

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax:907/276-7178



## AGENDA EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL MEETING SEPTEMBER 4, 1998 @ 9 A.M. 645 G STREET, ANCHORAGE

9/4/98  
8:30 am

**DRAFT**

### Trustee Council Members:

BRUCE BOTELHO/CRAIG TILLERY  
Attorney General/Trustee  
State of Alaska/Representative

MICHELE BROWN  
Commissioner  
Alaska Department of Environmental  
Conservation

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

JAMES A. WOLFE  
Trustee Representative  
U.S. Department of Agriculture  
Forest Service

STEVE PENNOYER  
Director, Alaska Region  
National Marine Fisheries Service

FRANK RUE  
Commissioner  
Alaska Department of Fish & Game

### Federal Chair

1. Call to Order 9 a.m.  
- Approval of Agenda
2. Public Comment Period 9:15 a.m.
3. Eyak's Humpback Creek Hydroelectric Project\*

\* indicates tentative action item

**Adjourn - 10 a.m.**

raw

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**Federal Trustees**  
U.S. Department of the Interior  
U.S. Department of Agriculture  
National Oceanic and Atmospheric Administration

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**State Trustees**  
Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation  
Alaska Department of Law

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax: 907/276-7178



## MEMORANDUM

TO: Trustee Council members

FROM: Eric F. Myers *[Signature]*  
Director of Operations

DATE: September 2, 1998

SUBJ: Meeting on September 4, 1998

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In Molly McCammon's absence I have assembled the following materials pertaining to the **Trustee Council teleconference meeting scheduled for this Friday, September 4th at 9:00 am**. It is expected that the meeting will require less than one hour. (Molly will be returning to the office on Friday in time for the meeting.)

The Eyak Corporation has requested, on behalf of the Cordova Electric Cooperative (CEC), that the Trustee Council authorize a specific and limited waiver from the development restrictions included in the July 2, 1997 resolution. As indicated in the attached correspondence, the CEC has asked Eyak Corporation for permission to harvest approximately 50 - 100 trees over approximately 2-3 acres (to provide approximately 160 logs) in the vicinity of the Humpback Creek hydroelectric facility for the purpose of repairing the existing wooden dam. The existing dam, initially constructed about 1909, is in a weakened and damaged condition and CEC has indicated it has a one-time opportunity to repair the structure and is requesting authority to move forward with the project.

United States Forest Service staff has conducted a field review to assess environmental concerns as reflected in the attached material and Alaska Department of Fish and Game staff has reviewed the USFS field report. Maria Lisowski is in the process of preparing a resolution for the Trustee Council's consideration on Friday.

**The bridge operator will contact each Trustee Council member at their respective offices at 9:00 am to convene the meeting.** If you have questions or would like additional information, please let me know.

attachments

cc: Alex Swiderski  
Claudia Slater  
Maria Lisowski



United States  
Department of  
Agriculture

Forest  
Service

Alaska Region, R-10  
Chugach National Forest  
Cordova Ranger District

612 Second Street  
P.O. Box 280  
Cordova, AK 99574

File Code: 2600

Date: September 1, 1998

Route To:

Subject: **Humpback Creek Maintenance Proposal**

To: **District Ranger**

On August 31, 1998 Clare Doig (Consulting Forester for Eyak Corporation), Gary Squires (Wilson Construction Co.), and Steve Babler (USFS - Cordova Ranger District) conducted a field review of the Humpback Creek Hydro Facility. The primary objective was to identify environmental concerns related to a proposal to remove logs which would be used to replace existing deteriorating dam.

#### Existing Situation

Hydro-electric power was first developed in Humpback Creek in about 1904. At that time, a dam approximately 30 feet in height was constructed using logs taken primarily from the south side of the drainage, above the site. The dam subsequently filled with sediment and gravel and created a large gravel bar on the north side, upstream of dam. A maintenance shed which houses a D-6 caterpillar tractor has been constructed on the gravel bar. The tractor was lowered by winch line down a vertical slope and cannot be feasibly removed from the site. If the dam gives out, as feared it will in the next couple of years, the potential exists to lose the maintenance shed, equipment, and damage the penstock delivery pipe.

#### Proposal

Wilson Construction Co. proposes to construct a replacement dam approximately 30-40 feet downstream from the existing structure. A skyline yarding system would be used to yard logs from the north side of the drainage. A double-drum yarder with 4-cylinder engine would be placed by helicopter on a knob approximately 100 feet above the site on the south side. That site would require some clearing of second growth hemlock (average dbh 6"), as well as, clearing of lines leading to tie-off trees. It is estimated that 160 logs (minimum 12" dbh @ small end) of 20-30' length are needed to construct a dam comparable to the old structure. The logs would be harvested from an area 3-6 acres in size on the north side. No harvest would occur within a minimum 100' buffer of the stream for fear that logs would slide down slope into the penstock. Logs would be fully suspended and lowered to the dam site. A crew would notch and place each individual log before the next one would be moved to the site. Work would occur during the month of September 1998.

#### Management Concerns

Bald eagle/northern goshawk nest site management. A review of the site and District atlas (Figure 1) revealed no eagle nests within 1/2 mile of the project vicinity.

Anadromous fish habitat management. Pink salmon spawn in the lower intertidal reaches of the drainage.

#### Recommended Mitigation Measures

Trees containing large sick nests, if encountered, should be left undisturbed.

Access of people and equipment should be along high water edge to avoid disturbance of intertidal gravels.

STEVE BABLER  
Wildlife Biologist

cc: James Wolfe  
Ken Holtbrook  
Dan Logan  
Dave Schmid

OPTIONAL FORM 99 (7-90)

