

AGREEMENT FOR PROTECTION OF CERTAIN
LANDS AND RESOURCES BETWEEN
KONIAG, INC., THE UNITED STATES OF AMERICA,
AND THE STATE OF ALASKA

THIS AGREEMENT FOR PROTECTION OF CERTAIN LANDS AND RESOURCES (hereinafter, "Agreement") is entered into by and between Koniag, Inc. (hereinafter "Koniag"), a Native Regional Corporation authorized pursuant to the Alaska Native Claims Settlement Act (hereinafter "ANCSA"), as heretofore amended, 43 U.S.C. § 1601, et seq., and duly organized under the business for profit laws of the State of Alaska; the United States of America (hereinafter "United States"); and the State of Alaska (hereinafter "State"). Koniag, the United States and the State are collectively referred to as "the Parties".

W I T N E S S E T H :

WHEREAS, in 1980, pursuant to that certain merger under the laws of the State of Alaska and in accordance with the provisions of ANCSA, 43 U.S.C. § 1627, the Karluk Native Corporation and Nu-Nachk Pit, Inc. were merged into Koniag. Accordingly, Koniag became the successor-in-interests to the rights and obligations of the Karluk Native Corporation and Nu-Nachk Pit, Inc., including, but not limited to, the ownership of those lands previously conveyed to each such Village Corporation pursuant to the provisions of ANCSA, as well as the rights of each such Village Corporation to receive title to such other lands which had been previously validly selected but not yet conveyed to them up to their remaining ANCSA entitlement (hereinafter, references to Koniag shall include Koniag as well as its predecessors in interest where appropriate).

WHEREAS, as the result of such merger, Koniag presently owns the surface estate of lands on Kodiak Island, including approximately 57,900 acres within the boundaries of the Kodiak National Wildlife Refuge ("KNWR") and which are the subject of

this Agreement. The subsurface rights associated with these lands within KNWR are held by the United States.

WHEREAS, these lands are within the oil spill area as defined by the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") in the Final Restoration Plan which was approved on November 2, 1994.

WHEREAS, Koniag and the United States have previously completed the acquisition in fee of those lands identified in their December 1995 purchase agreement.

WHEREAS, the Parties now desire to enter into a new, long-term agreement which will provide for the protection of certain additional Koniag lands and resources as part of the Trustee Council program to restore the natural resources and services that were injured by the *Exxon Valdez* Oil Spill ("EVOS").

WHEREAS, implementation of this Agreement fulfills the obligations and expectations of the parties to the December 1995 agreement as to a process for identifying and protecting additional lands owned by Koniag and not included in the prior sale to the United States.

WHEREAS, these lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the Trustee Council's habitat **benefit** analysis. This analysis has indicated that these lands generally have high value for the restoration of such injured natural resources as pink salmon, sockeye salmon, dolly varden, Pacific herring, black oystercatcher, harbor seal, harlequin duck, bald eagle, the intertidal/subtidal biota, marbled murrelet, pigeon guillemot, river otter, sea otter and cultural and archeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured services that rely on these natural resources, including commercial fishing,

wilderness, recreation, tourism and subsistence. Restoration of the injured species will benefit from the conservation easements provided for herein and the resulting protection of this important habitat.

WHEREAS, these lands are located wholly within the boundaries of the KNWR and their protection will ensure the preservation of a significant portion of one of the nation's most productive and unique ecosystems.

WHEREAS, recently, on private lands within the KNWR, development and construction have included lodges, private residences and recreational cabins. Many of the sites are located near key water bodies. The development of these sites can have a significant impact, particularly on a cumulative basis, on water quality and the injured natural resources and services.

WHEREAS, the Department *of the Interior* ("*Department*") has determined that implementation of this Agreement will enhance the protection of the outstanding natural values of the areas as a part of KNWR and will further the purposes set forth in the Alaska National Interests Lands Conservation Act (hereinafter, "ANILCA"), 16 U.S.C. § 3101.

WHEREAS, the Department is authorized by statute to obligate and expend EVOS settlement funds for restoration purposes.

WHEREAS, the interests in lands subject to the terms of this Agreement were acquired by Koniag pursuant to the provisions of ANCSA and, except as noted otherwise in Departmental records, remain generally undeveloped and unchanged in character and condition from that which existed at conveyance to Koniag by the United States.

WHEREAS, the lands subject to this Agreement are of particular value to meet the restoration goals and objectives of

the Trustee Council, as well as the conservation objectives established for the National Wildlife Refuge System.

NOW THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the Parties covenant and agree as follows:

(1) General Overview of Agreement. The purpose of this Section is to facilitate understanding of the various transactions provided for in this Agreement. The provisions of the specific sections of this Agreement that follow and the various instruments attached as exhibits hereto, are controlling as to the requirements relating thereto.

Koniag will extend the expiration date for the existing Non-Development Easements and the State Access and Use Easement generally covering the Karluk and Sturgeon River drainages from December 15, 2001 to October 15, 2002 (see the First Amendment to the Non-Development Easement in the form set forth at attached Exhibit). A payment by the United States of \$300,000 for this extension is due to Koniag on December 15, 2001. These easements will be replaced upon the expiration of the foregoing extension on October 15, 2002 by a Conservation Easement in the form set forth at attached Exhibit and with an initial term of ten years. The U.S. Fish and Wildlife Service (**hereinafter "Service"**) will share certain management responsibilities with Koniag with respect to the lands covered by the Conservation Easement. Also effective October 15, 2002, the Camp Island Limited Development Easement in the form set forth at attached Exhibit will commence and run concurrently with the term of the Conservation Easement. Under this Agreement, Koniag, in its sole discretion and at its sole option, may sell to the United States, no earlier than December 15, 2012, the lands subject to the Conservation Easement. In

return for these two easements and the option to sell, the United States will cause to be established as of October 15, 2002, a Special Account from which payments for these easements to Koniag will be made. The Special account will be funded by a deposit of \$29,550,000 of the joint settlement funds and invested following consultation with Koniag. From this account, annual payments to Koniag will be made for these easements, as well as the payment of applicable investment fees. Should Koniag elect to exercise its option to sell to the United States the lands subject to the Conservation Easement, Koniag would transfer to the United States and/or the State, as applicable, the State Conservation Easement in the form set forth at attached Exhibit , the Limited Warranty Deed in the form set forth at attached Exhibit , and the permanent Camp Island Limited Development Easement in the form set forth at attached Exhibit and would receive the funds remaining in the Special Account .

(2) Koniag Selections.

The Parties are uncertain whether Koniag, as successor to Karluk Native Corporation and Nu-Nachk Pit, Inc., has now received from the United States all of such Village Corporations' remaining ANCSA entitlement within the Kodiak NWR. Should a subsequent determination find that such entitlement within the Refuge remains unfulfilled, Koniag agrees to prioritize any future conveyances from the United States so it receives land outside the Refuge whenever legally permissible to do so. Should the conveyance of such remaining entitlement outside the Refuge not be legally permissible, Koniag agrees to execute the appropriate instruments in order that such lands will be treated in the same manner as are other Koniag lands under this Agreement.

(3) Initial Closing.

(a) Subject to the terms and conditions set forth in this Agreement, the closing shall take place on such date that is prior to December 15, 2001 and at a location, both of which are mutually agreeable to the Parties. At the Initial Closing, the following instruments shall be executed and delivered to the United States, and where applicable, the State of Alaska:

(i) First Amendment to Non-Development Easement in the form set forth in attached Exhibit __;

(ii) Conservation Easement in the form set forth in attached Exhibit __; and

(iii) Camp Island Limited Development Easement in the form set forth in attached Exhibit __.

(b) The United States shall be responsible for promptly recording these instruments and the payment of costs customarily paid by the United States for the acquisition of lands and interests in lands.

(4) Elections of Koniag. The initial term of the Conservation Easement and the Camp Island Limited Development Easement are each ten (10) years. No later than July 15, 2012, Koniag shall notify the United States and the State in writing of its election, which election shall be in Koniag's sole discretion, whether it wishes to:

(a) convey the lands subject to the Conservation Easement in fee to the United States by the Limited Warranty Deed in the form set forth at attached Exhibit __, subject to the State Conservation Easement in the form set forth at attached Exhibit __, and to convey the permanent Camp Island Limited Development Easement in the form set forth at attached Exhibit __, in return for those funds remaining at closing in

the Special Account established pursuant to Section 5(b) of this Agreement;

(b) extend the Conservation Easement and the Camp Island Limited Development Easement for an additional ten year term in return for the payment schedule pertaining to years 11 through 20 set forth in Section 5(c) of this Agreement. During this extension period, Koniag may at any time make the same elections as are set forth in Subsection 4(a). If at the end of this ten year extension period, Koniag has not so elected to sell these lands in fee, the easements and this Agreement will terminate, unless the Parties mutually agree to extend them thereafter, and the Trustee Council, or its successor in function, has approved the use of funds remaining in the special account for this purpose; or

(c) allow the Conservation Easement and the Camp Island Limited Development Easement to expire at midnight on October 14, 2012.

(5) Establishment of Special Account and Payments to Koniag.

(a) In consideration for the First Amendment to Non-Development Easement, the United States shall pay \$300,000 (Three hundred thousand and no/100 dollars) to Koniag by December 15, 2001.

(b) Effective October 15, 2002, the United States, through the Trustee Council, will cause to be established and fund a special account in the amount of \$29,550,000 (Twenty-nine million, five hundred and fifty thousand and no/100 dollars) ("Special Account"). The Special Account shall be established by the United States and the State, acting through the Trustee Council or its successors in function (the "Governments"), with the State of Alaska investment system in

accordance with the authority provided by Congress in Section 350 of P.L. 106-113, 113 Stat.1501 (1999). The Governments will manage the Special Account and are solely responsible for its investment. Notwithstanding the foregoing, the Governments shall (i) consult with Koniag concerning the investment strategy for the Special Account over the life of this Agreement and (ii) the Governments shall establish an initial investment target of a projected average annual return of 5.75% above inflation when considered over a ten year period, unless after consultation with Koniag, the Governments determine that such investment targets would be imprudent and would require an investment strategy relying on undue risk of principal of these joint governmental funds. Koniag shall be provided a financial report on the Special Account at least quarterly, which report shall identify the investments held therein, their value and all transactions made with respect to the Special Account during the reporting period. Such reports shall be provided within thirty (30) days of the close of the reporting period.

(c) Investment management fees shall be paid from the Special Account in accordance with the provisions set forth below.

(i) If on October 15, 2005 or on any subsequent anniversary of the creation of the Special Account, the management fees then charged on an annual basis exceed the management fees in effect as of October 15, 2002, adjusted for the cumulative increases, if any, in the Consumer Price Index for all items for Anchorage, Alaska, which may have occurred since October 15, 2002, then Koniag, in its sole discretion, may elect to terminate this Agreement and the Easements granted pursuant hereto in the manner provided in Section 9(a) hereof. Any failure by Koniag to elect to terminate shall not preclude Koniag from electing to terminate in a subsequent year, if the foregoing conditions with respect to the amount of the management fees charged at that time are met at the time of its election, even if there has not been a change in the amount of the management fees during the interim period. Any increase in

the management fees which is the result of a change in the composition or the management of the investment portfolio within the special Account from that which is in effect on October 15, 2002, which is made by the Trustee Council in conformity with a recommendation made by Koniag shall not be considered in determining whether the cumulative increase in the management fees is such as to give rise to Koniag's right to terminate as provided herein.

(ii) If the Special Account is held in an entity other than that of the State of Alaska, the fees to be charged shall be the actual fees assessed by, and commensurate with, the management fees charged for an account of this nature.

(d) For each entire year that the Conservation Easement is in effect, an annual payment from the special account shall be made to Koniag as follows:

Year 1	\$372,100, paid on October 15, 2003
Year 2	\$405,589, paid on October 15, 2004
Year 3	\$439,078, paid on October 15, 2005
Year 4	\$472,567, paid on October 15, 2006
Year 5	\$506,056, paid on October 15, 2007
Year 6	\$539,545, paid on October 15, 2008
Year 7	\$573,034, paid on October 15, 2009
Year 8	\$606,012, paid on October 15, 2010
Year 9	\$640,102, paid on October 15, 2011
Year 10	\$673,501, paid on October 15, 2012
Year 11	\$706,990, paid on October 15, 2013
Year 12	\$744,200, paid on October 15, 2014
Year 13	\$744,200, paid on October 15, 2015
Year 14	\$744,200, paid on October 15, 2016
Year 15	\$744,200, paid on October 15, 2017
Year 16	\$744,200, paid on October 15, 2018
Year 17	\$744,200, paid on October 15, 2019
Year 18	\$744,200, paid on October 15, 2020
Year 19	\$744,200, paid on October 15, 2021
Year 20	\$744,200, paid on October 15, 2022

(e) If Koniag elects in accordance with Section 4 hereof not to sell the lands to the United States in fee, or otherwise allows the easements to terminate, or elects to terminate this Agreement pursuant to Section 5(c)(i) hereof, Koniag shall cease to have any right or claim with respect to any amounts in the Special Account, and the balance thereof shall be available for use by the United States and the State of Alaska in accordance with the consent decrees applicable to the use of the proceeds from the EVOS settlement and other applicable law.

(f) So long as the Conservation Easement and the Camp Island Limited Development Easement are in effect, no funds in the Special Account may be withdrawn therefrom, unless such withdrawal *is* pursuant to subsections (c) and (d) hereof or related to the payment of third party costs incurred in the closing of a sale of the lands made pursuant to an election to sell under subsections 4(a) or 4(b) hereof (e.g., hazardous material surveys and closing costs). The funds in such Special Account may not otherwise be transferred to another account without the prior written consent of Koniag.

(6) Conditions Precedent.

(a) The following conditions shall be satisfied prior to the Initial Closing set forth in Section 4 hereof:

(i) receipt by the United States and the State of an opinion of counsel to Koniag confirming the authority of Koniag to enter into the transactions contemplated by the Agreement and satisfactory in form and substance to the United States and the State;

(ii) receipt by the United States and the State of a certificate of corporate standing for Koniag and such other

documents as may be necessary for the United States and the State to establish the authority of Koniag to grant the interests in land contemplated by this Agreement;

(iii) with respect to the interests in lands to be granted at the closing, the satisfactory completion for the Service of a title opinion satisfying the regulations promulgated by the U.S. Department of Justice (hereinafter "Justice") pursuant to 40 U.S.C. § 255 relating to federal land acquisitions. The Parties acknowledge that prior to execution of this Agreement, a waiver of certain provisions of such regulations has been requested from Justice in order to accommodate the provisions of this Agreement;

(iv) with respect to the interests in land to be granted at the closing title satisfactory to the Alaska Department of Law;

(v) completion by the United States of hazardous material surveys as required by Department regulations for land acquisitions, which surveys shall be promptly performed by the United States and which shall be satisfactory to the United States and the State.

(vi) compliance by Koniag with its representations that since execution of this Agreement, no development has taken place on the lands covered by the Camp Island Limited Development Easement that is otherwise precluded under such easement;

(vii) reaching a satisfactory agreement between Koniag and the Alaska Department of Fish and Game on the location of sites whereby public users of the Karluk River may transit and use the Koniag lands outside the Refuge for up to one night following their departure from the Refuge;

(viii) reaching a satisfactory agreement between

Koniag and the Service that the terms of the Camp Island Limited Development Easement are in compliance with the requirements of Section 22(g) of ANCSA as provided in the newly adopted compatibility regulations found at 65 F.R. 62458, et seq. (October 18, 2000);

(ix) a finding by the Department, in a form satisfactory to Koniag, that for purposes of Section 1307 of ANILCA (16 U.S.C. § 3197), that Koniag, the successor to Karluk Native Corporation and Nu-Nachk Pit, Inc., is entitled to receive the preference rights enumerated therein with respect to the award of revenue-producing visitor services for the Refuge;

(x) preparation of the the map depicting the trails existing as of January 10, 2001 and required for Section 7(d) of the Conservation Easement. Such map shall be prepared by the Parties following consultation by Koniag with the Villages of Larsen Bay and Karluk and such on the ground inspection by the Parties as may be required to identify any existing trails which qualify under the terms of Section 7(d) on the Conservation Property; and

(xi) Satisfaction of the terms and conditions set forth in the Resolution of the Trustee Council dated January 4, 2001, including but not limited to, the filing by the United States Department of Justice and the Alaska Department of Law of a notice, as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the United States.

(b) The following conditions shall be satisfied prior to the closing set forth in Section 7 hereof for the purchase of the lands pursuant to the election of Koniag under Section 4(a) or 4(b) hereof:

(i) receipt by the United States and the State of an opinion of counsel to Koniag confirming the authority of Koniag to enter into the transactions contemplated by the Agreement and satisfactory in form and substance to the United States and the State ;

(ii) receipt by the United States and the State of a certificate of corporate standing for Koniag and such other documents as may be necessary for the United States and the State to establish the authority of Koniag to grant the interests in land contemplated by this Agreement;

(iii) with respect to the interests in lands to be granted at the closing, the satisfactory completion for the Service of a title opinion satisfying the regulations promulgated by the U. S. Department of Justice (hereinafter "Justice") pursuant to 40 U.S.C. § 255 relating to federal land acquisitions. The Parties acknowledge that prior to execution of this Agreement, a waiver of certain provisions of such regulations has been requested from Justice in order to accommodate the provisions of this Agreement;

(iv) with respect to the interests in lands to be granted at the closing title satisfactory to the Alaska Department of Law; and

(v) completion by the United States of hazardous material surveys as required by Department regulations for land acquisitions, which surveys shall be promptly performed by the United States and which shall be satisfactory to the United States and the State.

(7) Section 4(a) Closing

(a) Should Koniag elect to exercise its rights under Section 4(a) or 4(b) to sell to the United States the

Conservation Property as described in the Conservation Easement, then subject to the terms and conditions set forth in this Agreement, the closing of such sale shall take place on such date that is within ninety (90) days of the date of the receipt by the United States and the State of notice of Koniag's election to sell under Section 4(a) or 4(b), and at a location, both of which are mutually agreeable to the Parties. At the Section 4(a) Closing:

(i) Koniag shall convey to the State of Alaska, the State Conservation Easement in the form attached hereto as Exhibit ____;

(ii) Koniag shall sell and convey to the United States in fee by Limited Warranty Deed, in the form attached hereto as Exhibit ____, in fee and subject to the State Conservation Easement, those lands defined as the Conservation Property in the Conservation Easement; and

(iii) Koniag shall grant to the United States and the State of Alaska the permanent Camp Island Limited Development Easement in the form attached hereto as Exhibit ____.

(b) The United States shall be responsible for recording the Limited Warranty Deed, the State Conservation Easement and the permanent Camp Island Limited Development Easement and shall do so as expeditiously as possible but in any event within five (5) business days of the Section 5(a) closing, weather permitting. Within fourteen (14) days of the recording of the Limited Warranty Deed, the United States shall pay to Koniag all of the funds in the Special Account, less the costs incurred in such closing which have been agreed to by the Parties. Such funds shall be accompanied by a Statement of the Special Account reflecting its value and all transactions made with respect to it since the last statement was provided to Koniag.

(8) Warranties and Disclosures.

Koniag represents and warrants to the United States and the State as follows:

(a) Subject to the provisions of §§ 14(g) and 17(b) of ANCSA, 43 U.S.C. §§ 1613(g) and 1616(b), and the provisions of the Act of May 17, 1906, 34 Stat. 197, as amended, and Section 905 of ANILCA, 43 U.S.C. § 1634, to the extent applicable, the regulations promulgated thereunder, and the reservations, restrictions and limitations set forth in the conveyances from the United States to Koniag, as of the date of the respective closings, Koniag will be the sole legal owner of the surface estate of lands and interests in lands to be granted to the United States and the State at the applicable closing under this Agreement.

(b) Title to the lands and interests in lands to be granted to the United States and the State under this Agreement shall be, at closing, free and clear of all liens, charges, encumbrances, clouds and defects whatsoever, except, if applicable, for (i) liens, charges, encumbrances, clouds and defects of record; (ii) liens, charges, encumbrances, clouds and defects not of record which existed prior to the date(s) on which said lands were conveyed to Koniag pursuant to Section 14 of ANCSA, 43 U.S.C. § 1613; (iii) all restrictions, reservations, encumbrances and limitations set forth in the conveyances from the United States to Koniag arising under ANCSA and the rules and regulations promulgated thereunder; (iv) the reservation of the Subsistence Access Easement; and (v) the State Conservation Easement.

(c) To the best of Koniag's knowledge and belief: (i) Koniag has not, nor has it allowed any other person, since the conveyance of lands to Koniag by the United States under ANCSA, to place, store, spill or dump in an unlawful manner any

Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on the lands to be conveyed to the United States under this Agreement; (ii) such lands are not now, nor since their conveyance to Koniag, ever been used for industrial purposes; (iii) no third party has ever unlawfully placed, stored, spilled or dumped any Hazardous Wastes, Hazardous Substances, hazardous materials, chemical waste, or any other toxic substance on such lands during the time in which they were owned by Koniag; specifically excluded from this warranty is any spillage of such substances or wastes as may have occurred as a result of EVOS; (iv) Koniag has disclosed to the Service all information in its possession or knowledge which indicates that any of the foregoing activities, whether lawful or unlawful, took place on such lands prior to the conveyance of the lands to Koniag; and (v) Koniag has disclosed to the Service all information in its possession or knowledge concerning the location and activities thereon that took place on those areas subject to this Agreement which Koniag or a third party has used while they may have been in the lawful possession of such hazardous or toxic substances. The term "Hazardous Substances" as used herein shall mean any substances designated as hazardous by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended and supplemented, 42 U.S.C. 9601, et seq., or the Clean Water Act, as amended and supplemented, 33 U.S.C. § 1251, et seq., or both, or any regulations promulgated pursuant to either or both statutes or under any applicable state law. The term "Hazardous Wastes" as used herein shall mean any other substance, including oil and gas and byproducts and wastes thereof, designated as hazardous under any applicable federal or state laws or regulations or any combination thereof.

