

7/1/98

**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 Patson small parcel, KEN 1034, have executed an option to sell the parcel to The Conservation Fund for the price of \$450,000;
2. An appraisal of the parcel has been approved by the state and federal review appraisers, and \$450,000 is within the range of values ascribed to the parcel by the review appraisers;
3. As set forth in Attachment A, Restoration Benefits Report for KEN 1034, 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 76.33 acres including approximately 1500 feet of linear shoreline along the Kenai River. The parcel contains important riparian habitat such as low, overhanging grassy banks for fish rearing, extensive wetlands for maintaining water quality, and forested uplands. The parcel provides restoration benefits for pink salmon, sockeye salmon, coho salmon, and dolly varden.
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 purchase all the seller's rights and interests in the small parcel KEN 1034 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 four hundred fifty thousand dollars (\$450,000) for small parcel KEN 1034;

(b) authorization for funding for any acquisition described in the foregoing paragraph shall terminate if a purchase agreement is not executed by July 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 KEN 1034 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.

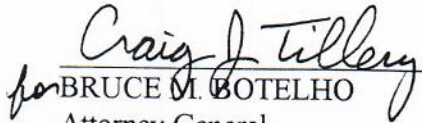
It is the intent of the Trustee Council that the above referenced conservation easement will provide that any facilities or other development on the foregoing small parcel shall be of limited impact and in keeping with the goals of restoration, that there shall be no commercial use except as may be consistent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

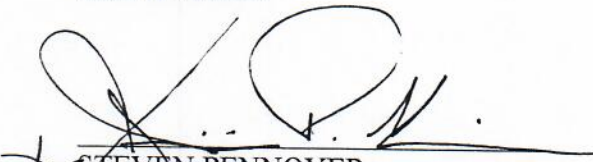
Such amount represents the only amount due under this resolution to the sellers by the State of Alaska to be funded from the joint funds in the District Court Registry, and no additional amounts or interest are herein authorized to be paid to the sellers from such joint funds.

Approved by the Council at its meeting of July 1, 1998 held in Juneau and Anchorage, Alaska, as affirmed by our signatures affixed below:


JAMES A. WOLFE
Regional Forester Trustee Representative
Alaska Region
USDA Forest Service


for BRUCE M. BOTELHO
Attorney General
State of Alaska


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


for 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

KEN
PWS 1034: Patson Parcel

Acreage: 76.33	Rank: PMSC
Sponsor: ADNR	Appraised Value: \$600,000
Owner: Ms. Ellen L. Patson	
Location: Outside the City of Soldotna at Kenai River Mile 24.	

Parcel Description. The parcel is located at Kenai River Mile 24.5, just outside the City of Soldotna on the south side of the river. Funny River Road provides the only vehicle access to lands on the south side of the river. This parcel is located approximately 2.5 miles down Funny River Road from the intersection with the Sterling Highway.

The parcel is a large undeveloped tract of land situated in close proximity to the City of Soldotna. As such, it provides an opportunity to protect important upland and riparian habitats that are rapidly being lost to increasing urban expansion and private development. To date, development along the Funny River road has been constrained due to limited access. However, if a proposed Funny River bridge is constructed, a significant increase in new development could be expected. The extensive uplands on the parcel make it a prime candidate for subdivision development. Furthermore, sportfishing continues to increase in the middle reach of the Kenai River resulting in more trespass and streambank damage. The EVOS Trustee Council has been pro-active in protecting Salamatof Native Association lands a short distance upstream of the parcel. Acquisition of the parcel would supplement and enhance those protection benefits.

Restoration Benefits. Public ownership of this parcel will protect habitat for injured resources such as pink salmon, sockeye salmon and Dolly Varden. Benefits also extend to equivalent or replacement species such as: chinook salmon, coho salmon, moose, bear and a variety of passerine bird species. Service values such as recreation/tourism will also benefit if compatible access can be provided and important resource habitats protected.

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

- Protects important riparian habitats such as low, overhanging grassy banks for fish rearing; extensive wetlands for maintaining water quality, flood control and recharge; forested uplands for large and small terrestrial mammals.
- Provides enhanced management ability to condition use, enforce trespass and protect streambanks.
- Acquisition of this parcel will protect approximately 1,500 linear feet of river bank.
- Strategic enhancement for other EVOS acquisitions and an urban development buffer that will increase in restoration value as more wild lands are subdivided or otherwise cleared.

This parcel was ranked at the top of the low category (18) and scored the same as a number of other small parcels which have been identified as Parcels Meriting Special Consideration. The State feels that the parcel provides comparable benefits for injured resources and services.

Appraised Value. The appraised value of this parcel is \$600,000. The highest and best use of this parcel is for development as a residential subdivision.

Proposed Management. State Parks and ADF&G would manage the parcel to protect riparian habitat and as appropriate provide for recreational opportunities.

