

RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

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

1. The Tatitlek Corporation ("Tatitlek"), an Alaska Native Village Corporation, either owns or is entitled to receive title to the surface estate of certain lands and has expressed a willingness to sell land or interests in lands located in central Prince William Sound, consisting of approximately 66,600 acres. These lands were selected and conveyed, or are to be conveyed, pursuant to the Alaska Native Claims Settlement Act ("ANCSA"). The subsurface rights associated with these lands are held by Chugach Alaska Corporation.
2. Tatitlek desires to sell certain interests in these lands to the United States or the State of Alaska as part of the Trustee Council's program for restoration of the natural resources and services that were injured or reduced as a result of the *Exxon Valdez* Oil Spill ("EVOS"). These land interests are specifically described in Exhibit A ("Lands").
3. The Lands are within the oil spill area as defined by the Trustee Council in the Final Restoration Plan.

4. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented. Bligh Island and Two Moon Bay were respectively the third and fourth highest parcels ranked by the habitat protection work group large parcel analysis in Prince William Sound. Harlequin ducks, bald eagles, black oystercatchers, marbled murrelets, pigeon guillemots -- all species that suffered injury from the oil spill -- utilize these parcels (depending on the species), for feeding, nesting, loafing, molting, and wintering. The highest nesting concentrations of pigeon guillemots in eastern Prince William Sound occur on one of these parcels (Bligh Island). Harbor seal haul outs located along the shoreline of the Lands and important intertidal and subtidal biota are found in substantial quantity along the shoreline. The Lands provide concentration areas for feeding and shelter for river otters and include important feeding and pupping habitat for sea otters. There are more than fifty anadromous streams, numerous lakes, and important salt water lagoons estuarine habitat on these Lands. The Duck River at the head of Galena Bay alone has escapement of over 100,000 pink salmon per year. The Hells Hole area is highly productive and is a significant sport fishing area for anadromous fish including pink salmon, cutthroat trout, and Dolly Varden. The Lands in general have historically supported high value, wilderness-based subsistence food gathering and recreation uses including hunting, boating and fishing. The area has high scenic values and cultural resources.

5. 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 Mammal Protection Act, are

intended, under normal circumstances, to protect resources from serious adverse effects from logging and other developmental activities on private land. However, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services injured, lost or reduced as a result of the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, biologists, other 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 those provided by existing law and regulations will have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

6. There is widespread public support for the acquisition of the Lands.

7. The purchase of the interests in the Lands offered by Tatitlek is an appropriate means to restore a portion of the injured resources and reduced services in the oil spill area. Acquisition of the interests in the Lands is consistent with the Restoration Plan and Final Environmental Impact Statement.

8. A resolution was passed by the Trustee Council on December 2, 1994 authorizing funding for an offer to purchase a combination of fee simple and conservation easement interests in certain lands owned by Tatitlek. The purchase price authorized for those interests was the final, approved appraised fair market value of the interests plus twenty percent (20%) of the final, approved appraised fair market value, so long as this price did not exceed \$22,000,000. Because the appraisal assumed a single cash payment an adjustment of twenty percent was authorized to compensate for the deferred payment schedule.

9. An appraisal approved by the lead federal review appraiser and completed for the Trustee Council estimated that the fair market value of fee and conservation easement interests in certain lands owned by Tatitlek is \$41,223,000. This approved appraisal included certain lands and interests in lands that are not proposed to be acquired as part of the Lands and did not include all of the lands and interests in lands that comprise the Lands. Based upon adjustments to the value estimates of the lands and interests in lands included in the approved appraisal, the lead federal review appraiser estimates that the fair market value of the Lands is at least \$33,000,000. This estimate of value did not consider any additional value for a timber only conservation easement to be conveyed on that portion of the Lands on the north shore of Port Fidalgo.

10. If further negotiations with Tatitlek produce an offer from Tatitlek to sell the Lands at or below \$33,000,000, the Trustee Council hereby resolves to provide funds as stated herein to purchase the Lands from Tatitlek, subject to the terms and conditions stated below. The sum of thirty-three million dollars (\$33,000,000) will be adjusted to \$34,210,800 to compensate for the use of deferred payment schedule of which \$13,000,000 is to be paid at the time of initial closing. The federal trustees must separately agree to provide \$10,000,000 from the EVOS federal criminal restitution funds for the first payment with the remaining \$3,000,000 to be provided from the EVOS joint settlement funds. The Forest Service has also separately agreed to exchange fee title to three sections of land north of Port Fidalgo but reserving a timber conservation easement for equal value land within the Two Moon parcel. The remainder will be paid from joint trust funds according to the following schedule:

34,210.8
- 33,000.0
1,210.8

October 1, 1997 \$10,605,400

October 1, 1998 \$10,605,400

The total amount authorized to be expended if an offer is received from Tatitlek is \$34,210,800. Given the substantial benefits for the restoration of the injured natural resources and related services to be achieved by this acquisition; the scope and pervasiveness of the EVOS; the need for protection and restoration of the Prince William Sound ecosystem in general, and this portion of the Sound; and the priority of this acquisition to other expenditures of the settlement funds for restoration activities; and the donation of interests by Tatitlek, the Trustee Council finds this negotiated price to be reasonable.

