat and for public use and recreation as refuge lands. The parcel would be purchased at its fair market value as determined by an appraisal prepared to EVOSTC, USPAP and UASFLA appraisal standards and reviewed and approved by an Office of Valuation Services (Department of Interior) review appraiser. Maps showing the location of the Fair property and the Kenai NWR are attached.

Property Description and Habitat:

This unimproved land is composed of 4 distinct habitat types – an upland white spruce forest with blueberries, alders and other native plant species that is separated from the remainder of the property by a steep 80 foot high bluff; a freshwater forested wetland approximately 5 acres in size; kettle wetlands approximately 20 acres in size; and riparian habitat paralleling the river. As a whole these areas provide significant habitat that supports numerous species of wildlife. Migratory and resident birds use various habitats on and adjacent to the property. Migratory birds documented using the property include many species of water birds and neo-tropical birds (many of which have suffered serious population declines over the past 20 years). Resident birds that nest of the property include bald eagles, northern goshawks and a variety of owls. Large mammals that utilize the property include moose, wolf, lynx, coyote and brown bear. The Kenai River runs along the boundary of the property.

The Marbled murrelet is an EVOS-affected species designated as 'not recovering'. The parcel and surrounding area contain Marbled murrelet nesting habitat. The property and surrounding

area also contain habitat that supports bald eagles, Dolly Varden trout, river otters and sockeye salmon, all of which are EVOS-affected species. Other notable wildlife species found in the area include sandhill crane, Hudsonian godwit, various shorebirds, Bonaparte's gull, mew gull, herring gull, Arctic tern and snow bunting.

The Kenai River is the primary contributor to Cook Inlet area commercial, recreation, subsistence, and personal use sockeye salmon fisheries. The purchase of this property containing valuable riparian and wildlife habitat would benefit the protection of adjacent riverine fisheries and is considered to be a high priority acquisition for the Service and refuge system.

Restoration Benefits:

Conservation of the property would provide permanent habitat protection for Marbled murrelets (EVOS-affected species not recovering) and benefit several other EVOS-affected species, including Bald eagles, Dolly Varden trout, river otters and sockeye salmon, thereby assisting the EVOSTC in maintaining the protection of these species and their habitat. It would ensure conservation and protection of the land and its wildlife in perpetuity. It would significantly contribute to a larger effort and strategy of the *Kenai Mountains to Sea* partnership to ensure that a riparian corridor and connectivity is maintained along the Kenai River, between its mouth and the refuge boundary. Moreover, it would contribute to the river corridor that provides wildlife habitat and movement along the river, including foraging flights by Marbled murrelets. In addition to the benefits afforded to wildlife and its habitat, this acquisition would also assist with the recovering human services affected by the oil spill, including commercial fishing, recreation, tourism and subsistence. Approximately 75% of the river frontage along the Kenai River, not within the Kenai Refuge boundary, is privately owned. This parcel would potentially provide public access for sport fishing and hunting along a stretch of the river that has limited public access.

Potential Threats:

The acquisition and conservation of this parcel would eliminate a number of threats to wildlife and its habitat, including potential development of the parcel causing habitat loss, blockage of wildlife corridors and connectivity of the river system corridor, resulting in fragmentation of habitat and restriction of wildlife movement. These restrictions can result in decreased genetic diversity, decreased ability of the wildlife populations to adapt to changes in the environment, and can prevent access to required resources necessary for healthy populations.