(9) Termination.

(a) In the event that the United States fails to make the payments as required by Section 5 hereof, or the increases in the management fees for the Special Account exceed the amount

permitted under Section 5(c)(i), Koniag in its sole discretion may elect to terminate this Agreement. Such termination shall be effective thirty (30) days after written notice of such election is received from Koniag by the Regional Office of the Service. In the event of such termination, Koniag shall have no further obligation under this Agreement, the Conservation Easement and the Camp Island Limited Development Easement.

(b) Should any Party hereto fail to perform any obligation under this Agreement, other than failure to close for non-payment which is encompassed within the provisions of Subsection 9(a) hereof, then the other Party shall have the right, upon thirty (30) days written notice to the other Party, to terminate this Agreement. Nothing in this Subsection shall limit any right of either Party to utilize remedies otherwise available to it under this Agreement.

(10) Training Program.

Subject to the availability of appropriations, the Service shall make a good faith effort, within its refuge management program and programs to implement this agreement, to provide employment and training opportunities for residents of Karluk and Larsen Bay through the local hire provisions of ANILCA, Section 1308 and special emphasis recruitment and development programs to train and encourage residents to pursue careers in natural resource management. The Service may include other Koniag shareholders and their descendants in such programs by implementing a cooperative agreement with Koniag under which Koniag will pay for the program costs of such other participants.

(11) Claims Arising from EVOS.

Nothing in this Agreement or any document executed pursuant thereto shall be deemed to constitute an assignment, waiver or

release of any claim Koniag or its individual shareholders may have against Exxon Corporation and any other person or entity as a result of EVOS.

(12) Section 22(g).

With the exception of the conveyances of certain interests in lands to the State of Alaska under the terms of this Agreement, consent for which is hereby provided, nothing in this Agreement shall be deemed to constitute a waiver by the United States of its right of first refusal pursuant to Section 22(g) of ANCSA.

(13) Recordation.

A copy of this Agreement and any amendment hereto may be recorded by or on behalf of any Party following the execution thereof by the Parties. If this Agreement is subsequently terminated in accordance with the provisions of Section 9, then upon the request of Koniag, the United States and the State of Alaska shall execute a Release of Interests and/or other documentation satisfactory to the Parties and suitable for recording acknowledging the termination of this Agreement and any easement which may be granted pursuant hereto, and the release from their respective terms any Koniag lands.

(14) Effective Date.

The effective date of this Agreement shall be the date of signature of the last Party hereto.

(15) Execution in Separate Counterparts.

For purposes of expediting execution of this Agreement or any amendments hereto, this Agreement or any amendments hereto

may be signed in separate counterparts by the Parties which, when all have so signed, shall be deemed a single Agreement or amendment hereto, respectively, and the effective date of any amendment shall be the date upon which the last of the subscribed Parties signs the amendment.

(16) Other Agreements and Actions.

The Parties agree to take other action or enter into other agreements reasonably necessary to carry out the intent of this Agreement.

(17) Signature Authority.

Each signatory to this Agreement represents that such signatory is authorized to enter into this Agreement.

(18) Unanticipated Events.

The Parties acknowledge that there may exist circumstances beyond the reasonable control of either Party which interfere with the Parties' abilities to complete the transaction and to comply with the time constraints set forth in this Agreement. The Parties agree to use their good faith best efforts to complete the transactions contemplated within this Agreement as set forth herein. In the event that circumstances occur beyond the reasonable control of either Party which significantly impair or detract from the rights and benefits provided to either of the Parties, then both Parties will, in good faith, attempt to negotiate reasonable modifications of this Agreement so as to protect the rights, interests and duties of the Parties under this Agreement so as to carry out the intent of this Agreement. Nothing in this Section shall preclude the right of Koniag to terminate this Agreement pursuant to the provisions of Section 9 hereof for reason of the non-payment of money.

(19) Miscellaneous.

The following general provisions shall apply to each of the provisions of the Agreement:

(a) All exhibits and appendices attached hereto are incorporated herein. The Parties mutually covenant and agree that this instrument and its exhibits and appendices embody the whole agreement of the Parties regarding the Agreement and that there are no promises, terms, conditions or obligations other than those contained or referred to in this Agreement. The Parties agree that any oral representations made by any Party during the negotiation of this Agreement which are not incorporated by writing into this Agreement are not binding.

(b) The commitments, representations and warranties contained in this Agreement shall survive the closings provided for hereunder.

(c) The United States and the State agree to perform their respective responsibilities set forth in the various easements provided for hereunder.

(d) No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

(e) The Parties agree that clerical and typographical errors contained herein may be corrected upon written notice to the other Party. Unless such errors are deemed substantive or otherwise objected to by either Party within sixty (60) days by written notice, correction will be considered made without formal ratification by the Parties. The Party making such correction shall ensure that it is properly recorded if this Agreement has been recorded.

(f) Neither the Department nor the State represents or warrants the manner in which the transactions under this Agreement will be treated under federal or state income tax laws.

(g) This Agreement may be amended, modified or supplemented only by a written amendment signed by all parties hereto.

(h) Nothing herein shall be construed as obligating the expenditure by the United States or the State of Alaska, now or in the future, in excess or advance of appropriations authorized by law.

(i) The Sectional headings used in this Agreement are merely labels, inserted for convenience and without substantive import.

(j) All notices, requests, orders and other communications under this Agreement shall be in writing (unless expressly provided otherwise), and shall be deemed to have been duly given if delivered personally to the addressee or upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid as follows:

(i) If to Koniag:

President
Koniag, Inc.
4300 B Street, Suite 407
Anchorage, Alaska 99503

With a copy to:

Middleton & Timme
421 West First Avenue, Suite 250
Anchorage, Alaska 99501

(ii) If to the United States:

Regional Director
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503

With a copy to:

Refuge Manager
Kodiak National Wildlife Refuge
1390 Buskin River Road
Kodiak, Alaska 99615

and

U.S. Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

(iii) If to the State:

Alaska Department of Natural Resources
Office of the Commissioner
550 West 7th Avenue, Suite 1400
Anchorage, Alaska 99501-3579

and

Alaska Department of Fish and Game
Office of the Commissioner
P.O. Box 25526
Juneau, Alaska 99802-5526

or to such other addresses as any Party may designate in writing.

(k) The Parties agree that the existing State Access and Use Easement, dated , by operation of its terms, is automatically extended for the duration of the First Amendment to the Non-Development Easement.

(l) The Parties reserve the right to make corrections in the legal descriptions contained in the exhibits or appendices attached hereto for typographical errors, inadvertent omissions, or to reflect changes resulting from surveys.

IN WITNESS WHEREOF, the Parties have set their hands and seals as of the date herein written.

Koniag, Inc.

Date:

By:

President

United States of America

Date:

By:

State of Alaska

Date:

By:

ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA)
) ss:
)

THIS IS TO CERTIFY that on the day of , before me, the undersigned a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Bruce Babbitt known to me and known to be the ; and they acknowledged to me that they signed as accepting the foregoing MASTER AGREEMENT FOR PROTECTION OF CERTAIN LANDS AND RESOURCES BETWEEN KONIAG, INC., THE UNITED STATES OF AMERICA, AND THE STATE OF ALASKA , and they acknowledged to me that they executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

Notary Public in and for the
District of Columbia
My Commission expires:

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss:
)

THIS IS TO CERTIFY that on the day of , before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such personally appeared , President of Koniag, Inc., to me known and known to be the person he represented himself to be and the same identical person who executed the above and foregoing MASTER AGREEMENT FOR PROTECTION OF CERTAIN LANDS AND RESOURCES BETWEEN KONIAG, INC., THE UNITED STATES OF AMERICA, AND THE STATE OF ALASKA, on behalf of Koniag, Inc., and who acknowledged to me that he had full power and authority to and did execute the above and foregoing as a free and voluntary act and deed of said corporation for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

Notary Public in and for the
State of Alaska
My Commission expires:

DRAFT 9/08/00

AFTER RECORDING RETURN TO:

U.S. Department of the Interior
Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

FIRST AMENDMENT TO

THIS FIRST AMENDMENT TO NON-DEVELOPMENT EASEMENT ("Amendment") is made this day of 2000, by Koniag, Inc. ("Koniag"), 4300 B Street, Suite 407, Anchorage, Alaska 99503 ("Grantor") and the United States of America, and its assigns ("United States"), acting through the Fish and Wildlife Service whose address is 1011 E. Tudor Road, Anchorage, Alaska 99503-6199 ("Grantee"), individually referred to hereafter as a Party, or collectively referred to hereafter as the Parties, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)), the National Wildlife Refuge Administration Act (16 U.S.C. § 668dd), and the Agreement for the Grant of Easements and Option for the Sale of Lands and Interests in Lands Between Koniag, Inc. and the United States of America, dated 2,000 ("Agreement").

WHEREAS, the Parties entered into that certain Non-Development Easement as of December 13, 1995 ("Easement"), which will terminate upon December 2,

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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2000, and which is recorded in Book ____ at Page____of the records of the Kodiak Recording Office, Third Judicial District, State of Alaska; and,

WHEREAS, the parties have entered into the Agreement which provides for the granting of a Conservation Easement on the Protected Property (as that term is defined in the Easement, and all other defined terms used herein shall have the same meaning as attributed to them in the Easement, unless specifically otherwise provided herein), which Conservation Easement will not commence until approximately ten months after the termination of the Easement; and,

WHEREAS, the Parties wish to provide for the extension of the term of the Easement until the commencement of the Conservation Easement and which also to provide for the addition of certain lands to the lands subject to its terms; and

WHEREAS, the Parties have reached an agreement as to the manner in which the Easement is to be amended and wish to memorialize their agreement;

NOW THEREFORE, pursuant to the laws of the State of Alaska, and in particular Alaska Statutes Sections 34.17.010 - 34.17.060, and with the consent of the Grantee and the State of Alaska ("State"), as hereinafter set out, and as of the Effective Date hereof (as herein after defined), the Grantor does hereby amend the Easement in the manner hereinafter provided:

1. Effective Date. This Amendment shall become effective as of 12:01 a.m. on December 2, 2001 ("Effective Date").

2. Amendments. As of the Effective Date, the following Sections of the Easement will be amended in the manner herein after set forth:

- (a) Section 2 is deleted in its entirety and in its place the following new Section 2 is added:

Section 2. Term. This Easement shall expire upon the earlier of (I) 12:01 a.m., Alaska Daylight Savings Time on October 14, 2002; (II) the effective date of the Conservation Easement; (III) the effective date of the termination of this Easement; or (IV) the effective date of the termination of the Agreement.

- (b) Section 4(a) is deleted in its entirety and in its place the following new Section 4(a) is added:

- (a) Grantee, acting through the employees and agents of the U.S. Fish and Wildlife Service (hereafter the "Service"), and the State, acting through the employees and agents of the Alaska Department of Fish and Game (hereafter "ADF&G"), shall have unlimited access to the Protected Property for any purpose consistent with this Easement, including access to permit their respective personnel to conduct population surveys and research on fish and wildlife resources, document salmon escapement or any other activity related to the fish and wildlife of the Protected Property in accordance with the terms hereof.

- (c) The following new Section 10 shall be added:

10. Termination. This Easement shall terminate upon thirty (30) days written notice from Grantor to Grantee following the occurrence of any of the following events:

(i) the failure of the United States to pay Grantor the sum of Three Hundred Thousand Dollars (\$300,000) within fourteen (14) days of the the Effective Date of this Amendment;

(ii) the effective date of the termination of that certain Grant of Easements and Option for the Sale of Lands and Interests in Lands Between Koniag, Inc. and the United States of America, dated _____ and recorded in Book ____ at Page_____ of the records of the Kodiak Recording Office, Third Judicial District, State of Alaska.

(d) The following new Section 11 shall be added:

11. Camp Island Lands.

(a) Land Description. Subject to conditions, and restrictions of record, the surface estate of the following described lands are herein after referred to as the "Camp Island Protected Property":

[Insert Description of Camp Island Lands]

(b) Restrictions on Grantor's Use. During the term of this Easement, Grantor will take no action with respect to the Camp Island Protected Property which action would violate the provisions of Section 3 of the Camp Island Limited Development Easement, recorded in Book _____, at

Page____ of the records of the Kodiak Recording District,
Third Judicial District, State of Alaska.

(c) Rights of Grantee and State. The Grantee and the State shall have the same rights with respect to the Camp Island Protected Property as they have under Section 4 of this Easement as amended by the First Amendment of Non-Development Easement.

3. Payment. Within fourteen (14)days of the Effective Date of this Amendment, the United States shall pay to Koniag the sum of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) as consideration for the execution of this Amendment.

4. General Provisions.

(a) This Amendment is not intended, and shall not be construed, to create any other party beneficiary hereof and that nothing in this Amendment shall be construed as creating any rights of enforcement by any other person or entity.

(b) This Amendment shall be construed so as to effect the purpose for which it was granted. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Amendment.

(c) Grantor is not relieved from liability by this Amendment for injuries occurring on, and resulting from, the condition of the Camp Island Protected Property for which it would otherwise ordinarily be liable; provided, however, should such liability arise from a pre-existing condition of the Camp Island Protected Property, then Grantor shall have the right to

reasonably remedy such condition, notwithstanding any other provision herein. The Grantee and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.

(d) Grantor is not relieved from liability by this Amendment for the costs associated with the cleanup of hazardous substances on the Camp Island Protected Property under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Grantor shall be liable for and hold the Grantee and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the Grantee and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Camp Island Protected Property to Grantor and prior to the effective date of this Amendment, and for all releases caused by, or contributed to, by Grantor or its agents subsequent to the date of this Amendment, but not for costs for cleanup of hazardous substances that are released by the Grantee or the State or their respective agents, contractors and employees in the course of engaging in activities that are authorized by the Easement or this Amendment. This clause may be enforced by Grantor or the Grantee or the State in a court of law.

(e) The Parties agree that the covenants, terms, conditions, and restrictions of this Amendment shall run with the land and shall be binding upon the Parties. The Grantee and the State may not transfer their rights hereunder without the consent of the Grantor, which consent may be withheld or conditioned by the Grantor in its sole and absolute discretion. The terms

of this Amendment may be waived or modified only by the written agreement of the Parties.

(f) If any material provision of this Amendment or any application thereof shall be invalid or unenforceable, then the Parties will negotiate in good faith such reasonable modifications of this Amendment as are necessary to protect the duties, rights and interests of the Parties and the State under this Amendment and to carry out the intent of this Amendment.

5. Notices. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Grantor: Koniag, Inc.
 4300 B Street, Suite 407
 Anchorage, Alaska 99503
 Attention: President

If to Grantee: Regional Director
 Region 7
 U.S. Fish and Wildlife Service
 1011 E. Tudor Road
 Anchorage, AK 99503-6199

With a copy to: Refuge Manager
 U. S. Fish and Wildlife Service

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DEBBIE LUKIN, known to me and known to be the Assistant Secretary of Koniag, Inc., a corporation organized and existing under the laws of the State of Alaska, and acknowledged to me that she attested to the execution of the foregoing FIRST AMENDMENT TO NON-DEVELOPMENT EASEMENT freely and voluntarily for and on behalf of said corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

My C

ACCEPTANCE BY THE U.S. FISH AND WILDLIFE SERVICE

Pursuant to Section 1302 of the Act of December 2, 1980, Alaska National Interest Lands Conservation Act, (16 U.S.C. Section 3192), the National Wildlife Refuge Administration Act (16 U.S.C. § 668dd), and the Agreement for the Grant of Conservation Easements and Option for the Sale of Lands and Interests in Lands Between Koniag, Inc. and the United States of America, dated _____, 2____, the Grantee hereby consents to the execution of this FIRST AMENDMENT TO NON-DEVELOPMENT EASEMENT by Grantor and to the amendment to the Non-Development Easement as provided therein.

Dated this _____ day of _____, 2____.

U.S. Fish and Wildlife Service

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
 THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to be the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, and acknowledged to me that _____ signed the foregoing CONSERVATION EASEMENT, conveying to the United States those interests in lands described therein, and she acknowledged that she executed the foregoing instrument freely and voluntarily.

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska
SEAL

My C

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS 38.05.035(a)(12), the State hereby consents to the execution of this FIRST AMENDMENT TO NON-DEVELOPMENT EASEMENT by Grantor and to the amendment to the Non-Development Easement as provided therein.

By: _____

For
Director, Division of Land

ACKNOWLEDGEMENT

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is known to me to be the person who has been lawfully delegated the authority of [INSERT], Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

Printed or typed name of Notary)
NOTARY PUBLIC in and for Alaska
(SEAL) My

Commission Expires:

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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DRAFT 1/4/01

AFTER RECORDING RETURN TO:

U.S. Department of the Interior
Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

CONSERVATION EASEMENT

THIS Conservation Easement ("Easement") is made this day of 2000, by **Koniag, Inc.** ("Koniag"), 4300 B Street, Suite 407, Anchorage, Alaska 99503 ("Grantor") and the **United States of America**, and its assigns ("United States"), acting through the Fish and Wildlife Service whose address is 1011 E. Tudor Road, Anchorage, Alaska 99503-6199 ("Grantee"), and the **State of Alaska**, and its assigns ("State"), acting through the Alaska Department of Natural Resources whose address is 550 West 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579, individually referred to hereafter as a Party, or collectively referred to hereafter as the Parties, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)), the National Wildlife Refuge Administration Act as amended by the Refuge Improvement Act of 1997 (16 U.S.C. § 668aa-ee), A.S. 38.05.035(a)(12) and A.S. 16.05.050(a)(2), and the Master Agreement for the Protection of Certain Lands and Resources Between Koniag, Inc., the United States

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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of America, and the State of Alaska, dated January , 2,001 ("Agreement").

WHEREAS, the Grantor is the owner in fee simple of the surface estate of certain real property located in the Kodiak National Wildlife Refuge ("Refuge"), State of Alaska, which is described below (the "Conservation Property"); and

WHEREAS, the Conservation Property is private property located within the boundaries of the Refuge; and

WHEREAS, the Conservation Property is a natural area that provides significant habitat for migratory birds, fish and other wildlife and plants, and has substantial value as a natural, scenic, educational and recreational resource (all such habitat, wildlife, plants and values hereinafter referred to as "Conservation Values"); and

WHEREAS, resource damage to the banks of the Karluk River and adjoining area is occurring from human use, limits on such use may need to be established; and

WHEREAS, acquisition of this Easement in the Conservation Property will promote the recovery of the resources and services injured by the Exxon Valdez Oil Spill; and

WHEREAS, the Grantee is interested in acquiring, through subsequent purchase, fee title to the Conservation Property; and

WHEREAS, the Grantor does not wish at this time to convey the property in fee or to convey a conservation easement in perpetuity; and

WHEREAS, the Grantor wishes to derive from the Conservation Property annual income to benefit its shareholders and economic opportunities for the residents of Karluk and Larsen Bay who are shareholders of Grantor or the descendants of such shareholders;

NOW THEREFORE, pursuant to the laws of Alaska, in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement, the Grantor for itself, and as successor in interest to the rights of the merged corporations of Karluk Native Corporation and Nu-Nachk Pit, Inc., and in consideration of the amounts to be paid and the promises of Grantee as provided herein, does hereby grant, transfer and convey to the Grantee, with special warranties of title, subject to conditions, restrictions, easements and limitations of record, including, but not limited to, conditions, restrictions, easements and limitations contained in Interim Conveyance 1577 dated December 17, 1993, and recorded at page 001, book 126, Interim Conveyance 117 dated August 24, 1978, and recorded at page 875, book 41, Interim Conveyance 105 dated June 30, 1978, and recorded at page 750, book 43, and Interim Conveyance 723 dated September 29, 1983, and recorded at page 950, book 63, of the records of the Kodiak Recording District, Third Judicial District, State of Alaska [NOTE: Realty to insert correct legal description]; a conservation easement over the Conservation Property of the nature and character and to the extent and for the term hereinafter set forth as to the lands described as follows:

LEGAL DESCRIPTION TO BE INSERTED

Section 1. Purpose. Subject to the terms and conditions hereinafter set forth and during the term hereof, it is the purpose of this Easement

- (a) to preserve the Conservation Property from sale or further development except to the extent specifically provided herein;
- (b) to maintain the Conservation Property predominately in its natural condition and to prevent any use of the Conservation Property, except to the extent specifically provided herein, that will significantly impair or interfere with its Conservation Values;
- (c) to confine the use of the Conservation Property to fish and wildlife management and conservation activities, subsistence gathering activities, archeological investigations, and recreational activities, including those for revenue producing visitor services. **Wildlife and wildlands** recreational activities are consistent with maintaining the Conservation Property predominately in its natural condition and will be held to a level of use which will not significantly impair or interfere with its Conservation Values;

- (d) to encourage and promote the participation of the communities of Larsen Bay and Karluk and of Koniag shareholders and their descendants who are residents of such communities, in the provision of the revenue producing visitor services which are permitted on the Conservation Property; and
- (e) to provide for establishment of a management group comprised of representatives of the Parties to consider issues related to the management of the Conservation Property.