#### FAX TRANSMITTAL

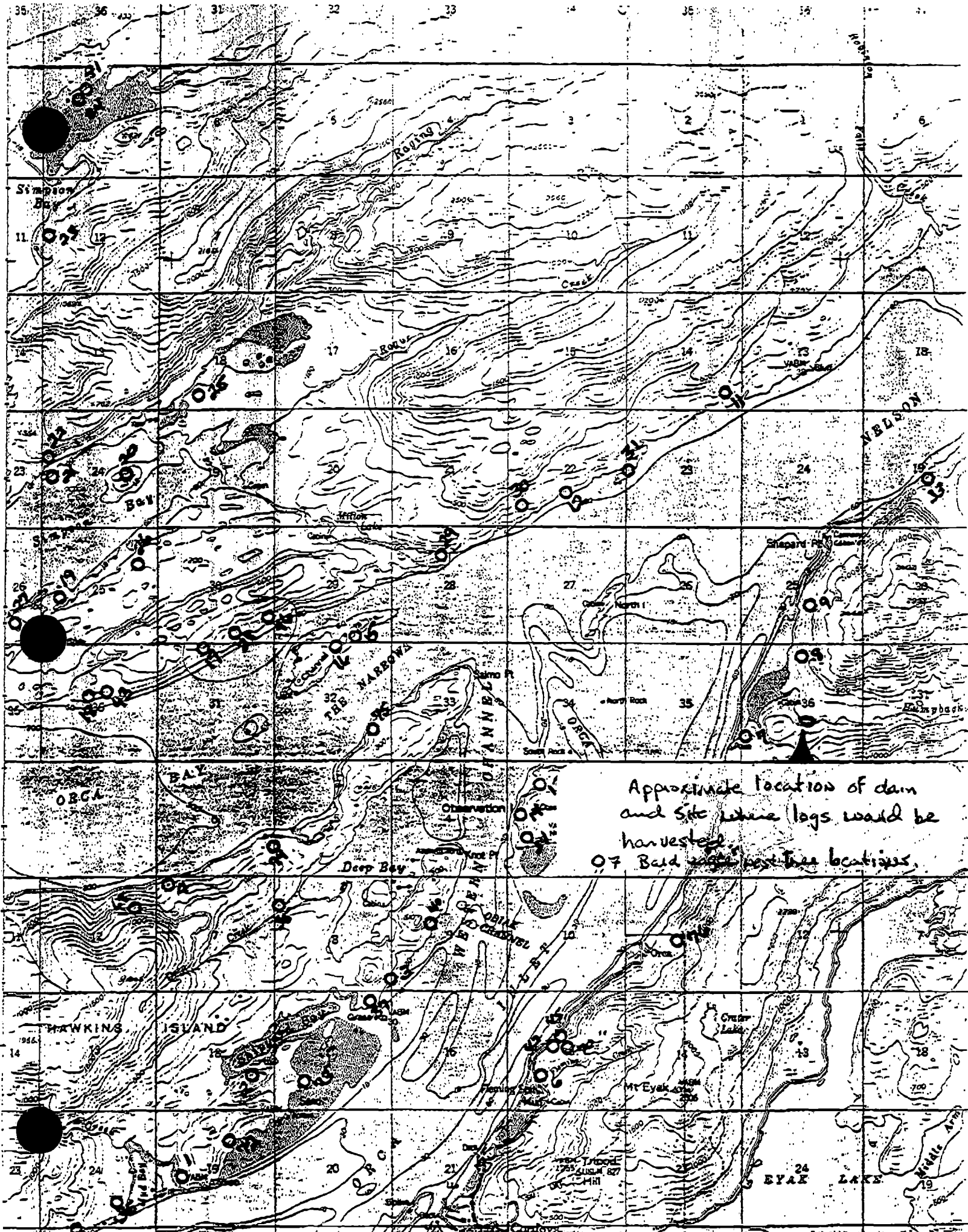
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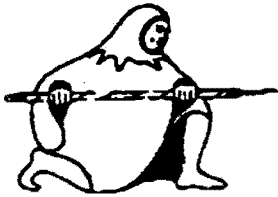
|              |              |         |              |
|--------------|--------------|---------|--------------|
| To           | EIZIE Meyers | From    | Steve Babler |
| Dept./Agency | SWOS         | Phone # | 907-424-7661 |
| Fax #        | 907-276-7178 | Fax #   | 907-424-7214 |

NSN 7440-01-217-7288

5000-101

GENERAL SERVICES ADMINISTRATION





## **The Eyak Corporation**

**P.O. Box 340 Cordova, Alaska 99574  
(907) 424-7161 Fax (907) 424-5161**

September 1, 1998

Exxon Valdez Oil Spill  
Trustee Council  
Attn: Molly McCammon  
645 G Street, Suite 401  
Anchorage, Alaska 99501-3451

Dear Members of the EVOS Trustee Council:

On behalf of The Eyak Corporation, I am requesting a specific and limited waiver from the development restriction contained in paragraph (d) of the Trustee Council's resolution of July 2, 1997.

The provision referenced calls for there to be no development on the lands included in the draft Agreement for Sale and Purchase Among The Eyak Corporation and the United States and the State of Alaska prior to closing on the Agreement. Because of the circumstances outlined below, we believe that it is necessary and appropriate that this Corporation assist in an infrastructure project of importance to all citizens of the City of Cordova and the surrounding area.

Specifically, Eyak has been requested by the Cordova Electric Cooperative (CEC) to permit it to use 50 - 100 trees (estimated approximately 160 logs) from Eyak lands in the vicinity of the Humpback Creek hydroelectric facility to reconstruct the existing wooden dam. The hydroelectric facility at Humpback Creek generates 1.25 megawatts of electric power in support of Cordova's populous. According to the CEC, the dam, which was originally constructed in 1909, is in serious need of repair. Based on an assessment by CEC's General Manager, Jim Roberts, the dam, which was damaged and weakened by heavy rains in the recent past, needs to be reconstructed and reinforced or runs the risk of severe damage and possible failure in the future. The dam is used to contain gravel, debris, and certain equipment from sliding down the steep ravine on which part of the hydroelectric site is located.

Because of an apparent need by the CEC to complete this project soon in order to utilize funds which reportedly will no longer be available to CEC if not used on the dam repairs, as well as concerns that the dam could be further weakened by flooding this winter and next spring, there is a need to act expeditiously on CEC's request to use trees for this purpose.

We have queried the CEC regarding the possibility of harvesting of trees elsewhere and bringing them to the dam site. Their response is that it is prohibitively expensive for them to carry out and

EVOS Trustee Council  
September 1, 1998  
Page Two

would be potentially damaging to the area to haul such logs into the dam site because of its remote location.

If we had known of this need prior to the Council's resolution, we could have included this as an area (approximately 2 to 3 acres) to be excluded from the 75,000 acres of land covered by the resolution. We did not and now find ourselves in need of responding to CEC while complying with the conditions of the Council's resolution.

Upon inspection of the site, it is apparent that the reconstruction work on the dam is needed and overdue. It appears that there will be no visual impact at water levels from this activity. It does not appear that it will impact fish habitat or water quality. The trees taken would be second growth trees since this area was harvested in the early 1900's to build the original dam structure.

We propose that the Council agree to the waiver requested so that Eyak can make available the trees identified to CEC to be harvested as outlined in Enclosure #2. We also believe that it appropriate as part of this agreement, and would require that, CEC provide Eyak a negotiated amount of compensation for these trees as well as the time the Corporation has had to commit to the effort to obtain this waiver roughly commensurate with the value of the trees.

Because of the relative urgency of the need in this instance, the considerable potential adverse consequences to the citizenry and to commerce of the municipality of Cordova of not assisting the repairing and reinforcement of the dam, as well as the critical timing of this community infrastructure need balanced against the backdrop of our Corporation's shareholders' consideration of the Proxy Statement on the Lands Agreement with the Council, it is our request that the Council agree to this request for a waiver of paragraph (d) of the resolution cited.

Sincerely,

THE EYAK CORPORATION



Nancy C. Barnes  
President

Enclosures: 1) Map of Hydroelectric site with area to be impacted delineated.  
2) Letter report from Eyak consultant's visit with U.S. F.S. representative on-site  
August, 1998



"professional management services"

PO Box 110149  
Anchorage, Alaska 99511-0149  
(907) 346-4021  
Fax (907) 346-4022  
e-mail: cdoig@corecom.net

September 1, 1998

Mr. Brian Lettich  
General Manager  
THE EYAK CORPORATION  
P. O. Box 340  
Cordova, Alaska 99574

Dear Brian,

On August 31, 1998 I conducted a site visit of the Humback Creek Hydroelectric Power Site with Steve Babler of the US Forest Service and Gary Squires, contractor's representative. The purpose of this visit was to determine the probable impacts of the proposed reconstruction of the existing log crib "dam" using logs that are to be harvested from the adjacent hillside and moved to the construction site by a standing skyline cable system.