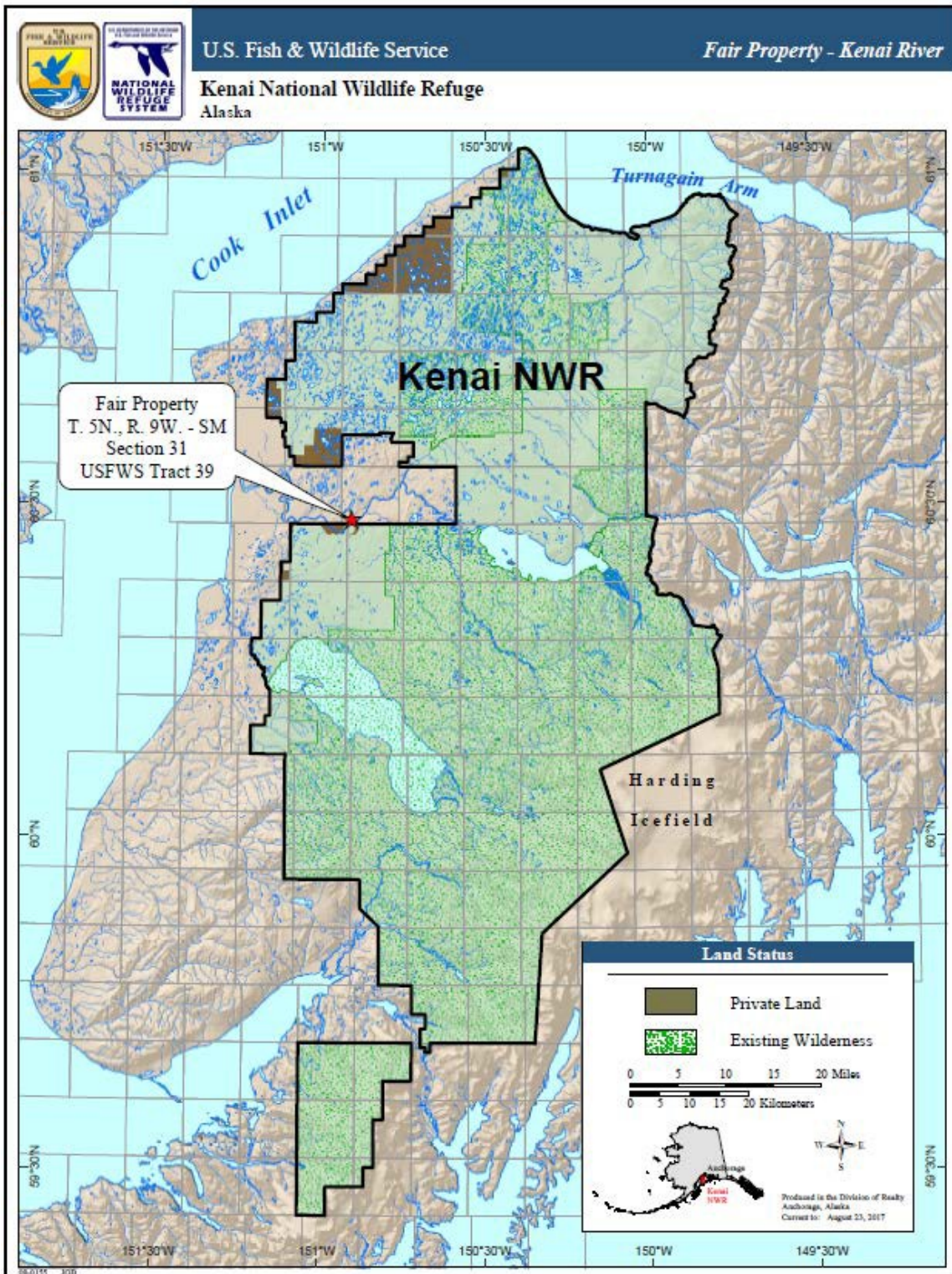
Proposed Management:

The property would be managed U.S. Fish and Wildlife Service, Kenai NWR, with a conservation easement to the State of Alaska.