Grantor reserves to itself, for the enjoyment of itself and its licensees, all legal rights and privileges that are not specifically granted to the United States, by and through this Easement.

Section 2. Term.

(a) Primary Term. This Easement will commence on October 15, 2002, and shall expire on October 14, 2012, unless sooner terminated in accordance with its terms (hereinafter "Primary Term").

(b) Secondary Term. At the option of Grantor and upon written notice to the Grantee and the State of its election to extend the term of this Easement, which notice shall be given at least six months prior to the expiration of the Primary Term, the term of this Easement shall be extended for an additional ten (10) year period. Such extended term shall expire upon the earlier of (i) October 14,

2022 or (ii) the closing of the sale of the Conservation Property in fee to the Grantee, unless sooner terminated in accordance with its terms.

(c) Further Extensions. Any amendment by the Parties to this Easement which would extend its term beyond October 14, 2022, may not be made without the prior approval of the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") or its successor.

(d) Termination for Non-Payment. Notwithstanding any other provision hereof, should Grantee fail to make timely payments as required pursuant to Section 8 hereof, Grantor, upon sixty (60) days written notice to Grantee, may elect to terminate this Easement. Such right to terminate shall be in addition to all other rights and remedies at law or in equity which Grantee may have.

Section 3. Prohibited Uses by Grantor. During the term of this Easement and except as provided in Section 7 hereof, or with the prior written consent of Grantee, Grantor shall not:

- (a) sell or lease the Conservation Property to any person other than the Grantee. This prohibition includes the five existing cabins owned by the Grantor, and described as follows: four cabins located at the Portage site along the Karluk River and one cabin located at the outlet of Karluk Lake into the Karluk River; notwithstanding the foregoing, Grantor may lease such cabins for terms of less than twelve

months, or grant a concession for their lease and management should Grantor choose to retain cabin management in accordance with Section 6 hereof.

- (b) except as specifically provided herein, construct any additional structures on the Conservation Property or materially modify the physical characteristics of the Conservation Property .
- (c) authorize seasonal camps except as permitted pursuant to Section 7.
- (d) fill, excavate, dredge, mine, drill or remove topsoil, sand, gravel, rock, minerals or other materials on the Conservation Property; or build roads or change the topography of the land in any manner, except as may be agreed pursuant to Section 3(g) .
- (e) remove, destroy or cut native species of trees or plants (except as is necessary to construct and maintain foot trails as provided in Section 6(d) hereof or to construct and maintain cabin sites at those locations as provided in Sections 3 and 6 hereof), plant trees or plants (except those native species needed for appropriate landscaping at such cabin sites), spray with biocides, graze domestic animals, including reindeer, or disturb or change the natural habitat of the Conservation Property in

any manner.

- (f) dump trash, garbage, or other unsightly or offensive material, or change the topography through the placing of soil or other substance or material such as land fill or dredging spoils on the Conservation Property; and
 - (g) manipulate or alter natural water courses, shores, marshes or other water bodies or engage in activities or uses detrimental to water purity on the Conservation Property except that by mutual agreement of the Parties, measures to protect habitat, e.g., bank stabilization, may be done.
- (ii) utilize terrestrial motorized means of transportation except (i) as authorized by Grantee pursuant to Sections 4 and 5 hereof, (ii) as may be required for emergency transportation or (iii) as authorized pursuant to the terms of an easement reserved under Section 17(b) of ANCSA on which such means of transportation is allowed to be used.

Section 4. Grantee's Rights.

(a) Grantee, acting through the employees and agents of the U.S. Fish and Wildlife Service (hereafter the "Service"), and the State, acting through the employees and agents of the Alaska Department of Fish and Game (hereafter "ADF&G"), shall have unlimited access to the

Conservation Property for any purpose consistent with this Easement, including access to permit their respective personnel to conduct population surveys and research on fish and wildlife resources, document salmon escapement or any other activity related to fish, wildlife and management of the Conservation Property in accordance with the terms hereof; provided however, nothing herein shall grant to Grantee or the State the right to use cabins on the Conservation Property should the management rights to such cabins be held by Grantor.

(b) Except as otherwise limited by the provisions of this Easement, Grantee shall have the right to authorize public access for uses otherwise permissible under 50 CFR Part 36, subject to applicable Alaska regulations for the taking of fish and wildlife promulgated by the Boards of Fisheries and Game. Any such uses must be compatible, within the meaning of the Refuge Improvement Act of 1997, with the purposes for which the Kodiak Refuge was established, and the purposes of this Easement. Grantee shall have the right to prescribe such stipulations as may be required in order to ~~make~~ such uses, whether guided or unguided, compatible.

(c) Except as otherwise limited by the provisions of this Easement, Grantee shall have the right to authorize compatible revenue producing visitor services related to hunting, fishing, access and other related activities on the Conservation Property. Grantee shall have the right to define the limits of these services, select the providers, and collect and retain fees in accordance with applicable laws.

(d) Grantee shall have the right to require that Grantor, its licensees and permittees operate aircraft at altitudes and in flight

paths that do not result in the herding, harassment, hazing or driving of wildlife. Except for takeoff and landing, weather or emergency situations, such aircraft shall maintain a minimum altitude of 2,000 feet above ground level (AGL). Grantee shall impose these same requirements on its licensees and permittees using aircraft to access the Conservation Property.

(e) Grantee and the State shall have the right to access the Conservation Property for the purpose of verifying Grantor's compliance with the terms of the Easement. Grantor shall be provided a reasonable opportunity to have a designated representative accompany Grantee's and the State's representative on any such verification inspection which is a primary purpose of the trip.

(f) In exercising their respective rights under this Section 4, and except as may be specifically provided in this Easement, neither Grantee nor the State shall take any of the following actions:

- (i) construct any additional permanent structures on the Conservation Property, or materially modify the physical characteristics of the Conservation Property, except as specifically provided herein;
- (ii) authorize seasonal camps except, in the event that Grantor relinquishes its rights to grant concessions pursuant to Subsection 7(c) and Grantee grants such concessions, then Grantee may authorize such seasonal camps in conjunction with such concessions to the same extent that

Grantor was permitted to authorize them pursuant to Subsection 7(c);

(iii) fill, excavate, dredge, mine, drill or remove topsoil, sand, gravel, rock, minerals or other materials on the Conservation Property; manipulate or alter natural water courses, shores, marshes or other water bodies or engage in activities or uses detrimental to water purity on the Conservation Property; or build roads or change the topography of the land in any manner; except to the extent authorized by the mutual agreement of the Parties in order to protect habitat, e.g., bank stabilization, hardening of campsites, etc., provided however that the agreement of the Parties may not be unreasonably withheld.

(iv) remove, destroy or cut native species of trees or plants (except as is necessary to construct and maintain foot trails as provided in Section 6(d) hereof or to construct and maintain cabin sites when managed by the Grantee or its concessioner at those locations provided in Sections 3 and 6 hereof), plant trees or plants (except those native species needed for appropriate landscaping at such cabin sites), spray with biocides, graze domestic animals, including reindeer, or disturb or change the natural habitat of the Conservation

Property in any manner; and

- (v) dump trash, garbage, or other unsightly or offensive material, or change the topography through the placing of soil or other substance or material such as land fill or dredging spoils on the Conservation Property.

Section 5. Grantee's Responsibilities

(a) Except as provided otherwise in Subsection 5(b), Grantee shall be responsible for providing, at approximately the same level as it provides on fee owned Refuge lands of comparable usage and character, enforcement of applicable laws and regulations and the terms of this Easement, and management of public use of the Conservation Property and that certain property of Koniag downstream from the Refuge Boundary and which may be used by the permittees pursuant to Section 5(d) hereof,. Except to the extent application of the Kodiak NWR regulations is inconsistent with the rights explicitly reserved to the Grantor in this easement, the Parties intend that this instrument shall provide to the United States a property interest in the Conservation Property sufficient for it to apply and enforce on such Conservation Property and the above-referenced downstream land as authorized on such downstream lands for cooperative management agreements by Section 304(f)(1) of ANILCA, all regulations pertaining to third-party use of the Kodiak NWR which are necessary for Grantee to perform its obligations hereunder;

(b) As a condition of this Easement, Grantee shall

establish, maintain and enforce a permit system, determined pursuant to Subsection 5(c), which imposes specific limits on the level and location of public use, excluding subsistence uses reserved in Section 7(d) hereof, permitted on the following portions of the Conservation Property: (i) lands within a one half mile band of land on either side of the Karluk River and (ii) lands within one half mile of the shoreline of Karluk Lake. Such limits shall be designed to reasonably minimize the impact of such public use on the fish, wildlife and habitat; ensure quality of the individual visitor experience; and provide for sustainable high quality fish, wildlife and wildlands recreation. In establishing such limits, Grantee shall consider whether the impact of public use may be reduced to satisfactory levels by the implementation of habitat protection measures such as hardened campsites and education of visitors in methods to reduce impacts on the habitat. If such measures would be effective, consistent with the habitat protection purposes of this Easement, and of reasonable cost and Grantee is able to secure the necessary funds, Grantee shall implement such measures prior to restricting public access. Private and revenue producing visitor service public use limits will be considered simultaneously and in the aggregate. When limits on public use are reached, Grantee shall balance the allocation between public use by guided and unguided parties in a manner which considers both the projected demand and the historical use patterns on the Conservation Property as well as on Refuge lands, and which achieves the purposes of this Easement. Notwithstanding the foregoing, (i) the allocation of use for guided parties shall not be reduced to less than 40 percent of the total number of user days authorized, except that if the number of applicants for permits for guided use is less than 40

percent of the total number of user days authorized, the

unused days may be allocated to unguided users, and (ii) the allocation of use for unguided parties shall not be reduced to less than 40 percent of the total number of user days authorized, except that if the number of applicants for permits for unguided use is less than 40 percent of the total number of user days authorized, the unused days may be allocated to guided users. In establishing such limits and the allocation thereof, the Grantee shall consult with and give due consideration to the comments of the Grantor and ADF&G.

(c) By January 1, 2002, Grantee will commence a study to determine the level of use, qualifications for and operating standards of a permit system which meets the requirements of Subsection 5(b) and which will achieve the purposes of this Easement; and

(d) For the interim period from October 15, 2002, until completion and implementation of the study required in Subsection 5(c), visitor use (not including guides or administrative personnel), other than subsistence use reserved in Section 7(d), in the area identified in Section 5(b)(i) for the period June 10-July 15, shall be limited to a maximum of seventy (70) scheduled visitors on any day. An individual shall be a "scheduled visitor" only on those days during the period on which the individual is authorized to visit the area by the permit issued to him. Should an individual be prevented by weather conditions from visiting the area on the days authorized by the permit, then the individual may visit the area on other days during the period, provided that the sum of the days which the individual visits the area which are not authorized by the individual's permit does not exceed the number of authorized days which the individual was prevented from visiting by weather. The individual shall not be counted as a

"scheduled visitor" on such weather caused make-up days or on days beyond that specified in the permit when the individual is unable to depart the permit area due to the weather. Limits outside the period June 10-July 15 are not prescribed herein during this interim period. Grantee may adjust visitor use numbers and prescribe limits and dates during other periods in consultation with Grantor and ADF&G to achieve the purpose of the Easement. Notwithstanding the foregoing, until the study is completed, Grantee may on an emergency basis impose additional use limits, not to exceed that particular season, or to make emergency closures of a portion of this area, on the same basis as on Refuge lands. Permits issued pursuant to this Section shall include the authorization for non-commercial users floating the Karluk River to camp for one night on Koniag lands downstream from the Refuge boundary at campsites designated by the Parties and allow use of Koniag lands immediately adjacent to the river by such users in route to the takeout as may be reasonably necessary to facilitate the recreation use of the river by such users, including, but not limited to, fishing from the bank. No right to hunt on the Koniag lands is authorized pursuant to this provision.

(e) Permits for the revenue producing visitor service use of the Conservation Property within one half mile of the banks of the Karluk River and Karluk Lake issued by Grantor pursuant to Section 7, shall be administered by Grantor in accordance with the standards set pursuant to Subsections 5(c) and 5(d). Permits for the Conservation Property which are issued by Grantee shall also be administered in accordance with the standards established pursuant to Subsections 5(c) and 5(d).

(f) Notwithstanding any other provision of this Easement or of 50 CFR Part 36, Grantee, in selecting any person or entity to provide revenue producing visitor services of any nature whatsoever on the Conservation Property, including but not limited to, for purposes relating to hunting, fishing, access, cabin rental and management and other related services, shall grant a preference (i) to Koniag, Koniag shareholders, or their descendants, who are residents of Larsen Bay or Karluk, (ii) to the Native Village of Karluk acting through its IRA Council and (iii) to the Traditional Council of the Native Village of Larsen Bay (all such corporation, shareholders, descendants, villages and councils hereinafter as "Preferred Providers"). Nothing in this subsection is intended to preempt or modify applicable state licensing requirements. If an applicant who is not a Preferred Provider is evaluated through a competitive process or otherwise and is determined to be authorized to be the provider of revenue producing visitor services on the Conservation Property ("Winning Proposer"), then all Preferred Providers who submitted a proposal in response to the initial offering will be given the opportunity to provide such revenue producing visitor services on the same terms as the Winning Proposer. If one or more such Preferred Providers elect to match the terms of the Winning Proposer, then the Preferred Provider ranked highest in response to the initial offering will be awarded the authorization. If the Preferred Providers so selected elects not to match the terms, then the next highest ranked Preferred Provider will be given the opportunity to match the proposal. If the first and second highest ranked Preferred Providers who had submitted proposals or who were under consideration, decline to match the terms, Grantee is authorized hereunder to award the revenue producing visitor service to the Winning Proposer. Nothing herein shall preclude the Grantee from requiring

minimum qualifications for any prospective provider. Grantee shall consult with Grantor prior to establishing or revising such minimum qualifications.

(g) Grantee shall, on a best efforts basis and subject to the availability of funds and personnel, (i) enforce the restrictions under the U. S. Bureau of Land Management (BLM) regulations, currently located at 43 C.F.R. § 2650.4, pertaining to use of the present Section 17(b) easement from Larsen Bay to the Portage in order to reduce the damage to the surrounding Conservation Property presently occurring as the result of usage outside the scope of such easement; and (ii) re-route such easements to provide equivalent access which is more environmentally protective of the Conservation Property if a satisfactory agreement can be reached between Grantor and the BLM, with appropriate consultation with the State, for the exchange of the existing 17(b) easement for such new routing, and/or make such improvements to the trail and postings that would eliminate or minimize the degradation of the surrounding lands.

(h) To the extent not prohibited by law or exempt from mandatory disclosure pursuant to Exemption 7 of the Freedom of Information Act, 5 U.S.C. § 552(b)(7), Grantee shall keep Grantor advised of its actions under this Easement by using its best efforts to provide Grantor with a copy of that portion of its proposed and final annual plans of operations which involves substantive reference to the Conservation Property, all monthly or other reports of operations conducted on the Conservation Property, and copies of all correspondence or reports which address any **substantive** activities on the Conservation Property, including but not limited to incident

reports.

Section 6. Cabin Management.

(a) Grantor reserves the right to manage the five cabins identified in Section 3(a) hereof and any associated outbuildings. Grantor will remove or replace the two cabins on the east side of the Portage within twenty-four (24) months of the commencement date of this Easement. The two cabins may be replaced at either the existing location or mutually agreeable sites as long as they are upgraded to meet the standards set forth in this subsection. At Grantor's option and expense, the more northerly of the two cabins may be converted for storage use only, in which event and for so long as such structure is used solely for storage, such structure shall be an "out-building" and not included in the total number of cabins which may be maintained by Grantor under this Section. All costs for such removal, relocation, or replacement of the cabins are the sole responsibility of Grantor. All cabins shall be managed and maintained by Grantor in a clean, weather tight condition to a standard equal to that at which the public use cabins on the Kodiak National Wildlife Refuge are maintained. Grantor, in consultation with the Kodiak Refuge, will develop and implement a plan for the protection of habitat in the immediate vicinity of the cabins to minimize habitat impacts from cabin use. Such levels of protection shall be consistent with that provided at Refuge cabins. Upon completion of replacement, relocation or upon other mutual agreement, the two cabins on the east side of the Portage will be integrated into the Refuge cabin management program at the request of the Grantor in the same manner as provided in Subsections 6(c) and 6(d) for the management of the other cabins of Grantor.

(b) At any time during the term of this Easement, Grantor may elect to relinquish for the remaining term of this Easement, including any extensions thereof, its right to manage pursuant to Subsection 6(a), some or all of the cabins. Grantor shall give Grantee written notice of its election to relinquish such management rights at least twelve months in advance of the date on which Grantor intends to cease managing such cabins. Such notice shall specify the date upon which Grantor shall cease to manage the cabins and the cabins which are subject to the notice.

(c) At the request of Grantor, Grantee will incorporate the two cabins on the west side of the Karluk River at the Portage and the cabin at the outlet of Karluk Lake into the Refuge cabin management program; provided, however, each such cabin shall then meet the standards for cabins set forth in Subsection 6(a). If incorporated into the Refuge cabin management program, such cabins shall be managed by the Grantee pursuant to a concession agreement to be awarded by the Grantee in the manner provided in Section 5(f). When these cabins are incorporated into the Refuge program, the Grantee will be responsible for their routine maintenance, but not for maintaining insurance coverage thereon, or for their repair or replacement if severely damaged by vandalism or any other cause of destruction. Routine maintenance may be performed directly by the Grantee, or through concession or other agreements. Other maintenance shall be performed or caused to be performed by Grantor. Any such severely damaged cabin shall not be included in the Refuge cabin management program until necessary repairs have been effected.

Any funds received by the Service as a result of its management of the cabins under this section shall be treated in the same manner as any other funds received by the Service derived from its cabin management program.

(d) Irrespective of whether any of the five cabins identified in Subsection 3(a) hereof and any associated out-buildings located upon the Conservation Property are included in the Refuge cabin management program, Grantor reserves the right to reconstruct, maintain and repair such cabins, associated out-buildings and footpaths, including the construction of either gravel footpaths or boardwalks, as are reasonably necessary for access to Grantor's facilities and consistent with the protection plan identified in Subsection 6(a). Reconstruction or relocation of any such cabin shall be limited to replacement structures of similar kind, the size of any of which replacement cabins shall not exceed 750 square feet for such replaced cabin and associated out-buildings and to the construction and maintenance of trails and footpaths for compatible fishing, hunting, ecotourism, recreation or similar purposes. New sites, including those for new trails and footpaths, shall be selected in consultation with the Refuge Manager, and new construction will take place only after the new site is determined by the Refuge Manager to be compatible with the purposes of this Easement. Any site(s) may be abandoned and alternate sites established provided that:

(i) there shall never be more than five cabins for human occupancy maintained at any one time;

(ii) the alternate site, including the trails and footpaths to be

constructed, is determined by the Refuge Manager to be compatible with the purposes of this Easement; and

- (iii) any abandoned site is promptly restored by the Grantor to a natural state to the satisfaction of the Refuge Manager prior to any occupancy of the replacement cabin.

Section 7. Reserved Rights.

In addition to any rights expressly reserved to Grantor in Sections 5 and 6, Grantor shall have the following reserved rights:

(a) All other rights of management and control of the Conservation Property remain vested in Grantor. Nothing herein shall constitute a limitation on the rights of Grantor to inspect the operations of Grantee or the ADF&G on the Conservation Property to verify compliance with the terms of this Easement;

(b) With respect to the Conservation Property, Grantor reserves the right to operate, or to grant a concession for the operation of, a bear viewing program only in the Thumb River drainage. A review of the program will be conducted by Grantor and the Refuge which will seek to reach a mutually agreeable plan of operations. The bear viewing program will be operated on the Conservation Property from the site within the Thumb River drainage, as such site and drainage are shown on the map attached hereto and incorporated herein by reference as Exhibit A. The site of such program may be changed only

with the consent of the Refuge Manager. The Refuge Manager, in consultation with Grantor and ADF&G, shall conduct a study to determine the maximum number of persons that may be present at the viewing site at any one time. Until such study of the program is completed, the number of persons who are allowed to be at the bear viewing site at one time will be twelve (12). Such number may be modified should such review or other studies or information available to the Refuge Manager result in a finding by the Refuge Manager that such number of visitors at the bear viewing site is causing significant harm to the bear population on the Conservation Property or adjacent Refuge lands. Any such finding shall be in writing, shall identify with particularity the nature and the amount of the harm, and shall provide the factual basis of such finding. In the event of such a finding the Refuge Manager shall also determine what level of visitors could be permitted without causing such harm. All such findings shall be in writing and shall provide the factual basis for their conclusions.

Public access to the Conservation Property within the Thumb River drainage, except through Koniag or its authorized concessioners, is closed. Grantee shall also use its best efforts to reach an agreement with Grantor, in consultation with the State, to close access or otherwise restrict activities on adjacent lands which would significantly impact the Conservation Values.

(c) Grantor further reserves, to the extent it has the right to do so, the exclusive right to grant concessions for revenue producing visitor services to be conducted on any portion of the Conservation Property which is within one half mile on either bank of the Karluk River or within one half mile of the shoreline of Karluk

Lake. Such concessions shall include the right to conduct revenue producing visitor services within that portion of the Conservation Property identified in the foregoing sentence, including but not limited to fishing, hunting, outfitting and river floating. The operation of such concessions shall be subject to the standards established pursuant to Subsections 5(c) and 5(d) hereof. At any time, Grantor may relinquish the right to grant concessions for some or all of the activities reserved hereunder, in which event Grantee may award, in the manner provided in Subsection 5(f) hereof, concessions for such relinquished activities.