The existing "dam" is a log crib structure that was constructed in the early 1900's and has had some repairs since, however it is currently extremely deteriorated and obviously in need of repair. This "dam" structure is approximately 40 feet high from the stream-bed and extends from rock wall to rock wall on each side. The stream is scoured to bed rock with steep bed rock walls. The area behind the "dam" structure is filled in with rock, sand and gravel washed down from upstream; the gauging station and part of the intake structure of the power project are built on top of this fill material behind the "dam" - if the "dam" washes out, it will take the fill and structures on the fill with it.

The plan, as related by Gary Squires is to cut approximately 160 logs, half of which will be 30 feet long, and the other half will be 20 feet long. It will take 80 to 100 trees to produce these logs. The logs will be lowered to the work site using a standing skyline cable system similar, but of a smaller scale as is commonly used in cable logging.

The area from which the trees are to be cut was harvested when the original "dam" and wood stave penstock (long since replaced) were constructed; it is now covered with "second growth" hemlock and spruce trees. These are the trees that will be used in this construction project.

The size of the area that will be harvested is approximately two to three acres. This area will not be visible from Orca Inlet or from the beach - it will only be visible from directly

Mr. Brian Lettich  
September 1, 1998  
Page 2

over the site. The area to be harvested will be well below the lower limits of acreage (10 acres) that requires a Forest Practices Notification. Natural regeneration will more than adequately reforest the area, as is evidenced by the current second growth forest at the site.

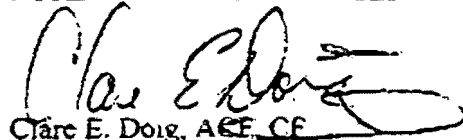
There will be no impact from this project on fish habitat, as the project site is half to three quarters of a mile upstream of the top end of the anadromous fish habitat portion of Humpback Creek.

In conclusion; the project is definitely needed, there will be no visual impact from Orca Narrows or the beach, the area from which trees will be cut is not large, won't trigger the need for Forest Practices Notification, and is forested with second growth timber resulting from the harvest of materials for the original "dam" construction.

I took photographs of the site and trees, however I will not have them back from processing until Thursday of this week, at the earliest.

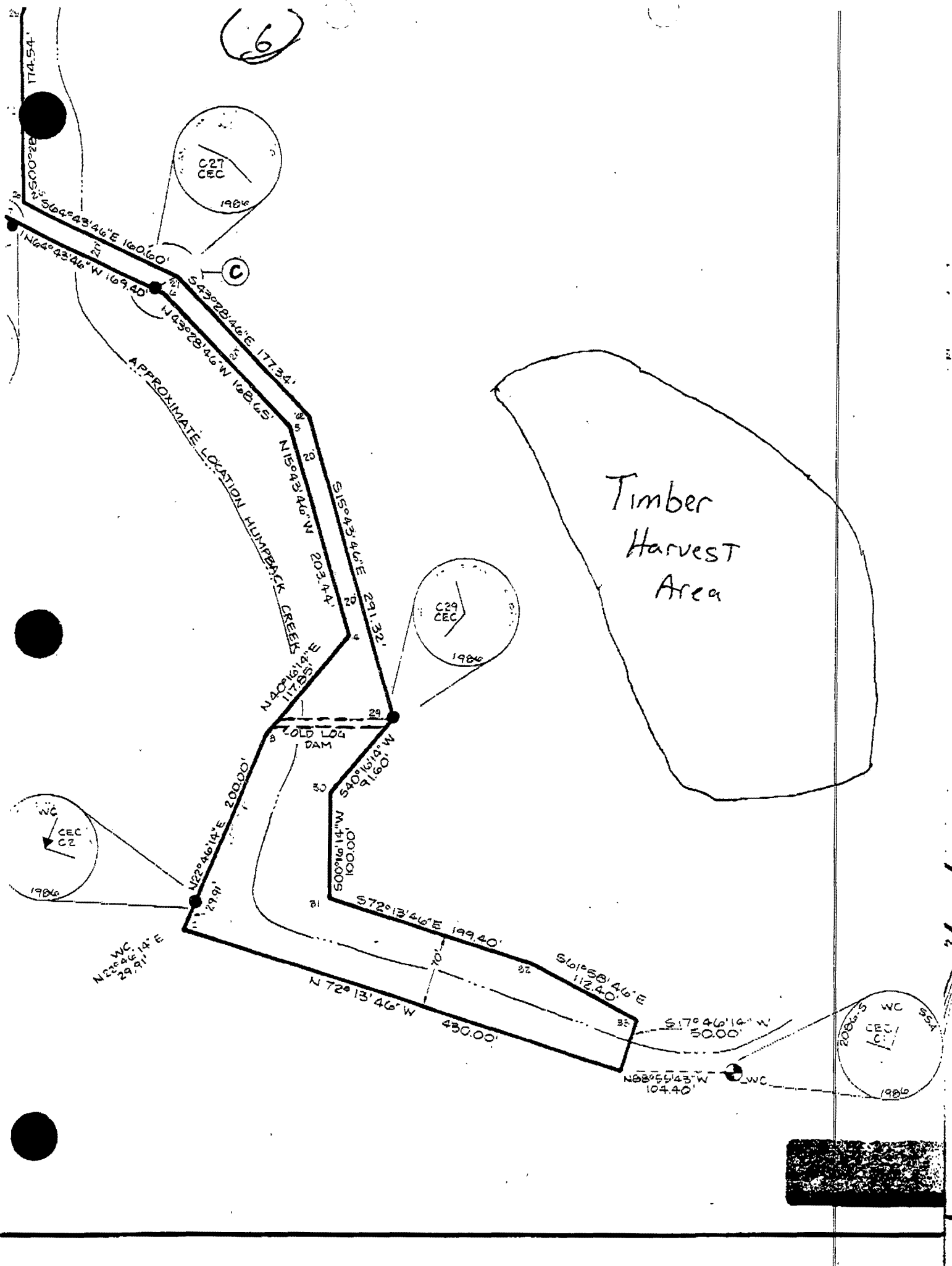
If you need further information on this project, please call me.

Sincerely yours,  
FOREST & LAND MANAGEMENT, INC.