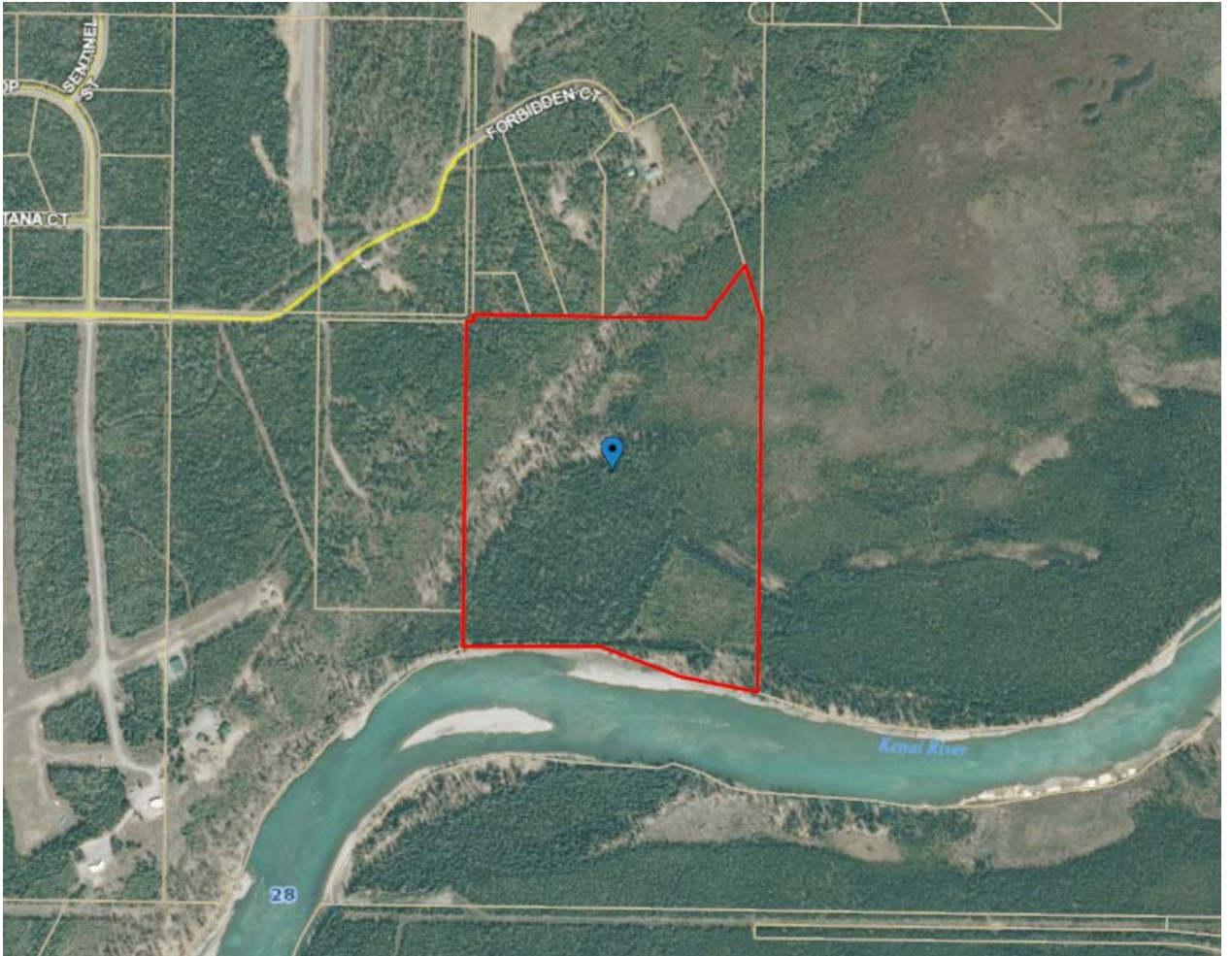
Funding Request:

The funding requested to acquire the property is for \$120,000, including due diligence and closing costs, with the final purchase price as determined by an appraisal meeting EVOSTC,

USPAP and UASFLA standards and reviewed and approved by the Office of Valuation Services (Department of Interior).



Area Map showing Fair Family Trust property.



Detailed map of Fair Family Trust Property. Parcel shown in red.

Property Name:	Lofstedt Parcel: 2688 Beaver Loop Road, Kenai, AK 99611
Owner:	The Estate of Vernon Lofstedt
Agency Sponsor:	Proposed for ADNR/State Parks
Funding Request	\$625,000, including due diligence and closing costs
Acreage	Approximately 10 acres
Legal Description	T 5N R 11W SEC 10 SEWARD MERIDIAN KN 0001709 HORSESHOE END AT RIVER BEND SUB TRACT 1

Overview:

This parcel is an approximately 10-acre parcel containing about 5 acres of wetlands, 5 acres of uplands, with 780 feet of Kenai River frontage. The parcel has road and river access. The parcel is located on the lower Kenai River in the State of Alaska's Kenai River Special Management Area. The parcel ranks in the highest priority category in the 2014 GLT EVOSTC Habitat Land Prioritization. The sellers own a partial interest in the subsurface estate which would be part of the sale. The remaining subsurface interest is in private ownership. The attached photographs and maps show the parcel and its location in relation to other past and presently proposed EVOSTC-funded habitat projects.

Added Benefit to Past EVOS Trustee Council Actions:

Since 1994 the Council has made efforts to focus on the Kenai River and has acquired multiple Kenai River properties containing riverine, riparian, and wetland habitat. The subject property is adjacent to the 100-acre Cone parcel acquired in 1996 with EVOSTC funds, which was approved by EVOSTC resolution 95-11-20, and thus this project builds on past EVOSTC efforts. The Cone parcel is jointly managed by ADNR/ADFG. The wetlands between the two parcels are continuous.