THEREFORE, we resolve to provide the funds for the United States, acting through the Forest Service, and for the State of Alaska, to acquire the combination of fee simple and conservation easement interests in the Lands, as described in Exhibit A, pursuant to the following conditions:

(a) receipt by the United States District Court for the District of Alaska ("District Court") of the annual settlement payments due from Exxon Corporation, et al;

(b) disbursement of these funds by the District Court to the United States and/or to the State for the purpose of this acquisition;

(c) completion of a satisfactory title search ensuring that Tatitlek is able to convey fee simple title or other interests in a manner that complies with the United States Department of Justice title standards and is satisfactory to the Alaska Department of Law;

(d) the cessation of all timber felling on the Lands prior to September 15, 1996 although related activities such as the bucking and removal of felled trees, closing of roads and other activities related to the seasonal closure of logging operations may continue;

(e) the absence of development on the Lands prior to conveyance;

(f) the relinquishment by Tatitlek of its remaining land selections and lands prioritized for conveyance within the *Exxon Valdez* oil spill area as that area is defined by the Trustee Council and Tatitlek's agreement that it will not take title to any additional lands within said area pursuant to ANCSA except for selections in the Taznuna Valley;

(g) completion of a purchase agreement(s) and all other documents necessary for conveyance of the interests in the Lands to the United States and/or the State in the form and substance satisfactory to the United States Department of Justice and the Alaska Department of Law;

(h) the agreement of the federal trustees to provide \$10,000,000 from the EVOS federal criminal restitution funds.

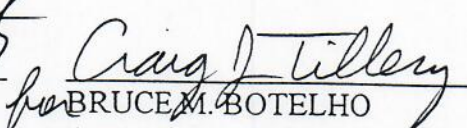
By unanimous consent and upon execution of the purchase agreement(s) and written notice from the State of Alaska, the United States, and the Executive Director of the EVOS Restoration Program that the terms and conditions set forth herein and in the purchase agreement(s) have been satisfied, we request 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 from the District Court Registry account the sum of \$3,000,000 at the time of closing and thereafter, to petition the District Court as follows:

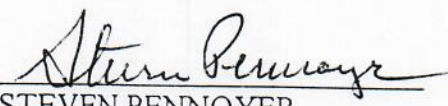
October 1, 1997 \$10,605,400

October 1, 1998 \$10,605,400

These amounts represent the only amounts due under this resolution to Tatitlek from the EVOS joint settlement funds in the District Court Registry and no additional amounts are herein authorized to be paid to Tatitlek from such joint funds.

Dated this 29th day of August, 1996 at Anchorage, Alaska.

	
PHIL JANIK Regional Forester Alaska Region USDA Forest Service	for BRUCE M. BOTELHO Attorney General State of Alaska

	
for GEORGE T. FRAMPTON Jr. Assistant Secretary for Fish, Wildlife and Parks	STEVEN PENNOYER Director, Alaska Region National Marine Fisheries Service

	
FRANK RUE Commissioner Alaska Department of Fish and Game	MICHELLE BROWN Commissioner Alaska Department of Environmental Conservation

Exhibit "A"
Exclusions

Five acre site to be jointly located near Hells Hole limited to tent platforms or rustic cabins.

Easement for an existing road running from tidewater in Section 7, T135, R7W, southeasterly to Section 33. Road easement not to exceed 12 feet in width, with maintaince responsibility to be with Tatitlek Corporation. Motorized road traffic limited to Tatitlek Corporation in conjunction with operation of lodge at logging camp with all other non-motorized use open to the public. Maintenance of cuts and fill off of the easement subject to coordination by Tatitlek and coordination with the Forest Service. From existing road to tidewater near Hells Hole, a foot trail right-of-way (no motorized use) not to exceed 6 feet in width .

Two one acre sites at existing cabins on Galena Bay as located by survey by Tatitlek Corporation.

Three development sites on Bligh Island, one of which may be on Busby Island. Aggregate acreage not to exceed 40 acres for the 3 sites.

Existing homesites as surveyed and submitted Tatitlek Corporation as of September 1, 1996.

Five acre development site at Heather Bay for cabins or tent platforms.

Fifteen acre hydroelectric site at the east end of Galena Bay. Site to be jointly agreed upon during project development.

Transmission lines from Galena Bay hydroelectric site through protected lands as acquired, along with necessary access roads and penstock easement.

Development site not to exceed 20 acres on Two Moon Bay, generally described as the existing logging camp in 1996.

RESTORATION BENEFITS REPORT TATITLEK LANDS

Region - Prince William Sound

The Chugach Mountain barrier generally serves as an effective block to the direct movement of intensely cold winter air from interior Alaska into the region. As a result, the waters of Prince William Sound offer suitable year-round conditions for many marine mammals and overwintering habitat for populations of several bird species. Rivers and streams flowing off these slopes mostly follow short, straight paths to the sea. Most of the shoreline is moderately high energy gravel beach alternating with rocky headland. Only a few shorelines have extensive fine sediment deposits (mudflats).