The concessions which may be granted pursuant to this subsection may include the right to operate seasonal camps on the Conservation Property subject to the limitations contained in this Easement, provided that not more than two (2) such camps may be in operation at any one time under concessions granted by Grantor. In order to protect the surrounding habitat, proposals for the location of seasonal camps may include the use of tent platforms and similar temporary improvements. Temporary improvements must be approved by the Refuge Manager, which approval shall not be unreasonably withheld. In addition to the standards established pursuant to Subsections 5(c) and 5(d) hereof, such seasonal camps shall operate under the following prescription:

i. Only one seasonal camp may be established within one-half mile of each of the Karluk and Sturgeon Rivers.

ii. Any seasonal camp established along the Karluk River shall be at least one mile from the western terminus of the 17(b)

easement from Larsen Bay to the Portage on the Karluk River unless the camp utilizes one or more of the existing cabins.

iii. The location of seasonal camps other than at the Portage is to be approved by the Refuge Manager based on the criteria to minimize wildlife and habitat disturbance and the viability of the site for commercial purposes. Such approval shall not be unreasonably withheld.

iv. Helicopters are allowed only for establishment and removal of seasonal camps. They are expressly prohibited for the routine operation of the camps and the movement of clients and staff from the day before the first client arrives until the day after the last client leaves each year, except for medical emergencies. In the event Grantor relinquishes its right to grant concessions under this section, the Grantee is under no obligation to continue the authorized use of helicopters hereunder.

v. Not more than twelve (12) clients may be in either camp at any time, except for temporary camps established within one half mile of the mouth of the Sturgeon River, where the number of clients may be fifteen (15).

(d) Grantor reserves the right to permit residents of the villages of Karluk and Larsen Bay to enter upon, and travel by traditional means on, the Conservation Property for the purpose of engaging in lawful customary and traditional uses (hereinafter "subsistence uses") of wild, renewable resources for direct personal or

family consumption as food or clothing; for making and selling handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption, for barter, or sharing for personal or family consumption, and for customary trade. For the purposes of this subsection, the phrase "travel by traditional means" refers to those means of transportation that were customarily used by the residents of Karluk and Larsen Bay as of September 1, 1995. However, routes of travel by motorized means to subsistence use areas are restricted to the trails existing as of January 10, 2001 and depicted on the map attached hereto as Exhibit __ [for closing attach map prepared in accordance with Section 6(a)(x)].

(e) The right to conduct operations on the Conservation Property to locate, protect, excavate and remove, all historic and prehistoric archeological and cultural artifacts, including but not limited to human remains, funerary objects, other artifacts located in, on or below the Conservation Property ("Artifacts"), for curation, and to visit, survey, excavate, stabilize, restore and protect culturally significant sites and the right to maintain semi-permanent seasonal camps to engage in such activities. The siting of such seasonal camps shall be subject to the approval of the Refuge Manager to minimize impacts on brown bears and other fish and wildlife. Such approval shall not be unreasonably withheld. If the approval of a site is withheld, the Refuge Manager shall identify at least two other sites in the vicinity of the rejected site, which other sites would be acceptable. Nothing in this Easement shall preclude the right of Grantor to receive compensation from persons conducting such activities.

Prior to commencing any excavation or construction activities at an archeological site, notice in writing of the location of the site and a description of the activities to be conducted at such site shall be provided to the Refuge Manager. Should the Refuge Manager find that such site is frequented by brown bears and that the proposed activities would materially alter brown bear habitat use in the area , then, for activities occurring at the site during that period commencing on June 16th and ending on October 15th, the Refuge Manager may limit the time during which the such primary archeological activities may occur. However, in no event shall such activities be prevented from occurring during the period commencing at 8:00 A.M. and ending at 6:00 P.M. without the prior written consent of Grantor which consent may be withheld in Grantor's sole discretion. Any such limitation which may be established by the Refuge Manager shall not apply to personnel being at the site primarily for the purpose of providing security for the site or upon notice to the Refuge Manager, in an emergency situation in order to protect the site or its artifacts from destruction. Any finding made by the Refuge Manager pursuant to this provision shall be made in writing and shall set out the factual basis for the finding.

(f) Any permit, license, concession or other authorization granted by Grantor to a third party to exercise any right reserved hereunder to Grantor shall be subject to the terms of this Easement and shall include a provision which shall include by reference in such permit, license, concession or authorization the terms of this Easement. Grantor shall use all reasonable efforts to assure compliance with the applicable terms of this Easement by such

permittees, licensees and concessioners.

(g) Notwithstanding the provisions of Sections 4 and 5 hereof, Grantor shall have the right to cross and to authorize the crossing of the Conservation Property by the employees, agents, guests, contractors and clients of Grantor or of its concessionaires, for the sole purpose of providing access to the other property of Grantor.

Section 8. Annual Payments. In consideration for the rights granted hereunder by Grantor, on or before the fifteenth day of October during each year of the term hereof, Grantee shall pay to Grantor the amount due as set forth in Paragraph 6 of the Agreement.

Section 9. Management Group. Representatives of the Grantor, Grantee and the ADF&G shall serve on the Management Group. The Management Group will meet at least semi-annually to discuss issues related to the management of their respective interests in the Conservation Property under the terms of this Easement, including but not limited to the management of wildlife and fisheries. Such group shall also offer to the respective tribal councils to meet at least once a year in the villages of Karluk or Larsen Bay to receive the comments and concerns of the members of such communities. Such village meetings may be combined with other meetings between the Grantor and the village.

Section 10. Enforcement. In the event a Party becomes aware of an event or circumstance of non-compliance with the terms of

Kodiak National Wildlife Refuge
1390 Buskin River Road
Kodiak, Alaska 99615

If to State:

or to such other address as any Party from time to time shall designate by written notice to the others.

6. Effect of Amendment. Except as provided herein, the Easement shall remain in full force and effect and its provisions shall remain unchanged.

IN WITNESS WHEREOF, Grantor has set its hand on the day and year first above written.

KONIAG INC.

By:

Dennis Metrokin, President

Attest:

By:

Assistant Secretary
Koniag, Inc.

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
 THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Dennis Metrokin, President of Koniag, Inc., to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing FIRST AMENDMENT TO NON-DEVELOPMENT EASEMENT on behalf of Koniag, Inc., and who acknowledged to me that he signed the same as President of Koniag, Inc., in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska

(SEAL)

My

Commission Expires: _____

this Easement, that Party shall give notice to the other Parties of such event or circumstance of noncompliance. Within thirty (30) days of the receipt of such notice, the Party which is alleged to be in non-compliance shall correct such event or circumstances of non-compliance or shall commence to correct such events of non-compliance and shall continue to prosecute with due diligence such corrective actions until the event or circumstance is corrected. Should the non-complying Party fail to correct or institute with due diligence an action to correct, then the Party making such notification is entitled to institute an action to enjoin any breach or enforce any covenant and require that the Conservation Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance.

Nothing in this Section shall limit any other legal rights or remedies available to any of the parties. Notwithstanding any other provision of this Section, no Party shall be precluded from taking action to enjoin an activity which is in violation of the provisions of this Easement.

Section 11. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee or the State to bring any action against Grantor for any injury to or change in the Conservation Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement; any action resulting from a trespasser's negligence; any action resulting from the negligence of a licensee or permittee of Grantor except to the extent that Grantor is also otherwise statutorily liable therefor; or prudent action taken by Grantor under emergency conditions

to prevent, abate, or mitigate significant injury to the Conservation Property resulting from such causes.

Section 12. Insurance. Nothing in this Easement shall be deemed to limit the right of Grantor to obtain liability insurance to hold itself harmless from injuries to third parties arising from the actions or inactions of the United States or the State under this Easement. Nothing in this Easement shall be construed to either limit or increase any liability of the United States or the State under applicable Federal or State law, including, but not limited to the Federal Tort Claims Act, or of the State under applicable State laws.

Section 13. Contaminants. The Parties and their agents shall not place in an unlawful manner, nor dispose, spill or release any contaminants or hazardous substances on the Conservation Property and shall be liable under applicable law for any such disposal, spillage or release of contaminants during the term of this Easement.

Section 14. Obligation of Funds. Nothing in this Easement shall be construed as obligating the expenditure of funds by the United States or the State, now or in the future, in excess or advance of appropriations authorized by law.

Section 15. General Provisions.

(a) This Easement is not intended, and shall not be construed, to create any other party beneficiary hereof and nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity.

(b) This instrument shall be construed so as to effect the purpose for which it was granted . Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.

(c) Grantor is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Conservation Property for which it would otherwise ordinarily be liable; provided, however, should such liability arise from a pre-existing condition of the Protected Property, then Grantor shall have the right to reasonably remedy such condition, notwithstanding any other provision herein. The Grantee and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of their **respective** employees or agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.

(d) Grantor is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Grantor shall be liable for and hold the Grantee and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the Grantee and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Conservation Property to Grantor and prior to the effective date of this Easement, and for all releases caused by, or contributed to, by Grantor or its agents subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances that are released by the

Grantee or the State or their respective agents, contractors and employees in the course of engaging in activities that are authorized by this Easement. This clause may be enforced by Grantor Grantee or the State in a court of law. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to have occurred as a result of the EVOS.

(e) The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties. The Grantee and the State may not transfer their rights hereunder without the consent of the Grantor, which consent may be withheld or conditioned by the Grantor in its sole and absolute discretion. The terms of this Easement may be waived or modified only by the written agreement of the Parties.

(f) If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate in good faith such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.

Section 16. Notices. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Grantor: Koniag, Inc.
4300 B Street, Suite 407
Anchorage, Alaska 99503
Attention: President

If to Grantee: Regional Director
Region 7
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503-6199

With a copy to: Refuge Manager
U. S. Fish and Wildlife Service
Kodiak National Wildlife Refuge
1390 Buskin River Road
Kodiak, Alaska 99615

and

Division of Realty
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503

If to State: _____
Alaska Department of Natural

Resources

Office of the Commissioner
550 West 7th Avenue, Suite 1400
Anchorage, Alaska 99501-3579

and

Alaska Department of Fish and Game
Office of the Commissioner
P.O. Box 25526
Juneau, Alaska 99802-5526

or to such other address as any
Party from time to time shall designate by written notice to the
others.

Section 17. Release of Easement. Upon the termination of
this Easement, whether by expiration of its terms or otherwise, the
Grantee and the State shall execute an acknowledgment of the
termination of this Easement and a release of all interest in the
Conservation Property that the Grantee or the State may have held
pursuant to its terms in the form attached to the Agreement as Exhibit

Section 18. Nothing herein shall be deemed to validate or
invalidate or otherwise in anyway affect any claim of title which may
be asserted by the Grantor, Grantee or the State to the submerged lands
within the boundaries of the Conservation Property. Nothing herein
shall be deemed to limit the rights of the Grantor, the Grantee or

State to assert its interests, if any, in such submerged lands, including but not limited to instituting such litigation as it may determine to be appropriate to protect its interests.

* * * * *

The covenants, terms, conditions, and restrictions of this Easement shall run with the lands for the duration of this Easement and shall be binding upon the Grantor, its successors and assigns. The terms of this Easement may be waived or modified only by written agreement of the Parties.

The Grantor hereby covenants to and with the Grantee and the State, that the Grantor is lawfully seized in fee simple of the surface estate of the above described Conservation Property, has a good and lawful right and power to encumber the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will warrant and defend this Easement and the quiet possession in accordance with this Easement, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest pursuant to ANCSA, 43 U.S.C. §1601 et seq., to and including the moment at which this Easement is validly conveyed to the Grantee and the State, against the lawful claims and demands of all persons.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to pertain to, affect or in any way limit the rights of the subsurface owner to utilize that estate in accordance with applicable law. Further,

nothing herein shall be deemed to pertain to, or otherwise increase or limit, the applicability of Section 22(g) of ANCSA to the Conservation Property.

TO HAVE AND TO HOLD unto the Grantee and the State, their successors, and assigns for the term of this Easement.

IN WITNESS WHEREOF, Grantor has set its hand on the day and year first above written.

KONIAG INC.

By:

President

Dennis Metrokin,

Attest:

By:

Assistant Secretary
Koniag, Inc.

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Dennis Metrokin, President of Koniag, Inc., to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing CONSERVATION EASEMENT on behalf of Koniag, Inc., and who acknowledged to me that he signed the same as President of Koniag,

Inc., in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska

(SEAL)

My

Commission Expires: _____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DEBBIE LUKIN, known to me and known to be the Assistant Secretary of Koniag, Inc., a corporation organized and existing under the laws of the State of Alaska, and acknowledged to me that she attested to the execution of the foregoing CONSERVATION EASEMENT freely and voluntarily for and on

behalf of said corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

for Alaska

Notary Public in and

SEAL

My Comm

ACCEPTANCE BY THE U.S. FISH AND WILDLIFE SERVICE

Pursuant to § 1302 of the Act of December 2, 1980, Alaska National Interest Lands Conservation Act, (16 U.S.C. § 3192), the National Wildlife Refuge Administration Act as amended by the Refuge Improvement Act of 1997 (16 U.S.C. § 668aa-ee), and the Master Agreement for Protection of Certain Lands and Resources Between Koniag, Inc. the United States of America and the State of Alaska, dated _____, 2001, the Grantee hereby accepts this CONSERVATION EASEMENT conveying to the United States and its assigns, those interests in lands described therein.

Dated this _____ day of _____, 2____.

Regional Director,

Region 7

U.S. Fish and Wildlife

Service

ACKNOWLEDGMENT

STATE OF ALASKA)

) ss:

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to be the Regional Director, Region 7 of the U.S. Fish and Wildlife

Service, and acknowledged to me that ____ signed the foregoing CONSERVATION EASEMENT, conveying to the United States those interests in lands described therein, and she acknowledged that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Alaska

NOTARY PUBLIC in and for

SEAL

My Commission

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS 38.05.035(a)(12), the State hereby accepts title to the above described interest in real property on behalf of the State of Alaska .

By: _____

For
Director, Division of Land

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 199_, by _____ who is known to me to be the person who has been lawfully delegated the authority of [INSERT], Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

(SEAL)

Printed or typed name of Notary)
NOTARY PUBLIC in and for Alaska
My Commission Expires: _____

DRAFT 12/28/00 1230 PM

EXHIBIT

STATE CONSERVATION EASEMENT FORM

AFTER RECORDING RETURN TO:
State of Alaska
Department of Law
Environmental Section
1031 W. 4th Avenue, Suite 200
Anchorage, Alaska 99501

STATE CONSERVATION EASEMENT

THIS Conservation Easement is made this ____ day of _____, 20 __, by Koniag, Inc., 4300 B Street, Suite 407, Anchorage, Alaska 99503 ("Koniag") ("Grantor") and the State of Alaska, acting through the Alaska Department of Natural Resources whose address is 550 West 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579, ("Grantee").

WHEREAS, the real property subject to this conservation easement (the "Conservation Property") lies within the boundaries of the Kodiak National Wildlife Refuge ("Refuge") in the State of Alaska, a conservation system unit administered by the U.S. Fish and Wildlife Service; and

WHEREAS, Grantor is the owner in fee simple of the surface estate of the Conservation Property, which is described below; and

WHEREAS, the Conservation Property is a natural area that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill; and

WHEREAS, the *Exxon Valdez* Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America of the Conservation Property, subject to certain third-party rights to be held by the State of Alaska in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Grantor intends to convey its fee simple interest in the surface estate of the Conservation Property to the United States of America; and

WHEREAS, Grantor desires to provide to the State of Alaska an independent right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the the Master Agreement for the Protection of Certain Lands and Resources Between Koniag, Inc., the United States of America, and the State of Alaska, dated January , 2,001 ("Agreement"), Grantor for itself and as successor in interest to the merged corporations of Karluk Native Corporation and Nu-Nachk Pit, Inc., does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, including, but not limited to, conditions, restrictions and limitations contained in Interim Conveyance Number x, dated xx, and recorded at page _____, book _____, of the records of the Kodiak Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Conservation Property of the nature and character and to the extent hereinafter set forth (the "Easement"), as to the property described as follows:

INSERT LEGAL DESCRIPTION OF THE PROPERTY

SUBJECT, however, to easements, rights and reservations of the United States, and third parties if any, of record:

The Grantee shall be entitled to enforce on a non-exclusive basis the terms of the following restrictive covenants against the Grantor, its successors or assigns:

- (a) The following listed activities are prohibited on the Conservation Property except as *provided in subsection (c) below or* as determined by the U.S. Fish and Wildlife Service, or its successors in administrative function ("Service"), to be necessary for either refuge or conservation research or management of the subject lands (whether carried out by the Service, an entity approved by the Service, or its successors in

law or interests), or for conveying information to the public to protect public safety or natural resources:

- (i) the construction or placing of buildings, fixed or improved camping accommodations or mobile homes, fences, billboards or signs;
 - (ii) the changing of the topography of the Conservation Property in any manner;
 - (iii) the removal, destruction or cutting of trees or plants except for local subsistence uses;
 - (iv) the use of biocides except as necessary to control or remove non-indigenous fish, wildlife or plants; and
 - (v) the manipulation or alteration of natural water courses, shores, marshes or other water bodies or activities or uses detrimental to water purity on the Conservation Property.
- (b) The following listed activities by any person are prohibited:
- (i) the introduction of non-indigenous fish, wildlife or plants, including, but not limited to, the grazing of domestic animals or the introduction of reindeer; and
 - (ii) the dumping of trash, garbage, or other unsightly or offensive material.

(3) *The Restricted Activities and Prohibited*

Activities restrictions set forth in foregoing subsections (a) and (b) of this Easement shall not apply to the activities related to the reservation of ownership of archeological and cultural artifacts as provided in the Limited Warranty Deed to the United States for the Protected Property and recorded immediately after this easement.

* * * *

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to pertain to, affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

Grantor agrees that these restrictive covenants shall run with the lands and shall be binding upon Grantor, its successors and assigns.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.

written.

(SEAL)

My commission expires:

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

By:

For
Director, Division of Land

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 __, by _____ who is known to me to be the person who has been lawfully delegated the authority of [INSERT], Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

Printed or typed name of Notary)

(SEAL)

NOTARY PUBLIC in and for Alaska
My Commission Expires: _____

DRAFT 01/03/01, 9:30 PM All legals in the master agreement and exhibits remain subject to corrections for accuracy.

AFTER RECORDING RETURN TO:
U.S. Department of the Interior
Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

LIMITED WARRANTY DEED

This Deed , made this _____ day of _____, 20____, between Koniag, Inc. ("Koniag"), 4300 B Street, Suite 407, Anchorage, Alaska 99503 ("Grantor"), and the United States of America and its assigns, ("United States"), acting through the Fish and Wildlife Service whose address is 1011 E. Tudor Road, Anchorage, Alaska 99503-6199 ("Grantee"), under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3192(a)) and the National Wildlife Administration Act as amended by the Refuge Improvement Act of 1997, (16 U.S.C. § 668aa-ee), and the Master Agreement for Protection of Certain Lands and Resources Between Koniag, Inc., the United States of America, and the State of Alaska, dated _____ ("Agreement").

WITNESSETH, that the Grantor, for itself and as successor in interest to the merged corporations of Karluk Native Corporation and Nu-Nachk Pit, Inc., for and in consideration of the sum of

_____ Dollars
(\$ _____) to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee, and its assigns, forever, to the extent herein provided, the surface estate of all those lands lying and being in the Kodiak Island Borough, State of Alaska, (the "Protected Property"), containing approximately _____ acres, more or less, and more

particularly described as follows:

Seward Meridian, Alaska,

THE SURFACE ESTATE IN THE FOLLOWING:

United States Survey 9458, Alaska, situated on the right bank of the Karluk River, approximately 6 miles westerly of Larsen Bay, Alaska, containing 140.00 acres, as shown on the plat of survey officially filed September 28, 1992.

All those lands owned by Koniag, Inc., located in the following:

Seward Meridian, Alaska

T. 29 S., R. 29 W., (surveyed).

Sec. 24;

Sec. 25, excluding 14(c)(1) claim of Robert Griggs (approximately 1 ½ acres);

Sec. 26, lots 1 and 2; and

Sec. 36, excluding 14(c)(1) claim of Laurel Peterson (approximately 1 ½ acres).

Containing approximately 1,124.99 acres, more or less.

T. 30 S., R. 28 W., (surveyed).

Sec. 17, lots 3 and 4;

Sec. 18, that portion of lot 2 located in the NW¼,
E½NE¼SW¼, NW¼NE¼SW¼,

N

Sec. 19, that portion of lot 1 located in the
S½SW¼NE¼NE¼,

SW¼NW¼NE¼,

W½NW¼NW¼NE¼

SW¼SE¼SW¼, E½SE¼SW¼;

Sec. 20, that portion of lot 5 located in the S½NW¼,
NE¼SW¼, N½NW¼SW¼,

SW¼ NW

Sec. 28, that portion of lot 1 located in the

SW¼NW¼NW¼, N½SE¼NW¼,

DRAFT 01/04/01

AGREEMENT BETWEEN KONIAG, INC.

