

8/8/98

Seven Tax Parcels

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING CERTAIN KODIAK ISLAND BOROUGH TAX PARCELS**

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

1.a. In its resolution of December 11, 1995, the Council agreed to provide funding of up to \$1 million for the acquisition of lands held by the Kodiak Island Borough at key waterfront locations along Uyak Bay within the Kodiak National Wildlife Refuge as a result of forfeitures for tax delinquency. On June 8, 1998, the Council by motion designated these parcels as meriting special consideration by virtue of their location within the boundaries of a large parcel of land purchased from Koniag Inc. with Council funding.

b. Subject to funding by the Council, the Borough and the U.S. Fish and Wildlife Service have reached agreement to sell and purchase, respectively, seven such parcels of lands (hereinafter "seven tax parcels."). Under Alaska law, the Borough will pay the prior owners of these parcels any proceeds of sale in excess of the tax delinquency and related expenses.

c. Appraisals totaling \$102,000 for these seven tax parcels have been approved by the State and federal review appraisers.

d. As set forth in Attachment A, if acquired, these small parcels have attributes which will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources, including providing habitat for bird species for which significant injury

resulting from the spill has been documented, providing key marine access for subsistence and recreational uses on the surrounding public lands.

2. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other development activities. However, restoration, replacement and enhancement of resources injured by the *Exxon Valdez* oil spill present a unique situation. Without passing on the adequacy or inadequacy of existing law and regulation to protect natural resources and services, biologists, scientists and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill affected area to levels above and beyond that provided by existing law and regulation will have a beneficial effect on the recovery of injured resources and lost or diminished services provided by these resources;

3. There has been widespread public support for the protection of small parcels; and

4. 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 FWS to offer to purchase and, if the offer is accepted, to purchase all the seller's rights and interests in the seven tax parcels held by the Borough; 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:

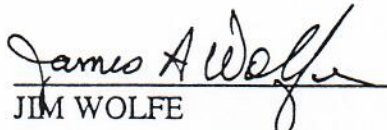
- (a) the amount of funds (hereinafter referred to as the "Purchase Price") to be provided by the Trustee Council to the United States shall be the final approved appraised value of the respective parcels, totaling \$102,000;
- (b) authorization for funding for the foregoing acquisitions shall terminate if the respective purchase agreement is not executed by December 15, 1999;
- (c) disbursement of these funds by the District Court;
- (d) a satisfactory title search is completed by the acquiring government 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 acquiring government prior to purchase;
- (f) a satisfactory hazardous materials survey is completed;
- (g) compliance with the National Environmental Policy Act; and
- (h) a conservation easement satisfactory to the U.S. Departments of Justice and the Interior and the Alaska Department of Law shall be conveyed by the seller to the non-acquiring government.

It is the intent of the Trustee Council that any facilities or other development on the foregoing small parcels after acquisition shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcels excepting such limited commercial use 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 ("MOA") and the Restoration Plan as approved by the Trustee Council ("Restoration Plan").

By unanimous consent and upon execution of the purchase agreement and written notice from FWS and the Executive Director that the terms and conditions set forth herein and in the purchase agreements have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the U.S. Department of Justice to petition the District Court for withdrawal of the Purchase Price and any such additional costs related to closing as are recommended by the Executive Director and approved by the Trustee Council for the seven tax parcels from the District Court Registry account established as a result of the Governments' settlement to be paid at the time of closing. These amounts represent the only amounts due under this resolution to the Sellers by the United States 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.

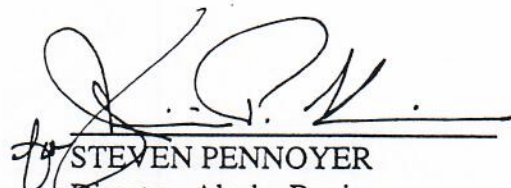
Approved at the June 8, 1998 Trustee Council meeting and dated as of the date the last signature below is affixed.



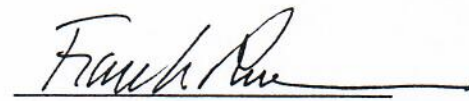
JIM WOLFE
Trustee Representative
Alaska Region
U. S. Forest Service

BRUCE M. BOTELHO
Attorney General
State of Alaska

DEBORAH L. WILLIAMS
Special Assistant to the Secretary
for Alaska
U.S. 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

June , 1998

Parcel ID: Kodiak Island Borough 7 Tax Parcels

Rank: N/A **Acreage:** 67.06 **Agency Sponsor:** USFWS
Appraised Value: \$102,000 (Combined)
Location: Uyak Bay and Zachar Bay
Landowner/Agent: Kodiak Island Borough
Address: 710 Mill Bay Road
Kodiak, Alaska 99615

Pursuant to the Alaska Native Claims Settlement Act, certain regional and village Native corporations were organized under Alaska law, including the village corporation for Larsen Bay, Nu-Nachk-Pit, Inc., and the regional corporation, Koniag, Inc. In October 1980, these corporations, among others signed a plan of merger which provided that the corporations would merge into Koniag, Inc. Pursuant to the Plan of Merger, Koniag quit claimed its interest in certain lands to Larsen Bay Tribal Council for the benefit of Tribal members. Subsequently, LBTC deeded lands in small parcels of about 10 acres each to individual tribal members. This conveyance removed the lands from the tax protected status of Tribal or Native corporate lands. Subsequently, a number of Tribal members were unable to pay their assessed property taxes and the Kodiak Island Borough took title to these lands for nonpayment of property taxes. The Borough then voted to declare the lands as Conservation lands which protected them from resale unless to a conservation entity.

These tax properties are located along the shores of Uyak Bay and Zachar Bay, between five and ten miles south and east of the village of Larsen Bay on western Kodiak Island. They are encompassed within lands to be purchased from Koniag by the USFWS in September 1998 as part of the Koniag large parcel acquisition funded by the Exxon Valdez Oil Spill Trustee Council. The parcels are located on the coastlines of these bays, and will provide key marine access to the surrounding lands to become part of the Kodiak National Wildlife Refuge.

The area has significant wilderness qualities and the parcels are in their natural condition without permanent improvements or human habitation. All accessible shorelines and the near shore waters in this area are used for subsistence purposes primarily by residents of Larsen Bay. Residents harvest salmon, shellfish, Sitka black-tailed deer, and pick berries on or adjacent to the parcels. Cultural sites most likely exist on all the properties, however, the area has not been intensively explored for cultural sites. A number of bald eagles nests have been noted on or near the parcels.

Developments have been occurring on a number of tracts that LBTC conveyed to Tribal members. These developments are generally cabin sites used for hunting and fishing purposes, often by individuals who purchased the properties from the original Tribal members who received the property. The developments that occur along Uyak and Zachar Bays are expected to

be detrimental to water quality and impact wildlife and fish habitat. The acquisition of these parcels will greatly enhance the wilderness, recreational, and subsistence restoration benefits of the Old Harbor large parcel acquisitions.

Kodiak Island Borough



7 Tax Parcels

Legend

- ☐ Kodiak Acquisition Lands - Phase 1
☒ Kodiak Acquisition Lands - Phase 2
☒ Kodiak Acquisition Lands - Phase 3
☐ Kodiak Acquisition Lands - Phase 4
☒ Kodiak Limited Term
 Non-Development Easement
☐ Retained by Kodiak
☐ Small Parcels
☒ Kodiak NWR Boundary
☐ KIB Taxlot
☐ FWS Refuge Lands
☐ Outside of Kodiak NWR

- Land status represents USFWS interpretation of BLM records.
- Projected in UTM zone 5.