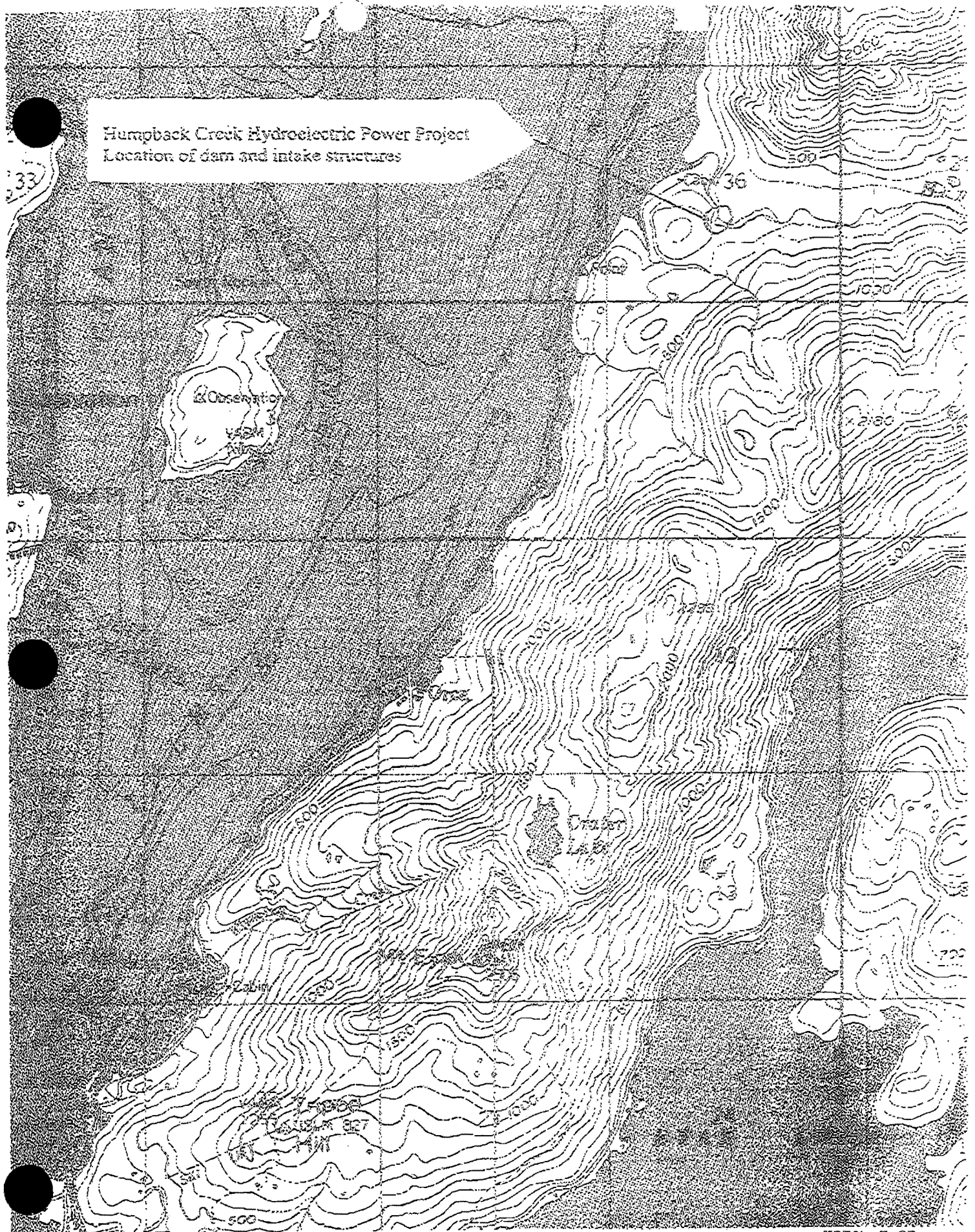
  
Cläre E. Doig, ACF, CF  
President

FOREST & LAND MANAGEMENT, INC.





Humpback Creek Hydroelectric Power Project  
Location of dam and intake structures



## Fax Cover Sheet

August 28, 1998

**To: Alex Swiderski****From: Roy Jones** **pages:** 9 (including cover sheet)

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**Comment:**

As you requested, attached is the sketch of the area in which the selective harvesting would occur. I spoke with Jim Roberts with Cordova Electric Cooperative regarding the project. They have a logging crew available into early next week apparently. After that, they can get someone back in but it would increase the cost of doing the project according to Roberts. CEC is trying to get some additional time on the September 1 deadline they were facing with FEMA.

The only way any of us are going to have a solid idea as to what this project really entails is through the on the ground survey of the site. As you may know, Clare and Ken Holbrook are set to go out there next Monday. They are trying to link up with the F&G representative to complete the entourage. I will call in to discuss this further with you or you could call Clare who is home today.

Maria called yesterday re: documents. I am having all of them emailed to you and Maria with the errata sheet that went with the proxy. The edit you called in re: taking out the parentheses was fine with us. . . although it looked as if it was a little weaker from your standpoint. Because of the timing and that you did not appear to feel it was substantive, which it wasn't, we left it the way it was with the parentheses. Will be happy to take them out in the next iteration for the purchase agreement. The proxy went out last Friday. The special shareholders' meeting is October 10. Shareholder informational meetings are the 4,5,6<sup>th</sup> of Sept. So far, decent reviews of the proxy statement and exhibits. Of, course, Cordova itself was just starting to receive theirs when that pulse was taken!

|                       |      |                            |                     |
|-----------------------|------|----------------------------|---------------------|
| Post-it® Fax Note     | 7671 | Date <u>8-1-98</u>         | # of pages <u>9</u> |
| To <u>Eric Meyers</u> |      | From <u>Alex Swiderski</u> |                     |
| Co./Dept.             |      | Co.                        |                     |
| Phone #               |      | Phone #                    |                     |
| Fax # <u>276-7178</u> |      | Fax # <u>278-7022</u>      |                     |

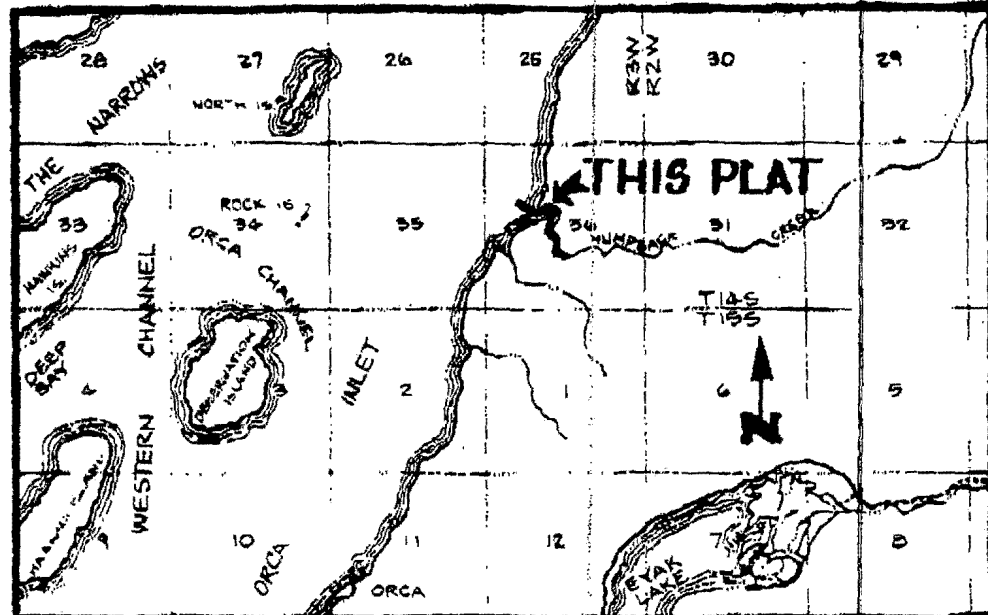
8-27-1998 8:19AM

FROM

424 5161

P. 9

8



VICINITY MAP SCALE 1" = 1 MILE CORDOVA (C-5) AK. QUAD

BOUNDARY SURVEY  
OF  
HUMBACK CREEK  
HYDROELECTRIC PROJECT

LOCATED WITHIN  
SECTION 36, T145 R3W, C.R.M., ALASKA  
CONTAINING 5.0 ACRES MORE OR LESS

STAN SEARS & ASSOCIATES

REGISTERED LAND SURVEYORS

P.O. BOX 283

EAGLE RIVER, ALASKA 99577



PREPARED FOR:  
W. DOUG BECHTEL  
GENERAL MANAGER  
CORDOVA ELEC. CO-OP INC.

SCALE:

1" = 100'

DRAWN:

NY

GRID:

CORDOVA  
(A-5)

FILE:

W11MB

DATE:

6-4-86

CHECKED:

S.E.S.