AND THE UNITED STATES OF AMERICA

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SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 29, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 30, that portion of lot 3 located in the N $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$; and

Sec. 32, that portion of lot 2 located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$.

Containing approximately 730 acres, more or less.

T. 30 S., R. 30 W., (surveyed).

Secs. 18 and 19;

Sec. 29;

Sec. 30, lots 1, 2, and 3;

Sec. 31, lots 1 and 2;

Sec. 32;

Sec. 33, lot 1, W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$.

Containing 3,707.41 acres.

T. 30 S., R. 31 W., (surveyed),

Sec. 11, lot 1;

Sec. 12;

Sec. 13, lots 1, 2, and 3;

Sec. 14, lots 1 and 4;

Sec. 23, lots 1 and 3;

Sec. 24, lots 1, 2, and 3;

Sec. 25, lots 1, 2, and 3; and

Sec. 36.

Containing 3,781.91 acres.

T. 30 S., R. 33 W., (surveyed).

Sec. 25, that portion of lot 2 located in SE $\frac{1}{4}$ SW $\frac{1}{4}$, lot 3, and lot 8 of

U.S. Survey 9386;

Sec. 26, that portion of lot 2 within Kodiak NWR (PL 96-487);

Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$;

Sec. 35, lots 1 through 4; and

Sec. 36, lots 1 and 2, and lots 6 and 8 of
U.S. Survey 9386.

Containing approximately 220 acres, more or less.

T. 31 S., R. 28 W., (surveyed).

Sec. 5, those portions of lots 3 and 5 located in
the E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$

Sec. 17, that portion of lot 2 located in the
E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 29, that portion of lot 1 located in the N $\frac{1}{2}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$

E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$; and

Sec. 32, that portion of lot 1 located in the
E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Containing approximately 195 acres, more or less.

T. 31 S., R. 29 W., (surveyed).

Sec. 27, W $\frac{1}{2}$; and

Sec. 34, W $\frac{1}{2}$.

Containing 640 acres.

T. 31 S., R. 30 W., (surveyed).

Sec. 2;

Sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$; and

Sec. 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;

Sec. 5;

Sec. 6, lots 1, 2, and 3;

Sec. 7, lots 1, 2, and 3;

Secs. 8 and 9;

Secs. 16 and 17;

Sec. 18, lots 1, 2, and 3;

Sec. 19, lots 1 through 5;

Secs. 20 and 21;

Secs. 27, 28, and 29;

Sec. 30, lots 1 through 11;

Sec. 31, lots 1 through 5;

Sec. 32, lots 1, 2, and 3;

Sec. 33, lots 1 and 2; and

Sec. 34.

Containing approximately 13,419.59 acres.

T. 31 S., R. 31 W., (surveyed),
Secs. 1 and 2;
Secs. 10 through 15;

Secs. 24 and 25; and
Sec. 36, E $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$.

Containing approximately 6,640 acres, more or less.

T. 31 S., R. 32 W., (surveyed),
Secs. 6 and 7;
Secs. 18 and 19; and
Secs. 30 and 31.

Containing 3,757.17 acres.

T. 31 S., R. 33 W., (surveyed),
Sec. 1;
Sec. 2;
Sec. 11;
Sec. 12;
Secs. 13 and 14;
Secs. 23 through 26;
Sec. 35, lot 1; and
Sec. 36.

Containing 6,236.79 acres.

T. 32 S., R. 28 W., (surveyed).
Sec. 18, that portion of lot 6 located in the
NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 19, lot 3 and that portion of lot 4 located in
the S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, lot 1;
Sec. 21, that portion of lot 2 located in the
E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 29, lot 2;
Sec. 32, that portion of lot 1 located in the
SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; and
Sec. 34, lot 2.

Containing approximately 274.58 acres, more or less.

T. 32 S., R. 29 W., (surveyed).
Sec. 3, W $\frac{1}{2}$; and
Secs. 30 through 32.

Containing 1,992.26 acres.

T. 32 S., R. 30 W., (surveyed),
Secs. 2 through 7;
Sec. 9;
Sec. 10, lots 1 and 2;
Sec. 11;
Secs. 13 through 16;
Secs. 22 through 24;
Sec. 25, lots 1 through 3;
Secs. 26 and 27;
Secs. 34 and 35; and
Sec. 36, lots 1 and 3.

Containing 7,946.03 acres, more or less.

T. 32 S., R. 32 W., (surveyed),
Secs. 5 through 9;
Sec. 11; and
Secs. 14 through 17.

Containing 6,384.96 acres, more or less.

T. 32 S., R. 33 W., (surveyed),
Sec. 1.

Containing 640 acres

T. 32 S., R. 34 W., (surveyed),
Sec. 33, lot 3.

Containing 0.06 acres.

Aggregating approximately 57,858.90 acres, more or less, of
surface estate; and

TO HAVE AND TO HOLD THE SAME, Together with all the
hereditaments and appurtenances thereunto belonging or in
anywise appertaining, to the Grantee and its assigns,
FOREVER.

SUBJECT, however, to:

Easements, rights and reservations of the United States, and third parties if any, of record.

Enforcement Rights of the State of Alaska as established by that certain Conservation Easement granted by the Grantor to the State of Alaska and recorded immediately prior hereto, authorizing the State of Alaska to enforce on a non-exclusive basis the restrictive covenants set forth therein.

RESERVING from the lands so granted the following described rights and covenants:

1. Easement for Subsistence Access

The residents of Karluk, Alaska, and Larsen Bay, Alaska, (which are defined to mean those persons maintaining their primary, permanent abode in Karluk, Alaska, or in Larsen Bay, Alaska) (hereinafter "residents") shall have the right to enter upon and travel across the above-granted lands for the purposes of engaging in lawful customary and traditional uses (hereinafter "uses" or "such uses") of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. As used herein, the term:

"family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses--

(a) for other fish or game or their parts;
or

(b) for other food or for non-edible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the Protected Property as of April 20, 1995; provided however, that the Secretary or his delegate (hereinafter simply, Secretary) may impose such reasonable restrictions on such means of transportation as may be necessary to protect the natural and other values of the Kodiak National Wildlife Refuge (hereinafter "KNWR"); provided further, that routes of travel by motorized means to subsistence use areas are restricted to the trails existing as of [insert date Koniag Board approves the Master Agreement] as depicted in the map attached hereto as Exhibit A and incorporated herein by reference, unless such limitation is not imposed on the use of motorized vehicles for subsistence use on adjacent federal lands;

Nothing herein shall be construed as (1) allowing such uses to interfere with the Secretary's responsibility to manage the above-granted lands for the purposes for which the KNWR is established, (2) permitting the level of such uses of wild, renewable resources upon the above-granted lands to be

inconsistent with the conservation of healthy fish and wildlife populations, or (3) preventing the Secretary from closing the above-granted lands to such uses of a wild, renewable resource if necessary for reasons of public safety, administration, or to assure the continued viability of such resources; provided however, that the Secretary shall not limit or preclude such uses of fish and wildlife on the above-granted lands by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on such lands that contribute to such conditions. The Secretary shall, consistent with his other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement for subsistence access. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his successors and assigns, or the United States and its assigns with respect to the Grantor for the management of such lands. Nothing herein shall be construed to affect the authority of the State of Alaska to regulate or prohibit the taking of fish and wildlife upon the above-granted lands. Nothing herein shall be construed to affect the authority of the United States under the provisions of any federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the National Wildlife Refuge Administration Act as amended by the Refuge Improvement Act of 1997 (16 U.S.C. §§ 668aa-ee), the Fur Seal Act of 1966 (16 U.S.C. § 1187), the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1534), the Marine Mammal Protection Act of 1972 (16 U.S.C. §§ 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle," approved

June 8, 1940 (16 U.S.C §§ 742a-754), the Migratory Bird Treaty Act, as amended (16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (16 U.S.C. §§ 669-669I), the Fishery Conservation and Management Act of 1976 (16 U.S.C. §§ 1801-1882), the Federal Aid in Fish Restoration Act (16 U.S.C. §§ 777-777k) or any amendments, currently or in the future to any one or more of such acts.

2. Reservation of Archeological Rights

Grantor, to the extent that it holds such ownership, reserves from the Protected Property, all Alaska Native historic and prehistoric archeological and cultural artifacts (hereinafter "Artifacts"), including but not limited to human remains, funerary objects and other artifacts located in, on or below the Protected Property, provided, however, that Grantor shall curate all Artifacts excavated or otherwise removed from the Protected Property at the Alutiiq Cultural Center Repository or at another accredited repository.

Grantor, to the extent that it holds the right, retains the right to go on the Protected Property for the purpose of locating, protecting, excavating or removing Artifacts for curation, together with the right of access to survey, excavate, stabilize, restore or protect culturally significant sites ("hereinafter Sites"), provided however that (i) prior to entering upon the Protected Property to engage in such activities, Grantor shall notify in writing the Refuge Manager, Kodiak National Wildlife Refuge, United States Fish and Wildlife Service, or the successor in administrative function to the aforesaid Refuge Manager (hereinafter "Refuge Manager") of its intention to enter the Protected Property to engage in the aforesaid activities, and (ii) the United States

shall also have the right to locate, protect, excavate or remove Artifacts, and to survey, excavate, stabilize, restore or protect Sites, when failure to do so would jeopardize the security or integrity of Artifacts or Sites, or otherwise limit the ability of the United States to reasonably use or manage the Protected Property. In the event that the United States elects to excavate or remove Artifacts or excavate, stabilize, restore, or protect Sites, it shall do so in accordance with accepted professional practices including, but not limited to, those specified in "Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines" (hereinafter "Standards and Guidelines"), provided, however, that prior to engaging in any such activities, the United States shall consult with and provide Grantor with the choice of performing or participating in such activities. In the event that Grantor elects to perform or participate in such activities, it shall do so in a fashion that does not unreasonably delay or impair the United States' ability to use or manage the Protected Property. Any Artifacts excavated by the United States shall remain the property of Grantor. Upon completion of any excavation work hereunder, Grantor shall promptly restore the site.

For the purpose of notifying the Refuge Manager of its intention to enter upon the Protected Property, the Grantor's notice shall be submitted at least one hundred twenty (120) days prior to the time of the desired entry in order to provide for the timely issuance of the necessary Special Use Permit. The notice shall describe the activities to be conducted, their location, a timetable of their occurrence, the measures to be taken to avoid environmental damage, other damage to the Protected Property, and any improvements thereon, measures to be taken to minimize conflicts with other uses of the Protected Property,

and the restoration activities to be undertaken ("Notice"). Should the Grantor propose to locate semi-permanent camps upon the Protected Property, then the Notice shall identify the intended location of such camps, a description of them and their intended operation and periods of use. The siting of such camps shall be subject to the approval of the Refuge Manager, which approval shall not be unreasonably withheld. In evaluating the siting of the camps, the Refuge Manager shall consider the impact of the particular location upon the brown bears and other wildlife and fish. Within ninety (90) days of the receipt of the Notice, the Refuge Manager shall approve or withhold approval of the siting of any seasonal camps identified in the Notice. If the approval is withheld, such notice of the withholding shall set forth the factual basis for the decision and shall identify at least two other sites in the vicinity of the rejected site, which other sites would be acceptable. If Grantor elects to modify its Notice to utilize one of the other sites designated by the Refuge Manager, it shall provide a supplemental notice to the Refuge Manager of such revised location. Such supplemental notice shall not be subject to the approval of the Refuge Manager.

Nothing herein shall be construed as:

Diminishing any ownership rights which Grantor, its successors or assigns may have in Artifacts:

Affecting the United States' authority and responsibility to manage the Protected Property, including maintaining the scenic and environmental integrity of the Protected Property in their natural state to the extent consistent with the rights reserved hereunder;

Reserving any property right in any area or resource

on the Protected Property, other than Artifacts owned by Grantor, and the right of access to such Artifacts as provided herein;

Implying that by executing this Deed, the United States has confirmed (a) with respect to any Artifact located within the Protected Property that title to such Artifacts is vested in Grantor, or (b) that the activities which may be undertaken by the Grantor hereunder are in full compliance with the laws of the State or the United States that may be applicable to that activity, including, but not limited to, the Alaska Historic Preservation Act, AS 41.35.010, *et seq.* and the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001. *et seq.*

Nothing in this Deed shall relieve Grantor from liability for injuries occurring on, and resulting from its activities on the Protected Property, for which it would otherwise ordinarily be liable. Grantor shall be liable for and hold the United States harmless from liability for injuries occurring on, and resulting from its activities on the Protected Property, which liability of the United States arises solely because of its status as grantee under this Deed, and shall indemnify the United States for all costs, including attorneys fees, which also must arise from its status as grantee. This clause may be enforced by Grantor or the United States in a court of law. The United States shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent it otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law. Nothing herein shall preclude the right of Grantor to receive compensation from persons conducting such archeological activities.

Such easements and reservations are covenants running with the above granted lands and shall be binding upon the United States, its successors or assigns.

THE GRANTOR HEREBY COVENANTS to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly reconveyed to the United States and its assigns, against the lawful claims and demands of all persons.

The herein-described lands are acquired for administration by the Department of the Interior through the U.S. Fish and Wildlife Service ("Service").

IN WITNESS WHEREOF, the Grantor hereunto sets its hand and seal the day and year first above written.

Grantor
Koniag, Inc.

President

Attest:

By: _____
Assistant Secretary
Koniag, Inc.

[Acknowledgments]

DRAFT 01/03/01 9:40 PM

EXHIBIT

CAMP ISLAND LIMITED DEVELOPMENT EASEMENT FORM [PERMANENT]

AFTER RECORDING RETURN TO:
U.S. Department of the Interior
Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

CAMP ISLAND LIMITED DEVELOPMENT EASEMENT

THIS Limited Development Easement ("Easement") is made this day of 20__, by Koniag, Inc. ("Koniag"), 4300 B Street, Suite 407, Anchorage, Alaska 99503 ("Grantor") and the **United States of America**, and its assigns ("United States") ("Grantee"), acting through the Fish and Wildlife Service whose address is 1011 E. Tudor Road, Anchorage, Alaska 99503-6199, and the State of Alaska whose address is Department of Natural Resources, 550 W. 7th Avenue, Suite 1050A, Anchorage, AK 99501-3579, and its assigns ("State"), individually referred to hereafter as a Party, or collectively referred to hereafter as the Parties, under the authority of Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. §3192(a)), the National Wildlife Refuge Administration Act as amended by the Refuge Improvement Act of 1997 (16 U.S.C. § 668aa-ee), A.S. 38.05.035(a)(12) and A.S. 16.05.050(a)(2), and the Master Agreement for the Protection of Certain Lands and Resources Between Koniag, Inc., the United States of America, and the State of Alaska, dated January , 2,001 ("Agreement").

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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WHEREAS, the Grantor is the owner in fee simple of the surface estate of certain real property located on Camp Island in the Kodiak National Wildlife Refuge ("Refuge"), State of Alaska, which is described below (the "Protected Property"); and

WHEREAS, the Protected Property is private property located within the boundaries of the Refuge and adjacent to certain other lands which will be acquired by the United States in order to protect its conservation values ("Conservation Property"); and

WHEREAS, use of the Protected Property can have a significant impact on the resources within the Conservation Property which provides significant habitat for migratory birds, fish and other wildlife and plants, and has substantial value as a natural, scenic, educational and recreational resource (all such habitat, wildlife, plants and values hereinafter referred to as "Conservation Values"); and

WHEREAS, acquisition of this Easement will promote the recovery of the resources and services injured by the Exxon Valdez Oil Spill; and

WHEREAS, the Grantee at closing is simultaneously acquiring fee title to the Conservation Property subject to certain reservations of the Grantor; and

WHEREAS, the Grantor wishes to derive from the Protected Property and the Conservation Property both annual income to benefit its shareholders and economic opportunities for the residents of Karluk and Larsen Bay who are shareholders of Grantor or the descendants of such shareholders;

NOW THEREFORE, pursuant to the laws of Alaska, in particular Alaska Statute § 34.17.010 - § 34.17.060, and

the Agreement, the Grantor for itself, and as successor in interest to the rights of the merged corporations of Karluk Native Corporation and Nu-Nachk Pit, Inc., and in consideration of the amounts to be paid and the covenants of Grantee and the State, as provided herein, does hereby grant, transfer and convey to the Grantee and the State, with special warranties of title, subject to (a) conditions, restrictions, easements and limitations of record, including, but not limited to, conditions, restrictions, easements and limitations contained in [Interim Conveyance 1577 dated December 17, 1993, and recorded at page 001, book 126, Interim Conveyance 117 dated August 24, 1978, and recorded at page 875, book 41, Interim Conveyance 105 dated June 30, 1978, and recorded at page 750, book 43, and Interim Conveyance 723 dated September 29, 1983, and recorded at page 950, book 63, of the records of the Kodiak Recording District, Third Judicial District, State of Alaska [realty must recheck description for camp island????], a limited development easement over the Protected Property of the nature and character and to the extent and for the term hereinafter set forth as to the lands described as follows:

INSERT LEGAL DESCRIPTION

Section 1. Purpose. Subject to the terms and conditions hereinafter set forth and during the term hereof, it is the purpose of this Easement

- (a) to preserve the Protected Property from sale or further development except as specifically provided herein;
- (b) to maintain the majority of the Protected Property predominately in its natural condition and to limit its use as provided herein, to a lodge and related facilities that support those activities which are fish, wildlife and

wildlands oriented or related to archeological and cultural sites on the Conservation Property or on other lands owned by Grantor on Kodiak Island; and

- (c) to encourage and promote the participation of the communities of Larsen Bay and Karluk and of Koniag shareholders and their descendants who are residents of such communities, in the provision of the revenue producing visitor services which are supported on the Protected Property

Grantor reserves to itself, for the enjoyment of itself and its licensees, all legal rights and privileges that are not specifically granted to the Grantee and the State, by and through this Easement.

Section 2. Prohibited Uses by Grantor. Except to the extent reasonably necessary for Grantor to exercise its rights pursuant to Sections 4 and 5 hereof, or with the prior written consent of Grantee, Grantor shall not:

- (a) sell or lease the Protected Property to any person other than the Grantee without first complying with the provisions of this Easement as pertains to transfers of lands and interests in lands. Grantor may lease the cabins presently existing on the Protected Property for terms of less than twelve months, or grant a multi-year concession for the operation and management of the cabins, lodge and related operations, which concessions may also include the right to construct such lodge and related buildings subject to the terms hereof. In the event of such lease or concession, Grantor shall remain responsible to the Grantee for compliance

with the terms of this Easement. In the event of a proposed sale of the Protected Property, or any portion thereof, Grantee shall have a one hundred twenty (120) day period from its receipt of a written statement from the Grantor of the terms of the proposed sale, during which time Grantee may notify Grantor in writing of its decision to exercise a right of first refusal to acquire such property. Grantee agrees that its decision with respect to the acquisition of the property shall also constitute the satisfaction of its rights of first refusal under Section 22(g) of ANCSA.

- (b) construct any additional permanent structures on the Protected Property except as provided herein, or materially modify the physical characteristics of the Protected Property except as may be reasonably necessary for Grantor to exercise its rights under Section 4 hereof.
- (c) authorize seasonal camps on the Protected Property, except Grantor may authorize camping on the Protected Property as part of the lodge operations on the Development Site identified in Section 4(a)(i) hereof. [see if this combination of the former (c) and (d) works-have inserted into the initial camp island easement?]
- (d) fill, excavate, dredge, mine, drill or remove topsoil, sand, gravel, rock, minerals or other materials on the Protected Property; or build roads or change the topography of the land in any manner, except as may be agreed to pursuant to Sections 2(g) or as may be reasonably required to effect the development contemplated by Section 4.
- (e) remove, destroy or cut native species of trees

or plants (except as is reasonably necessary to construct and maintain foot trails as provided in Section 4(a) hereof or to construct and maintain lodging and related facilities at those locations as provided in Section 4 hereof), plant trees or plants (except those native species needed for appropriate landscaping at such sites), spray with biocides, graze domestic animals, including reindeer, or disturb or change in the natural habitat of the Protected Property in any manner.

- (f) dump trash, garbage, or other unsightly or offensive material, and change the topography through the placing of soil or other substance or material such as land fill or dredging spoils on the Protected Property; and
- (g) manipulate or alter natural water courses, shores, marshes or other water bodies or engage in activities or uses detrimental to water purity on the Protected Property except that by mutual agreement of the parties, measures to protect habitat, e.g., bank stabilization, may be done.

Section 3. Grantee's Rights.

To accomplish the purposes of this Easement, Grantee and the State shall have the right to access the Protected Property for the purpose of verifying Grantor's compliance with the terms of this Easement. Grantor shall be provided a reasonable opportunity to have a designated representative accompany Grantee or the State's representative on any such verification inspection which is a primary purpose of the trip.

Section 4. Limited Development.

Grantor shall retain the right to develop and use the Protected Property for revenue producing visitor services, as provided in this section, related to (i) eco-tourism, fishing, hiking, hunting, kayaking, sightseeing and other similar outdoor based recreational activities or (ii) archeological and cultural sites, by providing lodging, meals, rentals, transportation and related services to support such activities to the extent not prohibited by law or regulation.

(a) Facilities.