Protection Benefits:

The Lofstedt parcel provides high-value habitat for EVOS injured species. It includes and is immediately adjacent to freshwater, intertidal and subtidal wetlands providing habitat for waterfowl, shorebirds, raptors, marine mammals, and anadromous fish. The parcel benefits the following EVOS-affected species and services: Bald eagles, Dolly Varden, harbor seals, intertidal communities, pink salmon, river otters, sockeye salmon, commercial fishing, passive use, recreation and tourism, and subsistence.

In addition to the habitat provided for EVOS-affected species, the parcel provides the following additional resources. The naturally vegetated riverbank helps provide excellent rearing and overwintering habitat for Dolly Varden, chinook and coho salmon. There is extensive high value tidal marsh supporting intertidal/subtidal resources on and adjacent to the parcel. Harbor seals and Beluga whales feed in proximity to this parcel. Waterfowl, shorebirds, Bald eagles and raptors use this area for feeding, nesting, and staging. The property contains extensive wetland habitat which is part of a larger wetland system.

March 21, 2018

Potential Threats:

The parcel contains desirable Kenai River frontage and adjacent uplands. The parcel could be subdivided into small house lots. The landowner plans to list the property with a real estate agent if EVOS does not purchase it.

Proposed Management:

The property would be held by the State of Alaska Department of Natural Resources, with a conservation easement to the U.S./BLM.

Funding Request:

\$625,000 including due diligence, closing costs and initial enhancements, with the final purchase price to be determined upon completion of the appraisal.

March 21, 2018

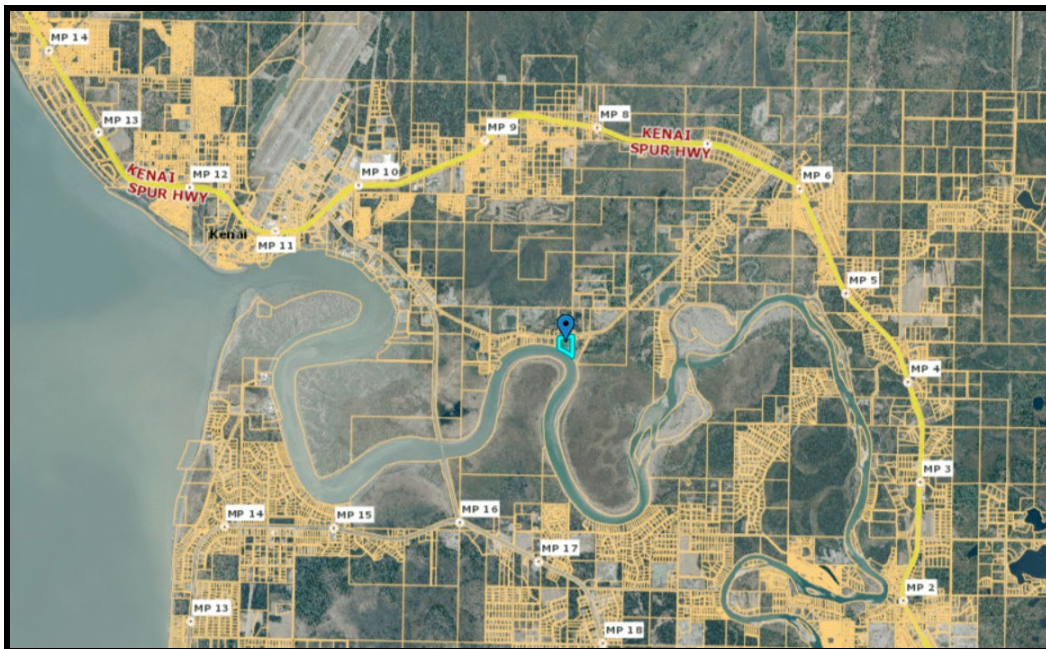


Photo: Lofstedt Parcel (looking downstream/ west) on the Kenai River showing the Kenai River frontage and the parcel's wetlands and uplands.



Photo: Lofstedt Parcel on the right and the 1996 EVOS Acquisition Cone Parcel on the left, Kenai River in the center to the south.

March 21, 2018



Maps: Vicinity map and parcel map with aerial imagery showing the Lofstedt parcel outlined in blue.

March 21, 2018