FIELD BOOK:

114 HORIZ.  
114-A LEVEL

WORK ORDER

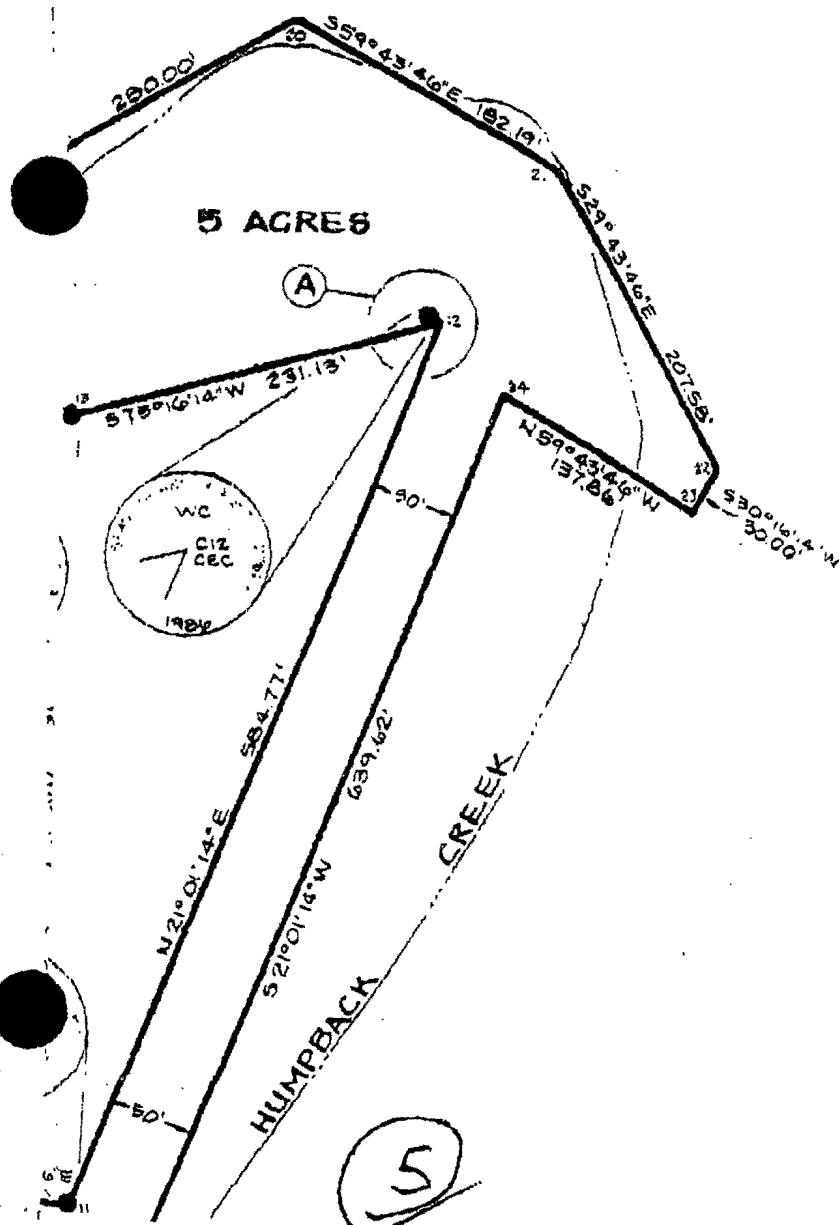


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P.6

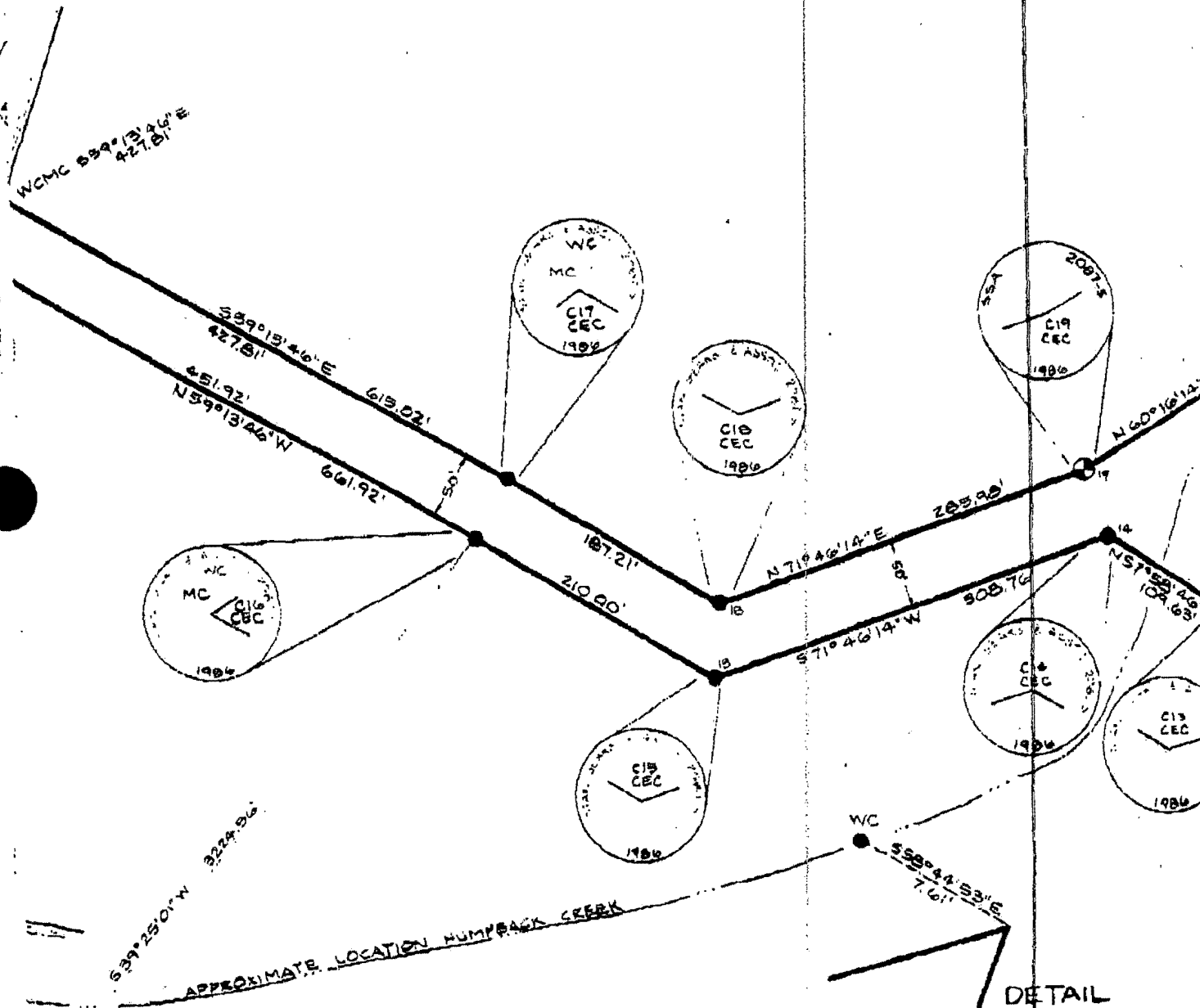


8-27-1998 8:16AM

FROM

424 5161

P. 4



DETAIL  
A

IN STATION

N00°10'14"E

8-27-1998 8:18AM

FROM

424 5161

P.8

## CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT EVAK CORPORATION IS THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT THESE LANDS ARE NECESSARY FOR THE DEVELOPMENT OF THE HUMPBACK HYDROELECTRIC PROJECT

ROGER R. KEMPEL  
GENERAL COUNSEL  
CORDOVA ELECTRIC COOPERATIVE  
255 E. FIREWHEEL LANE, SUITE 200  
ANCHORAGE, AK. 99503

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME.