(i) Grantor retains the right to develop up to a six acre site (hereinafter as "Development Site") for use as the location for the construction, operation and maintenance of the lodge and such related facilities as may be reasonably necessary for its operations. The Development Site shall be reasonably compact and contiguous, except that utilities including, but not limited to, generators and solid and liquid waste disposal as well as docks and facilities associated with them may be located away from the primary development area and do not need to be contiguous to such primary development area. Utilities shall be sited so as not to unreasonably detract or interfere with use and occupancy of Kodiak National Wildlife Refuge land on Camp Island. Noise, human activity, odor and attractive nuisance for wildlife shall be considerations in siting. As utilities are developed, they may be shared with Refuge facilities on Camp Island upon such terms as Grantor and the Refuge Manager may reasonably agree. Grantor shall consult in advance with the Refuge Manager on the siting of all facilities, including the expansion of existing trails or the creation of new trails, on the Development Site and, after an opportunity to consider any recommendations of the Refuge Manager, Grantor shall provide written notice of its siting decisions to Grantee in advance of the commencement of construction.

(ii) Related facilities may include all those structures and facilities reasonably necessary for the operation of a lodge, including, but not limited to, cabins, a multi-purpose room, dining room, kitchen, staff quarters, maintenance, utilities, office, reception area, storage, hot tub and sauna, recreational facilities, docks and trails. A related facility not specifically enumerated herein shall be reasonably necessary for the operation of a lodge if facilities of a similar type are generally found at remote lodges in Canada and Alaska.

(iii) The total developed facilities, exclusive of trails, docks and utilities, shall not exceed the greater of 30,000 square feet or that greater size previously approved by the Regional Chief of the National Wildlife Refuge System-Alaska or his/her successor in function ("Regional Chief"), without the written approval of the Regional Chief of the building plans. The Regional Chief shall approve the building plans unless he/she finds that the increased size will cause significant harm (i) to fish or wildlife populations on the Protected Property or elsewhere on Camp Island; (ii) to fish and wildlife on the Conservation Property or adjacent Refuge lands; or will materially interfere with the Refuge achieving its statutory purposes. Any such finding shall be in writing, shall identify with particularity the nature and the amount of the harm, and the manner and the purposes with which such interference will occur, and shall provide the factual basis giving rise to such findings. In the event of such a finding, the Regional Chief shall also determine what increase in size of the facilities could be permitted without causing such significant harm or material interference. Such determination shall be in writing and shall provide the factual basis for its conclusion.

(iv) Buildings shall be designed in a style similar to that of other remote Alaskan and Canadian lodges and intended to blend with the surrounding area. No building shall be greater than two stories in height without approval of the Refuge Manager, except that such height restriction shall not preclude architectural features such as vaulted ceilings, lofts and/or cupolas which do not otherwise increase the height of the two story roofline by more than twenty five percent (25%) above that which would exist without such architectural features.

(b) Limitations on Guest Capacity and Activities.

(i) The lodging capacity shall not exceed forty (40) guests plus appropriate staff to service those guests, without the prior approval of the Grantee.

(ii) Activities on the Protected Property shall be limited to those which are fish, wildlife and wildlands oriented or related to archeological and cultural sites. Motorized vehicles may not be used at, based at, or supported from, the Protected Property except to the extent reasonably necessary for the construction and operation of the lodge and related facilities by the employees, agents or contractors of the lodge. No jetskis, airboats or similar type of personal watercraft may be used or based at or supported from the Protected Property. Helicopters shall be allowed only for the transportation of people in medical emergencies and of building materials, equipment, appliances and other property not reasonably transportable by fixed wing aircraft. Nothing in the foregoing is intended to limit the use of passenger motorboats with a combined horsepower capacity of less than 100, or pontoon equipped or amphibious airplanes to transport people to and from the Protected Property and the Conservation Property or to engage in fish, wildlife and wildlands orientated activities.

Section 5. Archeological Rights. In addition to the other rights reserved to Grantor, Grantor hereby reserves, to the extent that it holds an ownership interest in historic and prehistoric archeological and cultural artifacts on the Protected Property, the right to conduct operations on the Protected Property to locate, protect, excavate and remove, all historic and prehistoric archeological and cultural artifacts, including but not limited to human remains, funerary objects, other artifacts located in, on or below the Protected Property ("Artifacts"), for curation, and to visit, survey, excavate, stabilize, restore and protect culturally significant sites. Nothing in this Easement shall preclude the right of Grantor to receive compensation from persons conducting such activities.

Section 6. Enforcement. In the event a Party becomes aware of an event or circumstance of non-compliance with the terms of this Easement, that Party shall give notice to the other Parties of such event or circumstance of noncompliance. Within thirty (30) days of the receipt of such notice, the Party which is alleged to be in non-compliance shall correct such event or circumstances of non-compliance or shall commence to correct such events of non-compliance and shall continue to prosecute with due diligence such corrective actions until the event or circumstance is corrected. Should the non-complying Party fail to correct or institute with due diligence an action to correct, then the Party making such notification is entitled to institute an action to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance.

Nothing in this Section shall limit any other legal rights or remedies available to any of the parties. Notwithstanding any other provision of this Section, no Party shall be precluded from taking action to enjoin an activity which is in violation of the provisions of this Easement.

Section 7. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement; any action resulting from a trespasser's negligence; any action resulting from the negligence of a licensee or permittee of Grantor except to the extent that Grantor is also otherwise liable therefor under applicable federal or State law; or prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes.

Section 8. Insurance. Nothing in this Easement shall be deemed to limit the right of Grantor to obtain liability insurance to hold itself harmless from injuries to third parties arising from the actions or inactions of the United States or the State of Alaska under this Easement. Nothing in this Easement shall be construed to either limit or increase any liability of the United States or the State under applicable Federal or State law, including, but not limited to the Federal Tort Claims Act, or of the State under applicable laws of the State of Alaska.

Section 9. Obligation of Funds.

Nothing in this Easement shall be construed as obligating the expenditure of funds by the Grantee or the State, now or in the future, in excess or advance of appropriations authorized by law.

Section 10. Subsequent Transfers.

Grantor agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitation, a leasehold interest.

Section 11. General Provisions.

(a) This Easement is not intended, and shall not be construed, to create any other party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity.

(b) This instrument shall be construed so as to effect the purpose for which it was granted. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.

(c) Grantor is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Protected Property for which it would otherwise ordinarily be liable; provided, however, should such liability arise from a pre-existing condition of the Protected Property, then Grantor shall have the right to reasonably remedy such condition, notwithstanding any other provision herein. The Grantee and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of their respective employees or agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.

(d) Grantor is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Grantor shall be liable for and hold the Grantee and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the Grantee and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Protected Property to Grantor and prior to the effective date of this Easement, and for all releases caused, or contributed to, by Grantor or its agents subsequent to the date of this Easement, but not for costs for cleanup of

hazardous substances that are released by the Grantee, the State or their respective agents, contractors or employees in the course of engaging in activities that are authorized by this Easement. This clause may be enforced by any Party hereto in a court of competent jurisdiction. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to occur as a result of the EVOS.

(e) The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties. The Grantee and the State may not transfer their rights hereunder without the consent of the Grantor, which consent may be withheld or conditioned by Grantor in its sole and absolute discretion. The terms of this Easement may be waived or modified only by the written agreement of the Parties.

(f) Any permit, license, concession or other authorization granted by Grantor to a third party to exercise any right reserved hereunder to Grantor shall be subject to the terms of this Easement and shall include a provision which shall include by reference in such permit, license, concession or authorization the terms of this Easement. Grantor shall use all reasonable efforts to assure compliance with the applicable terms of this Easement by such permittees, licensees and concessionaires.

(g) If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties and the State will negotiate in good faith such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties and the State under this Easement and to carry out the intent of this Easement.

Section 12. Notices. Any notice, demand, request, consent, approval, or communication that either Party or the

State desires or is required to give to the other shall be in writing and either served personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Grantor: Koniag, Inc.
4300 B Street, Suite 407
Anchorage, Alaska 99503
Attention: President

If to Grantee: Regional Director
Region 7
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503-6199

With a copy to: Refuge Manager
U. S. Fish and Wildlife Service
Kodiak National Wildlife Refuge
1390 Buskin River Road
Kodiak, Alaska 99615

and

U.S. Fish and Wildlife Service
Division of Realty
1011 E. Tudor Road
Anchorage, Alaska 99503

If to State:

Alaska Department of Natural Resources
Office of the Commissioner
550 West 7th Avenue, Suite 1400
Anchorage, Alaska 99501-3579

and

Alaska Department of Fish and Game

Office of the Commissioner
P.O. Box 25526
Juneau, Alaska 99802-5526

or to such other address as any party from time to time shall designate by written notice to the others.

* * * * *

The covenants, terms, conditions, and restrictions of this Easement shall run with the lands for the duration of this Easement and shall be binding upon the Grantor, its successors and assigns.

The Grantor hereby covenants to and with the Grantee and the State , that the Grantor is lawfully seized in fee simple of the surface estate of the Protected Property, has a good and lawful right and power to encumber the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will warrant and defend this Easement and the quiet possession in accordance with this Easement, such warranty and defense being limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor or its predecessors in interest pursuant to ANCSA, 43 U.S.C. §1601 et seq., to and including the moment at which this Easement is validly conveyed to the Grantee and the State , against the lawful claims and demands of all persons.

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to pertain to, affect or in any way limit the rights of the subsurface owner to utilize that estate in accordance with applicable law

TO HAVE AND TO HOLD unto the Grantee, the State and their

respective successors, and assigns for the term of this Easement.

IN WITNESS WHEREOF, Grantor has set its hand on the day
and year first above written.

KONIAG INC.

By:

President

Dennis Metrokin,

Attest:

By:

Assistant Secretary
Koniag, Inc.

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before
me, the undersigned, a Notary Public in and for the State of
Alaska, duly commissioned and sworn, personally appeared
Dennis Metrokin, President of Koniag, Inc., to me known and
known to be the person he represented himself to be, and the
same identical person who executed the above and foregoing
LIMITED DEVELOPMENT EASEMENT on behalf of Koniag, Inc., and who
acknowledged to me that he signed the same as President of
Koniag, Inc., in the name of and for and on behalf of said
Corporation, freely and voluntarily and by authority of its
Board of Directors for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed
my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska
(SEAL) My

Commission Expires:_____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the day of , before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared DEBBIE LUKIN, known to me and known to be the Assistant Secretary of Koniag, Inc., a corporation organized and existing under the laws of the State of Alaska, and acknowledged to me that she attested to the execution of the foregoing LIMITED DEVELOPMENT EASEMENT freely and voluntarily for and on behalf of said corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

M.

ACCEPTANCE BY THE U.S. FISH AND WILDLIFE SERVICE

Pursuant to Section 1302 of the Act of December 2, 1980, Alaska National Interest Lands Conservation Act, (16 U.S.C. § 3192), the National Wildlife Refuge Administration Act (16 U.S.C. § 668dd), and the Agreement for the Grant of Conservation Easements and Option for the Sale of Lands and Interests in Lands Between Koniag, Inc. and the United States of America, dated _____, 2____, the Grantee hereby accepts this LIMITED DEVELOPMENT EASEMENT conveying to the United States and its assigns, those interests in lands described therein.

Dated this _____ day of _____, 2_____.

U.S. Fish and Wildlife Service

ACKNOWLEDGMENT

[illegible]

THIS IS TO CERTIFY that on the _____ day of _____, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to be the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, and acknowledged to me that _____ signed the foregoing LIMITED DEVELOPMENT EASEMENT, conveying to the United States those interests in lands described therein, and she acknowledged that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska

SEAL

M

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AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
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ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS 38.05.035(a)(12), the State hereby accepts title to the above described interest in real property on behalf of the State of Alaska .

By: _____

For
Director, Division of Land

ACKNOWLEDGEMENT

STATE OF ALASKA

)
) ss:
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is known to me to be the person who has been lawfully delegated the authority of [INSERT], Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

Printed or typed name of Notary)

NOTARY PUBLIC in and for Alaska

(SEAL)

My Commission

Expires: _____

DRAFT 12/26 230 PM

After Recording Return To:

Koniag, Inc.
4300 B Street, Suite 407
Anchorage, AK 99503

TERMINATION AND RELEASE

The undersigned, parties to that certain Conservation Easement dated _____, executed by Koniag, Inc. as Grantor, the address of which is

_____ the United States of America as Grantee, the address of which is

_____ and the State of Alaska, the address of which is

_____ and recorded on _____ in the Kodiak Recording District, Third Judicial District, State of Alaska, in Book _____ at Page _____, (hereinafter as "Easement"), do hereby acknowledge as follows:

1. The aforementioned Easement terminated in accordance with its terms on _____.

2. The United States of America and the State of Alaska waive and release all claims, rights and interests in the subject property which were granted to them, respectively, by the Easement. The United States retains any and all interests which it reserved in the interim conveyance documents, including, but not limited to, 17(b) easements and Section 22(g) of ANCSA. .

3. The real property described in the Easement is free

and clear of the terms of the Easement and is no longer subject thereto.

4. No party to the Easement has any further obligation thereunder.

IN WITNESS of the above, this Termination and Release has been executed effective the _____ day of _____, 20__.

DATED: _____ KONIAG, INC.

By: _____
Its President

ATTEST:

By: _____
Assistant Secretary

DATED: _____ UNITED STATES OF AMERICA

By: _____
Regional Director, Region 7
U. S. Fish and Wildlife

Service

DATED: _____ STATE OF ALASKA

By: _____
Director
Division of Lands
Department of Natural

Resources

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, President of Koniag, Inc., to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing TERMINATION AND RELEASE on behalf of Koniag, Inc., and who acknowledged to me that he signed the same as President of Koniag, Inc., in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for Alaska
(SEAL) My

Commission Expires: _____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me and known to be the Assistant Secretary of Koniag, Inc., a corporation organized and existing under the laws of the State of Alaska, and acknowledged to me that she attested to the execution of the foregoing TERMINATION AND RELEASE freely and voluntarily for and on behalf of said corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL

My

Commission

expires: _____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to be the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, and acknowledged to me that _____ signed the foregoing

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AND THE UNITED STATES OF AMERICA

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TERMINATION AND RELEASE, conveying to the United States those interests in lands described therein, and she acknowledged that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Alaska

NOTARY PUBLIC in and for

SEAL
ACKNOWLEDGEMENT

M

STATE OF ALASKA

)
) ss:
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is known to me to be the person who has been lawfully delegated the authority of _____, Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

Printed or typed name of Notary)
NOTARY PUBLIC in and for Alaska
(SEAL) My Commission

Expires: _____

After Recording Return To:

Koniag, Inc.
4300 B Street, Suite 407
Anchorage, AK 99503

TERMINATION AND RELEASE

The undersigned, parties to that certain Camp Island Limited Development Easement dated _____, executed by Koniag, Inc. as Grantor, the address of which is _____, the United States of America as Grantee, the address of which is _____, and the State of Alaska, the address of which is _____, and recorded on _____ in the Kodiak Recording District, Third Judicial District, State of Alaska, in Book _____ at Page _____ (hereinafter as "Easement"), do hereby acknowledge as follows:

1. The aforementioned Easement was terminated in accordance with its terms on _____.

2. The United States of America and the State of Alaska waive and release all claims, rights and interests in the subject property which were granted to them, respectively, by the Easement. The United States retains any and all interests which it reserved in the interim conveyance documents, including, but not limited to, 17(b) easements and Section 22(g) of ANCSA.

3. The real property described in the Easement is free and clear of the terms of the Easement and is no longer subject

thereto.

4. No party to such Easement has any further obligation thereunder.

IN WITNESS of the above, this Termination and Release has been executed effective as of the ____ day of _____, 20__.

DATED: _____

KONIAG, INC.

By: _____
Its President

ATTEST:

By: _____
Assistant Secretary

DATED: _____

UNITED STATES OF AMERICA

By: _____

Regional Director, Region 7

U. S. Fish and Wildlife

Service

DATED: _____

STATE OF ALASKA

By: _____

Director

Division of Lands

Department of Natural

Resources

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, President of Koniag, Inc., to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing TERMINATION AND RELEASE on behalf of Koniag, Inc., and who acknowledged to me that he signed the same as President of Koniag, Inc., in the name of and for and on behalf of said Corporation, freely and voluntarily and by

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AGREEMENT BETWEEN KONIAG, INC.

AND THE UNITED STATES OF AMERICA

PAGE 142

authority of its Board of Directors for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

—

NOTARY PUBLIC in and for Alaska
(SEAL) My

Commission Expires: _____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, the undersigned a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me and known to be the Assistant Secretary of Koniag, Inc., a corporation organized and existing under the laws of the State of Alaska, and acknowledged to me that she attested to the execution of the foregoing TERMINATION AND RELEASE freely and voluntarily for and on behalf of said corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

SEAL My Commission
expires: _____

ACKNOWLEDGMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to be the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, and acknowledged to me that ____ signed the foregoing TERMINATION AND RELEASE, conveying to the United States those interests in lands described therein, and she acknowledged that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Alaska

NOTARY PUBLIC in and for

SEAL

M

ACKNOWLEDGEMENT

STATE OF ALASKA

)

) ss:

THIRD JUDICIAL DISTRICT

)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ who is known to me to be the person who has been lawfully delegated the authority of _____, Director of the Division of Land, Department of Natural Resources, State of Alaska.

(Signature)

(Printed or typed name of Notary)
NOTARY PUBLIC in and for Alaska
(SEAL) My Commission

Expires: _____

11.12.02

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

January 4, 2001 9:30 a.m.

645 G STREET, Suite 401, ANCHORAGE

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Trustee Council Members:

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

MICHELE BROWN
Commissioner
Alaska Department of Environmental
Conservation

MARILYN HEIMAN
Special Assistant to the Secretary
for Alaska
U.S. Department of the Interior

DAVE GIBBONS
Trustee Representative
U.S. Department of Agriculture
Forest Service

JAMES W. BALSIGER
Director, Alaska Region
National Marine Fisheries Service

FRANK RUE
Commissioner
Alaska Department of Fish & Game

Teleconferenced in Anchorage, Restoration Office, 645 G Street
Federal Chair

1. Call to Order - 9:30 a.m.
- Approval of Agenda
2. Overview of Koniag Conservation easement proposal*
3. Public comment period - 10:00 a.m.
4. Discussion and action

Adjourn no later than 1:00 p.m.

* indicates tentative action items

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Exxon Valdez Oil Spill Trustee Council

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



TRUSTEE COUNCIL MEETING ACTIONS

December 4th, 5th & 8th, 2000

By Molly McCammon
Executive Director

Trustee Council Members Present:

Dave Gibbons, USFS
Marilyn Heiman, USDO
James Balsiger, NMFS

● Frank Rue, ADF&G
● Michele Brown, ADEC
*Craig Tillery, ADOL

* Chair

In Anchorage: Gibbons, Heiman, Balsiger, Rue, See, Tillery, Easton, Slater

● Alternates:

Marianne See served as an alternate for Michele Brown on December 4th for the entire day.

Dan Easton served as an alternate for Michele Brown the entire day on December 5th and December 8th.

Claudia Slater served as an alternate for Frank Rue on December 4th from 3:10 p.m. to 4:40 p.m. and on December 5th from 9:15 a.m. to 10:20 a.m.

Meeting convened at 1:09 p.m., December 4, 2000

1. Approval of the Agenda

APPROVED MOTION: Approved the Agenda. Motion by Rue, second by Gibbons .

2. Approval of the Meeting Notes

APPROVED MOTION: Approved August 3, 2000 Trustee Council meeting notes. Motion by Rue, second by See .

Public comment period began at 1:11 p.m.

Public comments received telephonically, from 2 individuals in Anchorage, 7 in Kodiak, 2 in Chinitna Bay, 1 in Port Lions and from 7 individuals present in Anchorage.

Public Comment period closed at 2:30 p.m.

3. Archaeology repository

APPROVED MOTION: Adopted a resolution (Attachment C) approving Project 99154/Archaeology repository, local display facilities and traveling exhibits for Prince William Sound and Lower Cook inlet. It was resolved to reallocate \$233,000 for a local display facility in Seward, thereby reducing the allocation of grant funds for the repository to \$777,000. These allocations are subject to the following conditions:

1. The repository will be developed in accordance with the repository business plan dated March 30, 2000, as modified by the Grantee's letter of June 19, 2000;
2. The design of the repository must address concerns raised by Elizabeth H. Knight, Senior Curator, National Park Service, in her letter of October 12, 2000, which reviewed the revised building plans for adherence to 36 CFR Part 79;
3. Grant funds budgeted for building acquisition for the repository may be used for a prepaid 20-year lease of approximately 2,700 square feet in the Orca Building in Seward; and
4. The proposal for a local display facility in Seward to the extent possible must be coordinated with the repository as well as with the federal multi-agency center being planned for Seward.

Motion by Heiman, Second by Gibbons.

4. Small Parcels

APPROVED MOTION: Adopted a resolution (Attachment D) authorizing U.S. Forest Service to offer the appraised value of \$125,000 for 33 acres known as PWS 05. This parcel is part of the Valdez Duck Flats, located in Prince William Sound near the city of Valdez. The offer will terminate if a purchase agreement is not signed by June 21, 2001. Motion by Gibbons, second by Heiman

APPROVED MOTION: Adopted a resolution (Attachment E) authorizing State of Alaska to offer the appraised value of \$100,000 for 20 acres known as PWS 06. This parcel is part of the Valdez Duck Flats, located in Prince William Sound near the city of Valdez. The offer will terminate if a purchase agreement is not signed by June 21, 2001. Motion by Gibbons, second by Slater.

