

6/8/98

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

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

1. The owners of the Termination Point small parcel, KAP 145, have indicated an interest in selling said parcel;
2. An appraisal of the parcel has been approved by the State and federal review appraisers;
3. As set forth in Attachment A, Restoration Benefits Report for KAP 145, if acquired, this small parcel has attributes which 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. Acquisition of this small parcel will assure protection of 1,028 acres on Monashka Bay on the northeast coast of Kodiak Island. The parcel is forested with Sitka spruce with an understory of shrubs and grasses. The parcel contains four miles of convoluted shoreline characterized by rocky cliffs and protected beaches with numerous nearshore rocks and extensive kelp beds. The parcel provides important habitat for bald eagles, intertidal and subtidal organisms, marbled murrelets, pigeon guillemots, and other marine birds. The parcel contains three known archeological sites with middens and barabara depressions. The parcel has important recreational qualities.
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 *Exxon Valdez* oil spill ("EVOS") present a unique situation. Without passing judgment 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 has been widespread public support for the acquisition of lands within Alaska as well as on a national basis;

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

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 State of Alaska, to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in the small parcel KAP 145 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 and pursuant to the following conditions:

(a) the amount of funds (hereinafter referred to as the "Purchase Price") to be provided by the Trustee Council to the State of Alaska shall be one million eight hundred sixty-five thousand

dollars (\$1,865,000) for small parcel KAP 145;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by June 15, 1999;

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

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

(e) 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 prior to purchase;

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

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

(h) a conservation easement on parcel KAP 145 shall be conveyed to the United States which must be satisfactory in form and substance to the United States and the State of Alaska Department of Law.

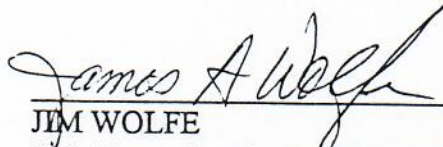
It is the intent of the Trustee Council that the above referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent with applicable state or federal law and the goals of restoration to 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

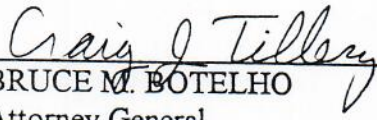
and affected services, as described in the Memorandum of Agreement and Consent Decree between the United States and the State of Alaska entered August 28, 1991 and the Restoration Plan as approved by the Trustee Council.

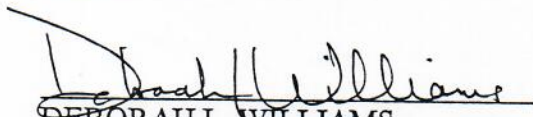
By unanimous consent, following execution of the purchase agreement between the seller and the State of Alaska and certification by the Executive Director that the executed purchase agreement is in accordance with the foregoing terms and conditions, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice to petition the District Court for disbursement of the joint settlement funds in the above certified amount.

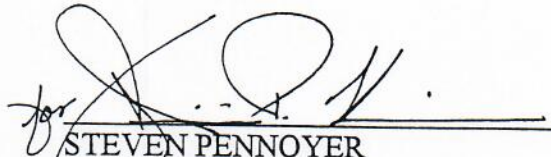
Such amount represent the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint funds in the District Court Registry, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

Approved by the Council at its meeting of June 8, 1998 held in Juneau and Anchorage,
Alaska, as affirmed by our signatures affixed below:


JIM WOLFE
U.S. Forest Service Representative
Alaska Region
USDA Forest Service


BRUCE M. BOTELHO
Attorney General
State of Alaska


DEBORAH L. WILLIAMS
Special Assistant to the
Secretary for Alaska
Department 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

KAP 145: Termination Point

Acreage: 1,028 **Rank:** Moderate **Sponsor:** ADNR **Appraised Value:** \$1,882,000
Owner: Uncertain. Nominated by Leisnoi Inc.
Location: Monashka Bay, northeast coast of Kodiak Island

Parcel Description. This parcel is on Monashka Bay on the northeast coast of Kodiak Island approximately 12 miles from the town of Kodiak. This relatively flat coastal tract is forested with Sitka spruce and has an understory of shrubs and grasses. The parcel's four miles of convoluted shoreline is characterized by rocky cliffs and protected beaches. The coastline has numerous nearshore rocks and extensive kelp beds.

Restoration Benefits. Public ownership of this parcel would protect habitat for bald eagles, intertidal/subtidal organisms, marbled murrelets, and pigeon guillemots and ensure the continued use of the area for recreation and subsistence. Habitats and continued public use of this parcel are at risk because of potential commercial timber harvest and/or subdivision of the parcel. Public ownership of the parcel would also agencies to enhance recreational services by developing and maintaining trails, constructing parking areas and other access points.

Key habitat and other attributes of this parcel include the following:

- *Bald eagles* nest on the parcel.
- *Intertidal/subtidal organisms, marbled murrelets and pigeon guillemots.* 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.
- *Subsistence.* The parcel also provides subsistence resources for the village residents of Ouzinkie. Residents harvest marine mammals and fish, salmon and deer.
- *Archaeological resources.* Three cultural resource sites containing middens and barabara depressions (remnant house pits) are located on the parcel.
- *Recreation/tourism.* The parcel possesses high recreational qualities for the residents of Kodiak and is used by the public on a regular basis. The parcel is unique because it provides for a variety of year-round recreational opportunities such as hiking, fishing, hunting, ice skating, camping, and bird watching, and is accessible by the Kodiak road system.

Potential Threats. Timber harvest is planned for land adjacent to this parcel. Termination Point is forested and also has potential for commercial timber harvest. Also, because of its proximity to the City of Kodiak and its accessibility by road, it has considerable potential for residential subdivision in the future.

Appraised Value. The appraised value of this parcel is \$1,882,000. The highest and best use of this parcel is for mixed use: forestry and rural residential use.

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. ADNR proposes to manage this parcel. The parcel will probably be classified "Habitat/Public Recreation Land."

Public Comment. Support for acquisition of this parcel was expressed by the Kodiak Island Borough Assembly (Resolution 95-23), Kodiak State Park Citizens Advisory Board, and 17 individuals. Supporters cited the rich diversity of habitat on the parcel, its accessibility to the City of Kodiak, and concern that it may be logged. One individual opposed acquisition because the parcel was not affected by the spill and because he objects to transferring land from private to public ownership. The Public Advisory Group underscored the extremely high local interest in this parcel, mostly due to its recreational value, and recommended consultation with the villages on management of the parcel because of the high level of subsistence use.