THIS 2<sup>ND</sup> DAY OF SEP, 1998.

FOR: ROGER R. KEMPEL

NOTARY FOR ALASKA

MY COMMISSION EXPIRES

## SURVEYOR'S CERTIFICATE

I, STANLEY E. SEARS, CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HAVE COMPLETED THE SURVEY SHOWN HEREON. I DECLARE THAT THE DIMENSIONS, THE CORNERS, AND THE MONUMENTS SHOWN HEREON HAVE BEEN ESTABLISHED OR LOCATED TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

Stanley E. Sears  
STANLEY E. SEARS, R.L.S.  
2007-3

DATE SEP 1 1998  
DATE

200' 250'

7

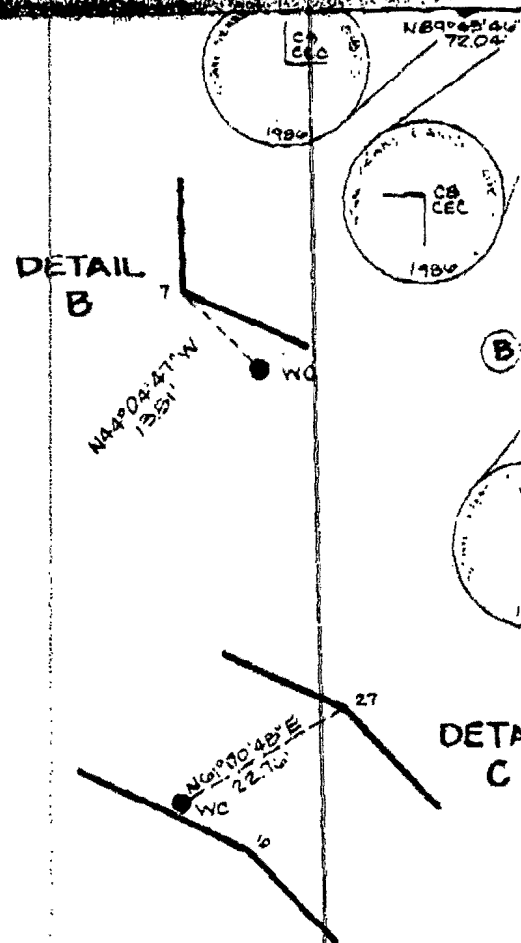


8-27-1998 8:17AM

FROM

424 5161

P. 5



END:

1/2" BRASS CAP MONUMENT SET IN ROCK

1" ALUMINUM CAP MONUMENT ON 5/8" X 30" REBAR  
IN 3.4' DEPTH

CAL 2" ALUMINUM CAP MONUMENT

8-27-1998 8:16AM

FROM

424 5161

P.3

(2)

OBSERVATION  
ISLAND

BASIS OF  
S 61° 01' 42" W  
8.117  
USC & GS  
TRIANGULATION STATION  
"NIBBY"  
LAT. 60° 39' 44.442  
LONG. 145° 43' 59.274

INLET

### NOTES:

1. BASIS OF BEARING BASED UPON U.S. COAST & GEODETIC SURVEY TRIANGULATION STATIONS POINT 2 TO "NIBBY"
2. BASIS OF COORDINATES IS ALASKA STATE PLANE COORDINATES, ZONE 3
3. THIS SURVEY WAS PERFORMED UNDER THE DIRECTION OF ALASKA STATE GEOLOGIC COOPERATION FOR THE PURPOSES OF DETERMINING A PARCEL OF LAND WITHIN WHICH TO CONSTRUCT A HYDROELECTRIC PROJECT

LEC

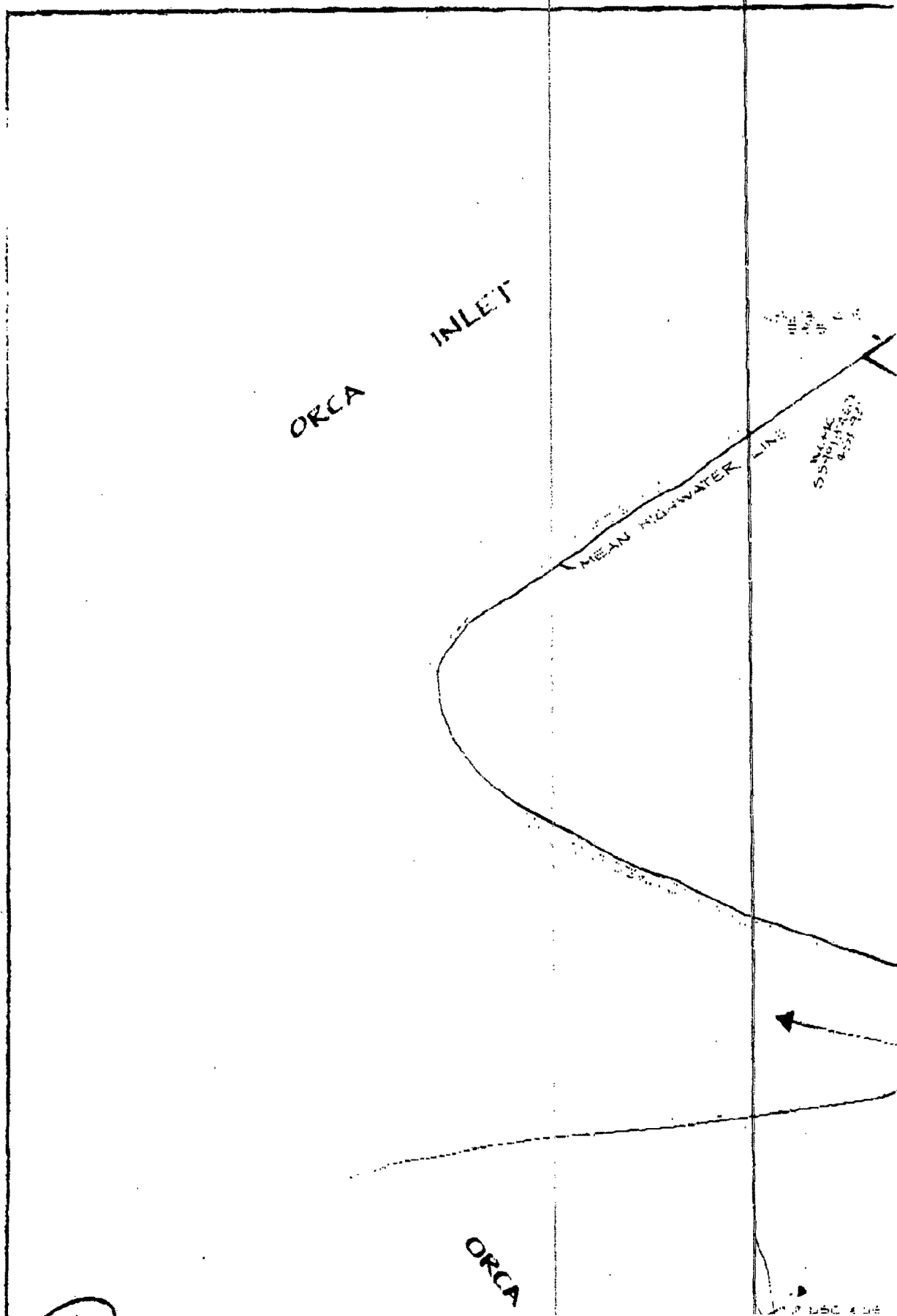
TYP

8-27-1998 8:15AM

FROM

424 5181

P.2



Revised yet  
again

REVISED DRAFT 9/3/98

**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 review and consideration of the views of the public, find as follows:

1. The Eyak Corporation ("Eyak") owns the surface estate of, or is entitled to receive title to, certain lands located within the Chugach National Forest in the Prince William Sound region of Alaska ("Lands"), as described in the July 2, 1997 Resolution of the Council ("Resolution").