APPROVED MOTION: Adopted a resolution (Attachment F) authorizing U.S. Forest Service to offer the appraised value of \$1,130,000 for 942 acres known as PWS 1010. This parcel is located in Jack Bay in Prince William Sound. The offer will terminate if a purchase agreement is not signed by June 21, 2001. Motion by Gibbons, second by Heiman.

5. Lapse Date Extensions

APPROVED MOTION: Approved a motion to extend the lapse dates on funds for three projects, as follows: Project 97291 (\$15,000) from September 30, 2000 to September 30, 2001; Project 98180 (\$27,500) from September 30, 2000 to September 30, 2001; and Project 99304 (\$1,857,000) from September 30, 2001 to September 30, 2003. Motion by Heiman, second by Gibbons.

RECESS: Motion by Heiman, second by See.

Off the record at (December 4, 2000 at 4:40 p.m.)

RECONVENE ON DECEMBER 5TH

On the record at (December 5, 2000, at 8:30 a.m.)

Public comment period began at 8:30 a.m.

Public comments received from 1 individual in Kodiak telephonically and from 1 individual present in Anchorage.

Public Comment period closed at 8:55 a.m.

BREAK INTO EXECUTIVE SESSION:

6. Executive Session

APPROVED MOTION: Adjourned into executive session to discuss public advisory group appointments, Executive Director evaluation, legal questions and habitat protection. Motion by Rue, second by Balsiger.

Off the record at (11:45 a.m.)

On the record: 1:20 p.m.

BREAK: Off the record at (1:21 p.m.)
On the record at (1:30 p.m.)

7. Public Advisory Group appointments

APPROVED MOTION: Motion approved to select the following Public Advisory Group members for the term December 2000 until October 2002:

Torie Baker, Cordova	Commercial Fishing
Chris Beck, Anchorage	Public at Large
Chris Blackburn, Kodiak	Public at Large
Dave Cobb, Valdez	Public at Large
Gary Fandrei, Kenai	Public at Large
Brett Huber, Soldotna	Sport Hunting & Fishing
Dan Hull, Anchorage	Public at Large
Jim King, Juneau	Conservation
Chuck Meacham, Juneau	Science/Academic
Pat Norman, Port Graham	Native Landowner
Lloyd "Bud" Perrine, Cordova	Aquaculture
Gerald Sanger, Whittier	Commercial Tourism
Stan Senner, Anchorage	Environmental
Stacy Studebaker, Kodiak	Recreation Users
Chuck Totemoff, Anchorage	Forest Products
Ed Zeine, Cordova	Local Government

Motion by Heiman, second by Rue.

BREAK: Off the record (3:30 p.m.)
On the record (3:40 p.m.)

8. FY 2001 Draft Work Plan: Deferred projects

APPROVED MOTION: Approved a motion to adopt the recommendations for FY 01 deferred projects as outlined in Spreadsheets A & B, both dated November 24, 2000, and as amended by today's discussion (changes reflected in Attachments A and B, dated December 7, 2000) with the following conditions: (1) If a Principal Investigator has an overdue report or manuscript from a previous year, no funds may be expended on a project involving the PI unless the report is submitted or a schedule for submission is approved by the Executive Director, and (2) a project's lead agency must demonstrate to the Executive Director that requirements of NEPA are met before any project funds may be expended (with the exception of funds spent to prepare NEPA documentation). Funds for Project 01154/Archaeological Repository and Display Facilities, are for a capital project and will lapse September 30, 2002. Motion by Heiman, second by Rue.

BREAK: Off Record (5:10 p.m.)
On Record (5:15 p.m.)

RECESS: Motion by Heiman, second by Gibbons.

Off the record (December 5, 2000, at 5:15 p.m.)

RECONVENE ON DECEMBER 8TH

On the record (Telephonically, December 8, 2000 at 2:05 p.m.)

BREAK INTO EXECUTIVE SESSION:

9. Executive Session:

APPROVED MOTION: Adjourned into executive session to discuss the remaining appointment for the subsistence seat on the Public Advisory Group.
Motion by Heiman, second by Rue.

Off the record (2:08 p.m.)
On the record (2:15 p.m.)

10.. Public Advisory Group appointment

APPROVED MOTION: Motion approved to select the following Public Advisory Group member for the December 2000 - October 2002 term:

Martha Vlasoff, Anchorage Subsistence

Motion by Heiman, second by Rue.

Meeting adjourned: 2:16 p.m.

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Summary of the **PROPOSED HABITAT PROTECTION AGREEMENT BETWEEN KONIAG AND THE EVOS TRUSTEES**

This paper summarizes the proposed habitat protection agreement between Koniag Inc. and the EVOS Trustee Council for the Karluk and Sturgeon River drainages, plus miscellaneous lands within the Kodiak National Wildlife Refuge. This is a unique agreement that provides for ten-year easements on the lands with an option to extend the easements and an option for a future sale.

The documents to be approved by the Trustee Council include: the Resolution (with attached Restoration Benefits Report) authorizing the offer to Koniag embodied in the Master Agreement, the Master Agreement, the Limited Warranty Deed, the Conservation Easement, the Limited Development Easement and an amendment to the Non-Development Easement. The Master Agreement broadly describes the overall agreement including time line and financial elements. The Limited Warranty Deed includes the legal descriptions and reservations by Koniag. It will automatically go into effect if Koniag opts to sell the lands in fee in the future. The Conservation Easement covers all lands in the agreement except Camp Island and provides for a variety of authorities by the United States and Alaska and a variety of uses by the public and Koniag. The Limited Development Easement defines and limits Koniag's rights to develop its lands on Camp Island, a 55-acre island in Karluk Lake. The amendment to the Non-Development Easement extends the existing Non-Development Easement from its current sunset date on December 15, 2001 to October 15, 2002 when the Master Agreement will take affect, if approved.

The agreement involves approximately 57,897 acres of important habitat for a variety of EVOS injured fish, wildlife and services plus other nationally significant natural resources. The area contains high restoration values for sockeye salmon, pink salmon, dolly varden, bald eagles, harlequin ducks, river otters, wilderness, subsistence, cultural resources, and recreation and significant values for other injured resources and services. The values are more fully described in the Restoration Benefits Report attached to the Trustee Council resolution. In addition to the EVOS injured species and services, the area provides outstanding habitat for silver, king and chum salmon, steelhead, a suite of migratory birds, brown bears, and Sitka black-tailed deer. A multi-million dollar commercial salmon fishery relies on salmon produced in the Karluk and Sturgeon Rivers. Brown bears and deer offer valuable recreation for wildlife viewers and hunters.

Key elements of the Master Agreement:

- Extends the existing Conservation (Non-Development) Easement from December 15, 2001 to October 14, 2002 for a payment of \$300,000 (Section 2).

- New easement commences on October 15, 2002 with a ten-year term, which may be extended at the sole option of Koniag for an additional ten years (Section 2).
- Koniag may elect to sell the property at the end of Year Ten or any anniversary thereafter (Section 2).
- To be extended beyond 20 years, mutual agreement of Koniag and the EVOS Trustee Council is required (Section 2).
- Koniag's remaining land entitlement, if any, will be taken outside of the Kodiak National Wildlife Refuge (Section 3).
- Establishes a special Koniag Agreement Account within the EVOS Investment Fund (currently in the State of Alaska investment system) with \$29,550,000 of joint settlement funds to be invested and managed by the Trustee Council, in consultation with Koniag (Section 6(b)).
- Provides for annual payments from the Koniag Agreement Account for the Conservation and Limited Development Easements. Payments are \$372,100 in the first year, rising to \$744,200 in year 12 and level thereafter (Section 6(d)).
- Provides for the money in the Koniag Agreement Account to revert to the use of the Trustee Council for other uses in accordance with the original EVOS consent decree if Koniag opts not to sell (Section 6(e)).

Key elements of the Limited Warranty Deed:

- Reserves a subsistence access easement for local residents. Limits motorized travel to routes that existed on the property as of commencement of the Conservation Easement (Section 1).
- Reserves archaeological rights and requires archaeological activities be conducted in accordance with professional standards (Section 2).

Key elements of the Conservation Easement:

Prohibits a wide range of activities by Koniag, the U.S. and the State which would be detrimental to fish, wildlife and habitat (sections 3 and 4(f)).

Public Use and Access

- Provides unlimited access by U.S. Fish and Wildlife Service (FWS) and Alaska Department of Fish and Game (ADFG) for fish, wildlife and habitat monitoring and research (section 4(a)).
- Provides FWS the right to authorize public access for purposes permissible on National Wildlife Refuges subject to applicable State fish and wildlife regulations (section 4(b)).

- FWS has the right to authorize and select guides and other revenue-producing services for fish and wildlife-related recreation and to prescribe limits on such activities (section 4(c)).
- FWS has the responsibility to provide enforcement of regulations and management of public use at approximately the same level it applies on refuge lands. FWS also has the responsibility to manage public use on the Koniag lands along the Karluk River below the refuge boundary to the extent the agreement authorizes public use on this section of the river (section 5(a)).
- Regulations applicable to the refuge in 50 CFR are made applicable to the lands covered by the agreement (section 5(a)).
- Requires a FWS-managed and enforced permit system for public use along Karluk Lake and River. Allocation between guided and unguided public use is required (section 5(b)).
- Requires a study to determine acceptable levels of public use and qualifications and operating standards for the required permit system (section 5(c)).
- Establishes an interim limit on public use during the king salmon season of 70 visitors per day until the public use study is completed (section 5(d)).
- Koniag has the right to issue revenue-producing concessions along the Karluk Lake and Karluk River in lieu of FWS but in accordance with limits prescribed by FWS (section 5(e)).
- Provides a preference to Koniag shareholders and residents of Karluk and Larsen Bay to provide revenue-producing services (section 5(f)).
- Requires FWS to enforce regulations on the 17(b) easement between the Portage on the Karluk River and Larsen Bay and seek a less environmentally damaging route for the easement (section 5(g)).

Cabins

- Koniag reserves the right to manage the five existing cabins along the Karluk River (sec. 6(a)).
- Koniag is required to replace or remove the two cabins on the east side of the Karluk River at the Portage (section 6(a)).
- Establishes standards for cabin management and associated habitat protection (section 6(a)).
- Koniag may relinquish and FWS will accept cabin management responsibility (section 6(b)).
- Limits numbers of cabins to five, with provision for replacements in kind and FWS approval of any alternate sites (section 6(d)).

Koniag Reserved Rights

- Reserves the operation of a bear viewing program in the Thumb River drainage (section 7(b)).
- Reserves the right to grant concessions for fish, wildlife and wildland activities along Karluk Lake and River subject to standards established pursuant to the agreement (section 7(c)).
- Reserves the right to operate one seasonal camp along each of the Karluk and Sturgeon rivers. Client limits are prescribed and access by helicopter is prohibited (section 7(c)).
- Reserves a subsistence priority (section 7(d)).
- Reserves archaeological materials and the right to excavate (section 7(e)).

Miscellaneous

- Establishes a management group consisting of representatives of FWS, the State and Koniag to deal with issues related to their interests (section 9).

Camp Island Limited Development Easement

- Limited development easement runs in concert with the Conservation Easement. If Koniag opts to take the money in the Koniag Agreement Account, the Camp Island Limited Development Easement becomes permanent (section 2).
- Prohibits a variety of uses by Koniag that could be harmful to fish, wildlife and habitat (section 3).
- Authorizes a wilderness lodge operation limited to a 6-acre area with no more than 30,000 square feet of facilities (section 5(a)).
- Clients are limited to up to 28 per day in the first ten years and 40 thereafter, plus staff (section 5(b)(i)).
- Clients' uses of the easement property are limited to fish, wildlife, and wildlands-oriented activities or archaeology (Section 5(b)(ii)).
- Jet skis, airboats, and helicopters are prohibited. Motorboats are limited to 100 horsepower (section 5(b)(ii)).
- Koniag reserves archaeological rights (section 6).

1/3/01

**ADDENDUM TO:
SUMMARY OF THE PROPOSED HABITAT PROTECTION AGREEMENT
BETWEEN KONIAG AND THE EVOS TRUSTEES**

insert under "Key elements of the Master Agreement" between the 2nd- and 3rd-
to-last bullets:

- Provides Koniag may elect to terminate the agreement if the fee increases for management of the account exceed increases in the Consumer Price Index for Anchorage where the fee changes are not the result of changes in management or composition of the portfolio.

DRAFT 1/4/01

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

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. In accordance with the Trustee Council Resolution of December 2, 1994, the United States, acting through the U.S. Fish and Wildlife Service, Department of the Interior ("Service" and "Department," respectively) and Koniag, Inc. ("Koniag"), have completed the fee purchases of certain lands and interests in lands within the Kodiak National Wildlife Refuge ("Refuge").
2. Consistent with the foregoing Resolution, the United States also received from Koniag the Non-Development Easements covering certain other lands within the Refuge for the term expiring December 2, 2001, and the State of Alaska ("State") received from Koniag an Access and Use Easement for those lands for the same period. The purpose of the foregoing easements was to protect the key resources on certain lands owned by Koniag, primarily within the Karluk and Sturgeon River drainages, while the parties sought to reach a long term agreement to protect this key habitat.
3. Negotiators for the Trustee Council and Koniag have now reached a tentative agreement, subject to review, ratification and approval of their principals, the Trustee Council and the Koniag Board of Directors, respectively, covering the surface estate of the lands generally depicted on the maps at Attachment A hereto (the "Lands") and totaling approximately 57,900 acres. This tentative agreement will, if implemented, provide long-term protection and opportunities for restoration of natural resources and services that were injured by the *Exxon Valdez* oil spill. The tentative agreement, which is set forth at Attachment B, includes the various exhibits thereto (the tentative agreement and attachments thereto are hereafter referred to as the "Agreement").
4. The Lands were selected and conveyed to Koniag or its predecessors pursuant to the Alaska Native Claims Settlement Act. The subsurface rights associated with the Lands are held by the United States of America ("United States").
5. The Lands are within the oil spill area as defined by the Trustee Council in the Final Restoration Plan approved November 2, 1994.
6. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the Trustee Council's

habitat benefits analysis. This analysis has indicated that these lands have high value for the restoration of such injured natural resources as sockeye salmon, pink salmon, Dolly Varden, Pacific herring, black oystercatcher, bald eagles, harbor seals, harlequin ducks, intertidal/subtidal biota, marbled murrelet, pigeon guillemot, river otters, sea otters, and cultural and archeological resources. This analysis has also indicated that the Lands have high value for the restoration of injured services that rely on these natural resources, including commercial fishing, wilderness, recreation, tourism and subsistence. Restoration of the injured species will benefit from acquisition and protection of this important habitat through the elimination of activities and disturbances which may adversely affect their recovery.

7. The Lands are located wholly within the boundaries of the Refuge and their protection will ensure the preservation of a significant portion of one of the nation's most productive and unique ecosystems. The benefits resulting from such acquisition and protection are further described in the Habitat Benefits Report at Attachment C .
8. Existing laws and regulations, including but not limited to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation 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 EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws and regulations to protect resources, biologists, 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 likely have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.
9. There has been widespread public support for the acquisition of the Lands, locally, within the spill zone and nationally.
10. Implementation of the Agreement is an appropriate means to restore a portion of the injured resources and services in the oil spill area and is consistent with the Final Restoration Plan.
11. Recently, on private lands within the Refuge, development and construction have included lodges, private residences and recreational cabins. Such sites have been near key water bodies and can have a significant impact, particularly on a cumulative basis, on water quality and injured natural resources and services well beyond the boundaries of the individual sites. In the event the subject lands are not acquired or protected at this time, development by the owners is certain to occur on them in a manner that will adversely impact the water quality and the injured EVOS resources and services sensitive to human disturbance.
12. The approved appraisal procured on behalf of the Trustee Council as of September 8, 1994 provided an estimate of fair market value totaling approximately \$7,297,100 (Seven million

two hundred ninety-seven one hundred and no/100 dollars) for the fee acquisition of the Lands.

13. The Service prepared and submitted an offer to Koniag to purchase its Kodiak Island lands as per the September 8, 1994 estimate of fair market value in the approved appraisal. This offer was rejected and negotiations and discussions ensued over the past several years between Koniag and a joint Federal/State of Alaska negotiating team which resulted in the Agreement. Koniag has also advised the Federal/State negotiators that it is unwilling to sell the Lands in fee at the present time, but would consider a long-term agreement that would provide for habitat protection and economic opportunities for the residents of Karluk and Larsen Bay, Alaska, as well as Koniag's other shareholders.
14. It is ordinarily the federal government's practice to pay its estimate of fair market value for lands it acquires. However, due to the unique circumstances of this proposed acquisition, including the exceptional habitat value of the Lands for purposes of promoting recovery of natural resources and services injured by EVOS and the levels of compensation paid in other transactions providing for the protection of key habitat within the Oil Spill Zone, including that for the prior acquisitions from Koniag, the Trustee Council believes the payment structure provided in the attached Agreement is appropriate.
15. The acquisition of these lands or interests in lands is in compliance with the National Environmental Policy Act; Section 810 of the Alaska National Interest Lands Conservation Act; Section 7 of the Endangered Species Act; and the provisions of E.O. 11593 implementing the National Historic Preservation Act; and has been determined to be consistent with Section 307 of the Coastal Zone Management Act.
16. A satisfactory hazardous substance survey has been or will be completed prior to the initial closing with respect to the lands or interests in lands being acquired.

Therefore, we resolve to provide the funds as set forth below and in the Agreement for the United States and the State to enter into the Agreement with Koniag, in conformity with applicable Federal and State laws. Any substantive changes in the language contained in the Agreement, including the exhibits attached thereto, must be approved by the Trustee Council. Non-substantive changes may be made by the Alaska Department of Law and the U.S. Department of the Interior.

Provided further, that the Agreement shall contain or be subject to the following terms or conditions:

1. Receipt by the United States and the State of Alaska of the remaining settlement payment due on October 1, 2001, from Exxon Corporation, et al.
2. Filing by the United States Department of Justice and the Alaska Department of Law of a notice(s), as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District

of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the United States.

3. Completion of a title search satisfactory to the Alaska Department of Law and consistent with the title regulations of the Attorney General of the United States.
4. No development is to take place prior to closing on the Lands which is inconsistent with that provided for in the various granting documents attached as exhibits to the tentative agreement.
5. The terms and conditions of the granting instruments attached as exhibits to the Agreement are subject to review and approval as to form and substance by the U.S. Department of Justice and the Alaska Department of Law.
6. Should title to any lands be conveyed in fee to the United States pursuant to the Agreement, such lands shall be subject to a conservation easement in the State of Alaska authorizing it to enforce in a court of competent jurisdiction, the restoration and conservation purposes for which this acquisition is made as set forth in the State Conservation Easement, attached as an exhibit to the Agreement.

Therefore, by unanimous consent, and upon execution of the Agreement and written notice from the Department and the Alaska Department of Law to the Executive Director that the terms and conditions set forth herein and in the Agreement have been satisfied, 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 take such steps as may be necessary for the Trustee Council to provide joint settlement funds as set forth below:

1. \$300,000 (Three hundred thousand and no/100 dollars) to be paid to Koniag by December 15, 2001, for the extension of the existing Non-Development Easements and the State Access and Use Easement until October 15, 2002. For purposes of the March 1, 1999 Trustee Council Resolution concerning the Restoration Reserve, the foregoing \$300,000 payment and any interest attributable to that amount between December 1, 2001 (or such other date on which these funds are transferred from the Investment Fund) and October 1, 2002 shall reduce the \$55 million (Fifty-five million and no/100 dollars) available for habitat protection on October 1, 2002.
2. The Trustee Council, will cause to be established and fund as of October 15, 2002, a special account in the amount of \$29,550,000 (Twenty-nine million, five hundred and fifty thousand and no/100 dollars)("Special Account"). The Special Account shall be established by the United States and the State, acting through the Trustee Council or its successors in function (the "Governments"), with the State of Alaska investment system in accordance with the authority provided by Congress in Section 350 of P.L. 106-113, 113 Stat.1501 (1999). The

Governments will manage the Special Account and are solely responsible for its investment. Notwithstanding the foregoing, over the life of this Agreement, the Governments shall (a) consult with Koniag concerning the investment strategy for the Special Account and (b) establish an initial investment target of a projected average annual return of 5.75% above inflation when considered over a ten year period, unless after consultation with Koniag, the Governments determine that such investment targets would be imprudent and would require an investment strategy relying on undue risk of principal of these joint governmental funds. Koniag shall be provided a financial report on the Special Account at least quarterly, which report shall identify the investments held therein, their value and all transactions made with respect to the Special Account during the reporting period. Such reports shall be provided within thirty (30) days of the close of the reporting period.

