

8/9/99

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL**

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, which was previously included as part of parcel PWS 05, and is now referred to as PWS 1028, have indicated an interest in selling PWS 1028, consisting of approximately twenty-one 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.
2. An appraisal approved by the state and federal review appraisers estimates the fee simple fair market value of PWS 1028 is \$120,000.
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 area supports spawning populations located in small streams that empty into the Duck Flats. 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 were heavily impacted by the EVOS and constitute an important food sources for several species injured by the spill such as harlequin ducks and black oystercatchers.

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 law and regulations to protect resources, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

5. There 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 oil 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 1028 and to provide funds necessary for closing costs recommended by the Executive Director of the 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 thousand dollars (\$120,000) for small parcel PWS 1028;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by September 1, 2001;

(c) disbursement of these funds by the District Court;

(d) 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;

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

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

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

(h) a conservation easement on parcel PWS 1028, satisfactory in form and substance to the United States and the State of Alaska Department of Law, shall be conveyed to the State of Alaska. The conservation easement may provide for the construction of a turnout, a boardwalk on the north side of Inner Point and Old Mineral Creek Road, a new visitor center, which shall not exceed 3500 square feet, and associated parking facilities.

By unanimous consent, following execution of the purchase agreement between the seller and the United States and certification by the Executive Director that the executed purchase agreement is in accordance with the foregoing terms and conditions, 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 petition the District Court for disbursement of the joint settlement funds in the above certified amount.

Such amount represents the only amount due under this resolution to the sellers by the United States to be funded from the joint funds in the District Court Registry, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

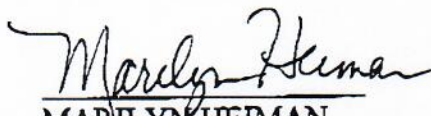
Approved by the Council at its meeting of August 9, 1999 held in Anchorage, Alaska, as affirmed by our signatures affixed below:



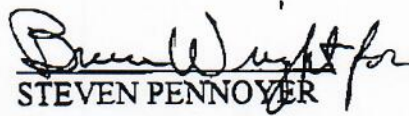
DAVE GIBBONS
Trustee Representative
Alaska Region
USDA Forest Service



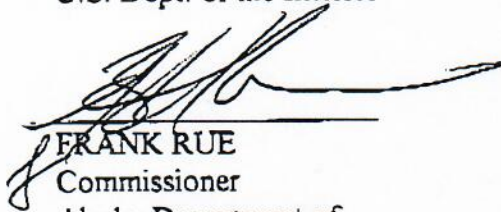
BRUCE M. BOTELHO
Attorney General
State of Alaska



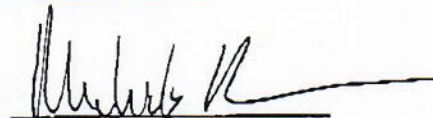
MARILYN HEIMAN
Special Assistant to the
Secretary for Alaska
U.S. Dept. of the Interior



STEVEN PENNOYER
Director, Alaska Region
National Marine
Fisheries Service



FRANK RUE
Commissioner
Alaska Department of
Fish and Game



MICHELE BROWN
Commissioner
Alaska Department of
Environmental Conservation

Attachment A: Restoration Benefits Report

PWS 1028: Valdez Duck Flats

Acreage: 20.5 **Rank:** PMSC **Sponsor:** USFS **Appraised Value:** \$120,000

Owner: Gelena Nikolai Holding Company

Location: Valdez Duck Flats, Valdez, Alaska

Parcel Description. The property fronts the east side of the Richardson Highway, due east of the Valdez Townsite. It is located within the Valdez city limits and is subject to their land use regulations. The parcel has a triangular shape and contains 20.5 acres.

Restoration Benefits. The Valdez Duck Flats, are a rich, intertidal zone directly east and adjacent to the downtown area of Valdez, Alaska. The Duck Flats provide habitats for many aquatic and near shore species, and support aquatic birds, anadromous fish, marine mammals and other intertidal organisms representative of those injured by the 1989 *Exxon Valdez* oil spill. Portions of the Duck Flats are subject to commercial development and visitor overuse.

The Duck Flats were nominated (1992) as an Area Meriting Special Attention within the City of Valdez Coastal Management Program. The Duck Flats were considered by the Alaska Department of Fish and Game and the National Marine Fisheries Service, for the establishment of a National Estuarine Research Reserve. The Duck Flats were not included in either program and, therefore, lack the management and protection that would have been provided.

The Trustee Council funded 97230, Conceptual Plan for the Valdez Duck Flats Project, to look at ways to aid in the recovery of oil spill injured species and populations. The plan also identified alternatives to maximize public education while mitigating adverse effects of human access to the area.

Potential Threats. The area is subject to commercial development. A RV park has recently been built adjacent to the parcel. There are proposals to fill the parcel for commercial use.

Proposed Management. The parcel will be managed by the US Forest Service for conservation and public education.

Wetlands Inventory Map

Parcel 1 - USS 349

Subject

Old Valdez

A L D E Z