2. Pursuant to the Resolution, the Council authorized funding for an offer to purchase a combination of surface estate fee simple and conservation easement interests in the Lands, subject to certain conditions and terms. One such condition is that no development is to take place on the Lands prior to closing.

3. Eyak has requested a specific and limited waiver from the development restriction contained in the Resolution due to Cordova Electric Cooperative's request to permit the removal of timber from the Lands in the vicinity of the Humpback Creek hydroelectric facility (the "Site"). The timber will be used to construct a dam to replace the existing wooden impoundment dam, originally constructed in 1909. The existing dam sustained significant damage during a recent flood and heavy rains. The hydroelectric facility generates electric power for the residents of Cordova.

4. The replacement dam will be constructed approximately thirty to forty feet downstream from the existing dam. A skyline yarding system will be used to yard logs from the north side of the Humpback Creek drainage, and a double drum yarder will be placed by

helicopter on a hill approximately 100 feet above the site on the south side. Logs will be fully suspended and lowered to the dam site. Some clearing of second growth hemlock will occur at the Site. Additionally, it is expected that 160 logs of twenty and thirty feet in length (approximately 80 to 100 trees) will be needed to construct a replacement dam, which will require the harvesting of an area two to three acres in size on the north side of the Site. To mitigate potential effects to resources, no timber harvest will occur within a minimum of one hundred feet of Humpback Creek; access by personnel and equipment will be along the high water edge of the creek in order to avoid disturbance of intertidal gravels; and trees containing nests will be left undisturbed.

5. The Site is in a remote location. The harvesting of timber from other lands for construction of this replacement dam is not feasible because hauling timber to the Site appears to be prohibitively expensive. In addition, hauling activities may cause greater adverse effects to the resources located at the Site than removing the timber from the Site.

6. The Alaska <sup>Division</sup> Department of Emergency Services has approved the proposed replacement of the dam and has authorized funding to be used by October 1, 1998.

**THEREFORE**, we resolve to amend the Resolution as follows:

(A) the offer to purchase the Lands and any agreements to acquire the Lands shall contain the following terms and conditions:

1) prohibit development on the Lands prior to closing, with the exception of the harvesting of <sup>approx 80-100 trees</sup> 160 <sup>primary</sup> logs from the Site for the construction of a replacement dam;

2) Eyak shall agree to permit a representative of the Forest Service and the Alaska

Department of Fish and Game ("ADF&G") to be present during the harvesting of timber at the Site;

3) Eyak shall require the implementation of the mitigation measures identified in this resolution and any reasonable measures the Forest Service or ADF&G may request while present at the Site;

*all of 4 Frank wants deleted*  
4) Eyak shall also agree to replant trees in the area where timber was removed from the Site if *natural regeneration does not occur within a 7 year period, and when* requested to do so by the Forest Service;

5) the purchase price for the acquisition of the Lands shall be reduced by the value of the timber removed from the Site as may be determined by any compensation Eyak receives from the Cordova Electric Cooperative in the form of cash and/or credit toward its utility billing, less *the Timber d by CEC for the value of the timber*

*Eyak's costs from Bomb Point language...*

All other terms and conditions of the Resolution are unaffected by this amendment and remain in effect.

**APPROVED** by the Council at its meeting of September 4, 1998, held in Anchorage and Juneau, Alaska, as affirmed by our signatures affixed below.

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**JAMES A. WOLFE**  
Trustee Representative  
USDA Forest Service

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**BRUCE M. BOTELHO**  
Attorney General  
State of Alaska

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

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**STEVEN PENNOYER**  
Director, Alaska Region  
National Marine  
Fisheries Service

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**FRANK RUE**  
Commissioner  
Alaska Department of  
Fish and Game

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**MICHELE BROWN**  
Commissioner  
Alaska Department of  
Environmental Conservation

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax: 907/276-7178



## FAX COVER SHEET

To: \_\_\_\_\_ Number: \_\_\_\_\_

From: \_\_\_\_\_ Date: \_\_\_\_\_

Comments: \_\_\_\_\_ Total Pages: \_\_\_\_\_

PLEASE SEE THE ATTACHED RESOLUTION  
★ THIS IS A REVISED VERSION PROVIDED  
BY MARIA LISOWSKI... IT SUPERCEDES  
THE PRIOR VERSION.

Thanks.

HARD COPY TO FOLLOW \_\_\_\_\_

Document Sent By: \_\_\_\_\_

3/27/96



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

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3. Eyak has requested a specific and limited waiver from the development restriction contained in the Resolution due to Cordova Electric Cooperative's request to permit the removal of timber from the Lands in the vicinity of the Humpback Creek hydroelectric facility (the "Site"). The timber will be used to construct a dam to replace the existing wooden impoundment dam, originally constructed in 1909. The existing dam sustained significant damage during a recent flood and heavy rains. The hydroelectric facility generates electric power for the residents of Cordova.

4. The replacement dam will be constructed approximately thirty to forty feet downstream from the existing dam. A skyline yarding system will be used to yard logs from the north side of the Humpback Creek drainage, and a double drum yarder will be placed by

helicopter on a hill approximately 100 feet above the site on the south side. Logs will be fully suspended and lowered to the dam site. Some clearing of second growth hemlock will occur at the Site. Additionally, it is expected that 160 logs of twenty and thirty feet in length (approximately 80 to 100 trees) will be needed to construct a replacement dam, which will require the harvesting of an area two to three acres in size on the north side of the Site. To mitigate potential effects to resources, no timber harvest will occur within a minimum of one hundred feet of Humpback Creek; access by personnel and equipment will be along the high water edge of the creek in order to avoid disturbance of intertidal gravels; and trees containing nests will be left undisturbed.

5. The Site is in a remote location. The harvesting of timber from other lands for construction of this replacement dam is not feasible because hauling timber to the Site appears to be prohibitively expensive. In addition, hauling activities may cause greater adverse effects to the resources located at the Site than removing the timber from the Site.

6. The Alaska Department of Emergency Services has approved the proposed replacement of the dam and has authorized funding to be used by October 1, 1998.

**THEREFORE**, we resolve to amend the Resolution as follows:

(A) the offer to purchase the Lands and any agreements to acquire the Lands shall contain the following terms and conditions:

1) prohibit development on the Lands prior to closing, with the exception of the harvesting of 160 logs from the Site for the construction of a replacement dam;

2) Eyak shall agree to permit a representative of the Forest Service and the Alaska

Department of Fish and Game ("ADF&G") to be present during the harvesting of timber at the Site;

3) Eyak shall require the implementation of the mitigation measures identified in this resolution and any reasonable measures the Forest Service or ADF&G may request while present at the Site;

4) Eyak shall also agree to replant trees in the area where timber was removed from the Site if requested to do so by the Forest Service;

5) the purchase price for the acquisition of the Lands shall be reduced by the value of the timber removed from the Site as may be determined by any compensation Eyak receives from the Cordova Electric Cooperative in the form of cash and/or credit toward its utility billing, less Eyak's costs.