The forests of Prince William Sound are the northern most extension of the temperate coastal rainforest type that extends down the Pacific coast to northern California. Most mature trees in productive forest stands are 100 to 200 years old, but trees 200 to 300 years old are common and trees 400 years old and older are scattered through older, low elevation stands. Nearly all of the forest in the region is made up of western hemlock, Sitka spruce, and mountain hemlock.

The grounding of the *Exxon Valdez* oil tanker occurred on Bligh Reef, immediately adjacent to Bligh Island, near the village of Tatitlek.

Key habitats necessary for the maintenance and restoration of the resources and services injured by the *Exxon Valdez* oil spill have been identified on the lands owned by the Tatitlek Corporation. All lands being considered for acquisition from Tatitlek Corporation have a split estate with subsurface ownership with the regional corporation, Chugach Alaska Corporation.

Description of Proposed Tatitlek Lands Acquisition

The Tatitlek lands proposed for habitat protection through fee simple and partial interest acquisition are composed of approximately 66,600 acres in northeastern Prince William Sound. Included in the protection package are Bligh Island, the eastern side of Columbia Bay, the west side of Sawmill Bay, the upper reaches of Galena Bay, Landlocked Bay, large portions of Port Fidalgo, and Two Moon Bay. A wide variety of biological resources and human services injured by the *Exxon Valdez* oil spill would benefit from the proposed protection and acquisition package.

Two of the Tatitlek parcels included within the overall protection package have been identified as having particularly high value for recovery and restoration through the Trustee Council's comprehensive habitat evaluation process. Bligh Island was one of the highest ranked parcels throughout the entire Prince William Sound region. The island provides

important habitat for Pacific herring, black oyster catchers, harlequin ducks, bald eagles, intertidal-subtidal resources, pigeon guillemots, river otters, and archeological resources. The island is adjacent to the village of Tatitlek and is a very important area for subsistence harvest. Under the protection and acquisition proposal, a conservation easement would be established on Bligh Island.

Two Moon Bay was another parcel ranked among the highest of all parcels in Prince William Sound. Injured resources and services that would especially benefit from protection of this parcel include pink salmon, Dolly Varden, Cutthroat trout, Pacific herring, black oyster catchers, Bald eagles, intertidal/subtidal resources, river otter, sea otter, archeological resources, harbor seals and subsistence. This is a unique area with many restoration opportunities and benefits. There are documented harbor seal haulouts on the parcel. Hell's Hole is well known for high quality habitat for pink salmon, Dolly Varden and cutthroat trout and attracts many sport, commercial and subsistence fishermen. The parcel also provides valuable feeding and pupping habitat for sea otters and river otters. Protection of the Two Moon Bay area will aid in the further recovery of these injured species and services by conserving important habitat. Under the protection package, Two Moon Bay would be protected by a combination of fee purchase and conservation easement.

The Sawmill Bay parcel provides important habitat for several species of fish and wildlife for which significant injury from the oil spill has been documented. A rocky shoreline heavy with kelp beds, pockets of eel grass and rich invertebrates support feeding harlequin ducks and marbled murrelets, and some black oystercatchers and pigeon guillemots. Habitat contained within the parcel provides the features for nesting habitat for marbled murrelets. Recovery of these injured species will benefit from protection of this habitat. There is also high potential recovery benefit for river otters and concentrations of sea otters which feed along the shoreline. Harbor seal, an injured species with seriously reduced population levels, will also benefit from this parcel acquisition along with Pacific herring and pink salmon. The area has significant scenic values and supports recreation including hunting, fishing, sea-kayaking and camping. This parcel would be protected through fee simple acquisition.

Columbia Bay is a south facing embayment on the mainland located west of Valdez Arm. The proposed habitat protection package includes most of the east side of Columbia Bay. The rapidly retreating terminus of the Columbia Glacier lies at the head of the bay and is recognized as Prince William Sound's most visited scenic attraction. It is thickly forested with Sitka spruce below which grows a dense understory of alder, willow, devil's club, blueberry, ferns, mosses and lichens. Resources and services that would benefit from the protection of this area include bald eagle, Pacific herring, harbor seal, sea otter, recreation-tourism, and subsistence. The parcel is almost entirely surrounded by public lands managed by the U.S. Forest Service. The proposed protection package provides for fee simple acquisition of these lands.

The proposed package would also protect lands in Landlocked Bay, an area with significant restoration value to bald eagles, Pacific herring, harlequin ducks, intertidal-subtidal resources, archeological resources, and subsistence. Lands in Landlocked Bay would be protected by conservation easements together with a small portion of fee simple

acquisition toward the head of the bay.

Lands along the northern shoreline of Port Fidalgo, extending from the eastern shore of Landlocked Bay to the western edge of Sunny Bay, would also be protected through the acquisition of commercial timber rights. These lands support a number of valuable biological resources injured by the oil spill. These resources will benefit from the additional protection provided by this habitat protection package.