All other terms and conditions of the Resolution are unaffected by this amendment and remain in effect.

**APPROVED** by the Council at its meeting of September 4, 1998, held in Anchorage and Juneau, Alaska, as affirmed by our signatures affixed below.

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JAMES A. WOLFE  
Trustee Representative  
USDA Forest Service

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BRUCE M. BOTELHO  
Attorney General  
State of Alaska

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

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STEVEN PENNOYER  
Director, Alaska Region  
National Marine  
Fisheries Service

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FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game

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MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation

# Exxon Valdez Oil Spill Trustee Council

645 G Street, Suite 401, Anchorage, AK 99501-3451 907/278-8012 fax: 907/276-7178



## MEMORANDUM

TO: Trustee Council members

FROM: Eric F. Myers *efm*  
Director of Operations

DATE: September 3, 1998

SUBJ: Draft Eyak Resolution

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Please find attached a draft resolution prepared by Maria Lisowski concerning the request being made by the Eyak Corporation, on behalf of the Cordova Electric Cooperative, to allow the harvest trees (160 logs) from 2-3 acres of land within the vicinity of the Humpback Creek hydroelectric project.

Maria has advised that this draft resolution has been circulated among the various legal counsel for the respective Trustee agencies although additional comments may be forthcoming. Given the short time frame, however, I wanted to make this draft available for your review.

If you have further questions, please let me know.

attachment

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### **Federal Trustees**

U.S. Department of the Interior  
U.S. Department of Agriculture  
National Oceanic and Atmospheric Administration

### **State Trustees**

Alaska Department of Fish and Game  
Alaska Department of Environmental Conservation  
Alaska Department of Law

**DRAFT**

**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 review and consideration of the views of the public, find as follows:

1. The Eyak Corporation ("Eyak") owns the surface estate of, or is entitled to receive title to, certain lands located within the Chugach National Forest in the Prince William Sound region of Alaska ("Lands"), as described in the July 2, 1997 Resolution of the Council ("Resolution").

2. Pursuant to the Resolution, the Council authorized funding for an offer to purchase a combination of surface estate fee simple and conservation easement interests in the Lands, subject to certain conditions and terms. One such condition is that no development is to take place on the Lands prior to closing.

3. Eyak has requested a specific and limited waiver from the development restriction contained in the Resolution due to Cordova Electric Cooperative's request to permit the removal of timber from the Lands in the vicinity of the Humpback Creek hydroelectric facility (the "Site"). The timber will be used to construct a dam to replace the existing wooden impoundment dam, originally constructed in 1909. The existing dam sustained significant damage during a recent flood and heavy rains. The hydroelectric facility generates electric power for the residents of Cordova.

4. The replacement dam will be constructed approximately thirty to forty feet downstream from the existing dam. A skyline yarding system will be used to yard logs from the north side of the Humpback Creek drainage, and a double drum yarder will be placed by helicopter on a hill approximately 100 feet above the site on the south side. Logs will be fully

suspended and lowered to the dam site. Some clearing of second growth hemlock will occur at the Site. Additionally, it is expected that 160 logs of twenty and thirty feet in length (approximately 80 to 100 trees) will be needed to construct a replacement dam, which will require the harvesting of an area two to three acres in size on the north side of the Site. To mitigate potential effects to resources, no timber harvest will occur within a minimum of one hundred feet of Humpback Creek; access by personnel and equipment will be along the high water edge of the creek in order to avoid disturbance of intertidal gravels; and trees containing nests will be left undisturbed.

5. The Site is in a remote location. The harvesting of timber from other lands for construction of this replacement dam is not feasible because hauling timber to the Site appears to be prohibitively expensive. In addition, hauling activities may cause greater adverse effects to the resources located at the Site than removing the timber from the Site.

6. The Alaska Department of Emergency Services has approved the proposed replacement of the dam and has authorized funding to be used by October 1, 1998.

**THEREFORE**, we resolve to amend the Resolution as follows:

(A) the offer to purchase the Lands and any agreements to acquire the Lands shall contain the following terms and conditions:

1) prohibit development on the Lands prior to closing, with the exception of the harvesting of 160 logs from the Site for the construction of a replacement dam;

2) Eyak shall agree to permit a representative of the Forest Service and the Alaska Department of Fish and Game ("ADF&G") to be present during the harvesting of timber at the Site;



3) Eyak shall require the implementation of the mitigation measures identified in this resolution and any reasonable measures the Forest Service or ADF&G may request while present at the Site;

4) Eyak shall also agree to replant trees in the area where timber was removed from the Site if requested to do so by the Forest Service;

5) the purchase price for the acquisition of the Lands shall be reduced by the value of the timber removed from the Site as may be determined by any compensation Eyak receives from the Cordova Electric Cooperative in the form of cash and/or credit toward its utility billing or, if no such compensation is received, as determined by a Forest Service timber appraisal.

All other terms and conditions of the Resolution are unaffected by this amendment and remain in effect.



DRAFT

**APPROVED** by the Council at its meeting of September 4, 1998, held in Anchorage and Juneau, Alaska, as affirmed by our signatures affixed below.

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JAMES A. WOLFE  
Trustee Representative  
USDA Forest Service

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BRUCE M. BOTELHO  
Attorney General  
State of Alaska

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

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STEVEN PENNOYER  
Director, Alaska Region  
National Marine  
Fisheries Service

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FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game

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MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation

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\*\*\* MULTI TRANSACTION REPORT \*\*\*  
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TX/RX NO.

2709

INCOMPLETE TX/RX

TRANSACTION OK

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JUNEAU OFFICE

[ 10] 19075867555

WOLFE

[ 26] 19074652075

B.BOTELHO

[ 28] 19075867249

S.PENNOYER

[ 29] 19074652332

FRANK RUE

[ 31] 19074655070

BROWN

[ 36] 2787022

ALEX-CRAIG

[ 37] 2714102

D.WILLIAMS

[ 43] 19075867251

M.LISOWSKI

[ 45] 12022083877

B.ROTH

ERROR

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\*\*\* ACTIVITY REPORT \*\*\*  
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TRANSMISSION OK

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| CONNECTION ID  | G.BELT      |
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| USAGE TIME     | 02'07       |
| PAGES          | 6           |
| RESULT         | OK          |

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\*\*\* MULTI TRANSACTION REPORT \*\*\*  
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TX/RX NO.

2708

INCOMPLETE TX/RX

TRANSACTION OK

[ 09] 19075867589

JUNEAU OFFICE

[ 10] 19075867555

WOLFE

[ 13] 19077896608

- BRUCE WRIGHT

[ 15] 2698918

CAROL FRIES

[ 17] 2713992

KEN HOLBROOK

[ 18] 2672464

SULLIVAN-SLATER

[ 20] 7863350

C. BERG

[ 21] 2572517

B. RICE

[ 30] 19074655362

ALEX VITERI

[ 31] 19074655070

BROWN

[ 35] 19253737834

B. SPIES

ERROR