3. Investment management fees shall be paid from the Special Account in accordance with the provisions set forth below:

- (a) If the Special Account is held in the State of Alaska's Treasury, the management fees for the account shall be the actual fees assessed by, and commensurate with other management fee charges of, the Alaska Department of Revenue, Division of Treasury for an account of this nature.
- (b) If the Special Account is held in an entity other than that of the State of Alaska, the fees to be charged shall be the actual fees assessed by, and commensurate with, the management fees charged for an account of this nature.
- (c) For each entire year that the Conservation Easement is in effect, an annual payment from the Special Account shall be made to Koniag as follows:

Year 1	\$372,100, paid on October 15, 2003
Year 2	\$405,589, paid on October 15, 2004
Year 3	\$439,078, paid on October 15, 2005
Year 4	\$472,567, paid on October 15, 2006
Year 5	\$506,056, paid on October 15, 2007
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Year 17	\$744,200, paid on October 15, 2019

Year 18	\$744,200, paid on October 15, 2020
Year 19	\$744,200, paid on October 15, 2021
Year 20	\$744,200, paid on October 15, 2022

- (d) If Koniag elects in accordance with the Agreement not to subsequently sell the lands to the United States in fee, and otherwise allows the easements to terminate, Koniag shall cease to have any right or claim with respect to any amounts in the Special Account, and the balance thereof shall be subject to use by the Governments in accordance with the consent decrees applicable to the use of the proceeds from the EVOS settlement and other applicable law. If Koniag elects to sell the lands covered by the Conservation Easement in fee to the United States, then it shall receive the balance in the Special Account in accordance with the terms of the Agreement.
- (e) So long as the Conservation Easement and the Camp Island Limited Development Easement are in effect, no funds in the Special Account may be withdrawn therefrom except in accordance with the terms of the Agreement. The funds in such Special Account may not otherwise be transferred to another account without the prior written consent of Koniag.

Provided further, that the funds provided above represent the only amounts under this resolution due to Koniag which are to be funded from the joint federal-State funds.

Adopted this 4th day of January, 2001, in Anchorage, Alaska.

DAVE GIBBONS Date
Trustee Representative
Alaska Region
USDA Forest Service

CRAIG TILLERY Date
Attorney General
State of Alaska

MARILYN HEIMAN Date
Special Assistant to the Secretary
for Alaska
US Department of the Interior

JAMES W. BALSIGER Date
Director, Alaska Region
National Marine Fisheries Service

FRANK RUE Date
Commissioner
Alaska Department of
Fish and Game

MICHELE BROWN Date
Commissioner
Alaska Department of
Environmental Conservation

**RESTORATION
BENEFITS REPORT**

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RESTORATION BENEFITS REPORT FOR THE MASTER AGREEMENT FOR PROTECTION OF CERTAIN LANDS AND RESOURCES BETWEEN KONIAG, INC. AND THE UNITED STATES OF AMERICA

REGION: KODIAK ARCHIPELAGO

The Koniag lands subject to this agreement are located within the *Exxon Valdez* Oil Spill (EVOS) zone along the coast and inland waterways on the west side of Kodiak Island, Alaska. The Agreement area encompasses a broad diversity of land forms including mountains, hills, plateaus, rivers, streams, lakes, and coastline within the boundary of Kodiak National Wildlife Refuge (Kodiak Refuge). The vast majority of Koniag's lands subject to this agreement are in the Karluk River and Karluk Lake drainage, the largest river system and largest lake in the Kodiak Archipelago and the Sturgeon River drainage. Vegetation is comprised mainly of maritime tundra, muskeg, deciduous woodlands, shrublands, and grasslands. Genetically unique fish stocks and plant species occur within the easement area due to the absence of Pleistocene glaciation.

RESTORATION BENEFITS

The lands subject to this Agreement are part of a large, intact ecosystem which provides multi-million dollar commercial, subsistence, and recreational benefits to the larger Kodiak population and the State. The extraordinary value of the area to fish and wildlife stems from clean and highly productive aquatic and marine environments. The Agreement lands contain a rich assemblage of species, habitats, and services injured by the EVOS. The lands support high subsistence use of sockeye, coho, pink salmon, and Sitka black-tailed deer. Abundant and diverse salmon runs afford some of the most outstanding opportunities available for sport fishing and wildlife viewing in Alaska.

The EVOS Habitat Protection Work Group ranked the lands in the Karluk Drainage and Uyak Bay as high. The lands in the Sturgeon Drainage were ranked moderate. The following discussion summarizes injured resources and services found on Koniag lands that received a high score in the Habitat Protection Work Group's evaluation:

Sockeye Salmon:

The Karluk River is the most productive sockeye salmon system in the Kodiak Management Area. Early and late runs of sockeye salmon collectively produce escapements of hundreds of thousands of fish. During 1998-2000, commercial fisherman harvested 775,000-1,117,000 fish returning to this drainage, which yielded a harvest value of \$4.9-7.3 million.

Pink Salmon:	Fourteen (14) documented spawning streams are wholly or partially on Koniag lands. Even year pink salmon escapements average over a million fish, which is the highest in the Kodiak Management Area. Commercial harvest of 1-6 million fish returning to Koniag rivers and streams in 1998-2000 resulted in a harvest value of \$0.5-3.2 million.
Dolly Varden:	Dolly Varden are widespread and abundant throughout drainages on Koniag lands. Karluk Lake provides critical overwintering Dolly Varden habitat.
Pacific Herring:	Herring spawn in the nearshore waters off most Koniag beaches in Larsen Bay and Uyak Bay. Commercial sac-roe and food/bait herring harvests were substantial in adjacent management units prior to closure of the fishery in 1995. The 1992 sac-roe harvest for districts adjacent to Koniag lands was 103.5 tons. The average price paid from 1979-1992 was \$943/ton. The 1992 harvest value consequently is estimated to have been \$97,600.
Bald Eagle:	Historically, the Karluk drainage has supported the densest and most productive population of nesting bald eagles on Kodiak Island. One hundred sixteen (116) pairs of bald eagles nested within the area, with most nesting concentrated in the vicinity of Karluk Lake. Non-breeding birds concentrate along the Sturgeon River during salmon runs.
Black Oystercatcher:	Large stretches of Koniag's coastline are used by feeding black oystercatchers. Nesting occurs along the rocky areas of Uyak Bay.
Harlequin Duck:	Nesting occurs along the numerous drainages. Biologists estimated 18-25 pairs nested in the Karluk watershed between 1994-96. Molting aggregations are common on nearshore rocks.
Marbled Murrelet:	Although undocumented, nesting is highly likely; recently fledged young have been observed in nearshore marine waters. Large flocks intensively use Uyak Bay in winter for feeding purposes.
Pigeon Guillemot:	Numerous nesting colonies occur along rocky shorelines of Koniag lands. Uyak Bay provides critical winter feeding habitat for pigeon guillemots.
Sea Otter:	Sea otters are abundant throughout Uyak Bay. Brown's Lagoon is a known sea otter pupping area and several haulouts are located in the region.

River Otter:	River otters are widespread with sizeable populations, especially along streams flowing into lakes. River otters provide income to local trappers.
Harbor Seal:	Nine known haul-out sites occur on rocks adjacent to Koniag lands.
Intertidal/Subtidal Biota:	Extensive mussel and eelgrass beds occur adjacent to shore. Uyak Bay and Sturgeon Lagoon have extensive eelgrass beds that attract a variety of marine life.
Recreation/Tourism:	The Karluk River drainage is a highly popular destination for sport fishing, flight-seeing, and bear viewing. Abundant chinook salmon, coho salmon, and steelhead populations in the Karluk River consistently attract the largest annual concentration of visitors within the Refuge boundary (e.g., 2,375 angler days in 1994). Island residents and non-residents hunt Sitka black-tailed deer and brown bears on Koniag lands. Several hunting and fishing guides are established on these lands. Recreational use is growing rapidly along with its value to local and state economies.
Wilderness:	Evidence of human use is limited to coastal sites, cabin sites, and the Portage Trail. The area retains outstanding wilderness characteristics.
Subsistence:	Many of the lands are primary harvest areas for Karluk and Larsen Bay village residents. Wildlife resources harvested include fish, deer, waterfowl, crab, and clams.
Cultural Resources	Archaeological sites are found extensively on these lands. Most bays contain prehistoric and historic village sites. The Karluk drainage is blanketed with cultural resource sites.

Direct Benefits: The Agreement package addresses conservation concerns through enhanced protection of EVOS-injured fish, wildlife, and services. The Karluk River drainage supports tremendous returns of pink and sockeye salmon worth millions of dollars to the Kodiak commercial fisheries and Alaska's economy. The Sturgeon River also supports substantial runs of pink salmon and resident Dolly Varden. Rich fisheries sustain an abundance of bald eagles and the densest brown bear population on the planet. The highly ranked Uyak Bay parcels encompass salmon-bearing streams and protected coastline that teems with marine wildlife such as harbor seals, sea otters, harlequin ducks, marbled murrelets, and black oystercatchers. The proposed Agreement acknowledges the relationship of Koniag Inc. shareholders to the land, and it ensures continued opportunity to access and use fish, wildlife, and habitat resources for customary and traditional purposes.

Other Benefits: Karluk Lake is the site of some of the highest densities of brown bears ever recorded. Chinook (king) and steelhead fishing on the Karluk river is popular with visitors from around the world. Hunters are attracted by abundant bear and deer populations. Koniag shareholders and the Kodiak economy benefit from the increasing popularity of recreational fishing, hunting, and wildlife viewing on Koniag lands. Waterfowl and seabirds congregate in the protected waters of Uyak Bay and Sturgeon Lagoon during the winter season. Nearshore waters along Shelikof Strait are frequented by killer, minke, and fin whales.

The broad economic and social values of protecting this intact ecosystem cannot be overstated. Ecosystem disruptions within the area will permeate the area and diminish the value of adjacent lands and waters. Although this restoration effort focuses on habitats of high value for specific injured species and services, long-term success requires conservation measures of broad scope and long duration.

The Alaska Department of Fish and Game and several agencies of the federal government work cooperatively on fish and wildlife management and research projects on the Kodiak Archipelago. Wildlife species and anadromous fish have wide ranges that include both public and private lands. Private lands can be closed or have restricted access at any time. However, the proposed agreement would ensure consistent agency access, and thus afford the basis for systematic monitoring, research, and management of fish and wildlife resources.

The Agreement provides for ready access to high quality recreational resources by the public while eliminating current fee requirements. Public confusion over the current patchwork of federal and private land ownership will be reduced.

Proposed Management Structure: Agreement lands will be managed as part of the Kodiak Refuge subject to the terms and conditions of the Agreement. Refuge purposes direct the U.S. Fish and Wildlife Service to manage for a diversity of fish and wildlife and human services including those which are a primary focus of EVOS restoration efforts. Refuge purposes include: conservation of fish and wildlife populations in their natural diversity; fulfillment of international treaty obligations; maintenance of the opportunity for subsistence use; and ensuring sufficient water quality and quantity. The well established legal authorities under which the Kodiak Refuge is managed and the terms of the Agreement will ensure injured resources and services are protected.

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

FROM: Molly McCammon
Executive Director

RE: Amendment to Project 01126/Habitat Protection & Acquisition Support
Support Costs for Koniag Acquisition

DATE: January 3, 2001

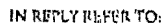
Per the attached memorandum from Glenn Elison, Assistant Regional Director, US Fish and Wildlife Service, I am recommending that the Trustee Council approve additional funds in the amount of \$11,700, as outlined below, for the USFWS. These funds will cover costs associated with the Koniag acquisition that were not anticipated at the time the habitat support budget (Project 01126) was approved by the Council back in August.

Travel	
- Site inspections	\$ 1,000
Contractual	
- Air charter for site inspections	\$ 2,500
- Title insurance	\$ 7,500
- GA (7% of contractual costs)	\$ <u>700</u>
TOTAL	\$11,700

Recommended Motion:

MOVE THAT the Trustee Council approve the addition of \$11,700 to Project 01126 for the US Fish and Wildlife Service for support costs for the Koniag acquisition.

01126am



1011 E. Tudor Rd.
Anchorage, Alaska 99503-6199

JAN 3 2001

Dear Ms. McCammon:

Glenn Ellison
Assistant Regional Director
Migratory Birds and State Programs

FAX TRANSMITTAL		# of pages ▶	
To	Sandra Schubert	From	Clewin Elissaw
Dept/Agency		Phone #	786 3545
Fax #		Fax #	786-3640
NSN 7540-01-317-7598		5039-101	
		GENERAL SERVICES ADMINISTRATION	

1/3/01

**ADDENDUM TO:
SUMMARY OF THE PROPOSED HABITAT PROTECTION AGREEMENT
BETWEEN KONIAG AND THE EVOS TRUSTEES**

insert under "Key elements of the Master Agreement" between the 2nd- and 3rd-
to-last bullets:

- Provides Koniag may elect to terminate the agreement if the fee increases for management of the account exceed increases in the Consumer Price Index for Anchorage where the fee changes are not the result of changes in management or composition of the portfolio.

DRAFT 1/4/01

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

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. In accordance with the Trustee Council Resolution of December 2, 1994, the United States, acting through the U.S. Fish and Wildlife Service, Department of the Interior ("Service" and "Department," respectively) and Koniag, Inc. ("Koniag"), have completed the fee purchases of certain lands and interests in lands within the Kodiak National Wildlife Refuge ("Refuge").
2. Consistent with the foregoing Resolution, the United States also received from Koniag the Non-Development Easements covering certain other lands within the Refuge for the term expiring December 2, 2001, and the State of Alaska ("State") received from Koniag an Access and Use Easement for those lands for the same period. The purpose of the foregoing easements was to protect the key resources on certain lands owned by Koniag, primarily within the Karluk and Sturgeon River drainages, while the parties sought to reach a long term agreement to protect this key habitat.
3. Negotiators for the Trustee Council and Koniag have now reached a tentative agreement, subject to review, ratification and approval of their principals, the Trustee Council and the Koniag Board of Directors, respectively, covering the surface estate of the lands generally depicted on the maps at Attachment A hereto (the "Lands") and totaling approximately 57,900 acres. This tentative agreement will, if implemented, provide long-term protection and opportunities for restoration of natural resources and services that were injured by the *Exxon Valdez* oil spill. The tentative agreement, which is set forth at Attachment B, includes the various exhibits thereto (the tentative agreement and attachments thereto are hereafter referred to as the "Agreement").
4. The Lands were selected and conveyed to Koniag or its predecessors pursuant to the Alaska Native Claims Settlement Act. The subsurface rights associated with the Lands are held by the United States of America ("United States").
5. The Lands are within the oil spill area as defined by the Trustee Council in the Final Restoration Plan approved November 2, 1994.
6. The Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the Trustee Council's

habitat benefits analysis. This analysis has indicated that these lands have high value for the restoration of such injured natural resources as sockeye salmon, pink salmon, Dolly Varden, Pacific herring, black oystercatcher, bald eagles, harbor seals, harlequin ducks, intertidal/subtidal biota, marbled murrelet, pigeon guillemot, river otters, sea otters, and cultural and archeological resources. This analysis has also indicated that the Lands have high value for the restoration of injured services that rely on these natural resources, including commercial fishing, wilderness, recreation, tourism and subsistence. Restoration of the injured species will benefit from acquisition and protection of this important habitat through the elimination of activities and disturbances which may adversely affect their recovery.

7. The Lands are located wholly within the boundaries of the Refuge and their protection will ensure the preservation of a significant portion of one of the nation's most productive and unique ecosystems. The benefits resulting from such acquisition and protection are further described in the Habitat Benefits Report at Attachment C .
8. Existing laws and regulations, including but not limited to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation 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 EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing laws and regulations to protect resources, biologists, 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 likely have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.
9. There has been widespread public support for the acquisition of the Lands, locally, within the spill zone and nationally.
10. Implementation of the Agreement is an appropriate means to restore a portion of the injured resources and services in the oil spill area and is consistent with the Final Restoration Plan.
11. Recently, on private lands within the Refuge, development and construction have included lodges, private residences and recreational cabins. Such sites have been near key water bodies and can have a significant impact, particularly on a cumulative basis, on water quality and injured natural resources and services well beyond the boundaries of the individual sites. In the event the subject lands are not acquired or protected at this time, development by the owners is certain to occur on them in a manner that will adversely impact the water quality and the injured EVOS resources and services sensitive to human disturbance.
12. The approved appraisal procured on behalf of the Trustee Council as of September 8, 1994 provided an estimate of fair market value totaling approximately \$7,297,100 (Seven million

two hundred ninety-seven one hundred and no/100 dollars) for the fee acquisition of the Lands.

13. The Service prepared and submitted an offer to Koniag to purchase its Kodiak Island lands as per the September 8, 1994 estimate of fair market value in the approved appraisal. This offer was rejected and negotiations and discussions ensued over the past several years between Koniag and a joint Federal/State of Alaska negotiating team which resulted in the Agreement. Koniag has also advised the Federal/State negotiators that it is unwilling to sell the Lands in fee at the present time, but would consider a long-term agreement that would provide for habitat protection and economic opportunities for the residents of Karluk and Larsen Bay, Alaska, as well as Koniag's other shareholders.
14. It is ordinarily the federal government's practice to pay its estimate of fair market value for lands it acquires. However, due to the unique circumstances of this proposed acquisition, including the exceptional habitat value of the Lands for purposes of promoting recovery of natural resources and services injured by EVOS and the levels of compensation paid in other transactions providing for the protection of key habitat within the Oil Spill Zone, including that for the prior acquisitions from Koniag, the Trustee Council believes the payment structure provided in the attached Agreement is appropriate.
15. The acquisition of these lands or interests in lands is in compliance with the National Environmental Policy Act; Section 810 of the Alaska National Interest Lands Conservation Act; Section 7 of the Endangered Species Act; and the provisions of E.O. 11593 implementing the National Historic Preservation Act; and has been determined to be consistent with Section 307 of the Coastal Zone Management Act.
16. A satisfactory hazardous substance survey has been or will be completed prior to the initial closing with respect to the lands or interests in lands being acquired.

Therefore, we resolve to provide the funds as set forth below and in the Agreement for the United States and the State to enter into the Agreement with Koniag, in conformity with applicable Federal and State laws. Any substantive changes in the language contained in the Agreement, including the exhibits attached thereto, must be approved by the Trustee Council. Non-substantive changes may be made by the Alaska Department of Law and the U.S. Department of the Interior.

Provided further, that the Agreement shall conform to the following terms or conditions:

1. Receipt by the United States and the State of Alaska of the remaining settlement payment due on October 1, 2001, from Exxon Corporation, et al.
2. Filing by the United States Department of Justice and the Alaska Department of Law of a notice(s), as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District

two hundred ninety-seven one hundred and no/100 dollars) for the fee acquisition of the Lands.

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Provided further, that the Agreement shall contain or be subject to the following terms or conditions:

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2. Filing by the United States Department of Justice and the Alaska Department of Law of a notice(s), as required by the Third Amended Order for Deposit and Transfer of Settlement Proceeds, of the proposed expenditure with the United States District Court for the District

of Alaska and with the Investment Fund established by the Trustee Council within the Alaska Department of Revenue, Division of Treasury ("Investment Fund"), and transfer of the necessary monies from the Investment Fund to the United States.

3. Completion of a title search satisfactory to the Alaska Department of Law and consistent with the title regulations of the Attorney General of the United States.
4. No development is to take place prior to closing on the Lands which is inconsistent with that provided for in the various granting documents attached as exhibits to the tentative agreement.
5. The terms and conditions of the granting instruments attached as exhibits to the Agreement are subject to review and approval as to form and substance by the U.S. Department of Justice and the Alaska Department of Law.
6. Should title to any lands be conveyed in fee to the United States pursuant to the Agreement, such lands shall be subject to a conservation easement in the State of Alaska authorizing it to enforce in a court of competent jurisdiction, the restoration and conservation purposes for which this acquisition is made as set forth in the State Conservation Easement, attached as an exhibit to the Agreement.

Therefore, by unanimous consent, and upon execution of the Agreement and written notice from the Department and the Alaska Department of Law to the Executive Director that the terms and conditions set forth herein and in the Agreement have been satisfied, 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 take such steps as may be necessary for the Trustee Council to provide joint settlement funds as set forth below:

1. \$300,000 (Three hundred thousand and no/100 dollars) to be paid to Koniag by December 15, 2001, for the extension of the existing Non-Development Easements and the State Access and Use Easement until October 15, 2002. For purposes of the March 1, 1999 Trustee Council Resolution concerning the Restoration Reserve, the foregoing \$300,000 payment and any interest attributable to that amount between December 1, 2001 (or such other date on which these funds are transferred from the Investment Fund) and October 1, 2002 shall reduce the \$55 million (Fifty-five million and no/100 dollars) available for habitat protection on October 1, 2002.
2. The Trustee Council, will cause to be established and fund as of October 15, 2002, a special account in the amount of \$29,550,000 (Twenty-nine million, five hundred and fifty thousand and no/100 dollars)("Special Account"). The Special Account shall be established by the United States and the State, acting through the Trustee Council or its successors in function (the "Governments"), with the State of Alaska investment system in accordance with the authority provided by Congress in Section 350 of P.L. 106-113, 113 Stat.1501 (1999). The

Governments will manage the Special Account and are solely responsible for its investment. Notwithstanding the foregoing, over the life of this Agreement, the Governments shall (a) consult with Koniag concerning the investment strategy for the Special Account and (b) establish an initial investment target of a projected average annual return of 5.75% above inflation when considered over a ten year period, unless after consultation with Koniag, the Governments determine that such investment targets would be imprudent and would require an investment strategy relying on undue risk of principal of these joint governmental funds. Koniag shall be provided a financial report on the Special Account at least quarterly, which report shall identify the investments held therein, their value and all transactions made with respect to the Special Account during the reporting period. Such reports shall be provided within thirty (30) days of the close of the reporting period.

3. Investment management fees shall be paid from the Special Account in accordance with the provisions set forth below:

- (a) If the Special Account is held in the State of Alaska's Treasury, the management fees for the account shall be the actual fees assessed by, and commensurate with other management fee charges of, the Alaska Department of Revenue, Division of Treasury for an account of this nature.
- (b) If the Special Account is held in an entity other than that of the State of Alaska, the fees to be charged shall be the actual fees assessed by, and commensurate with, the management fees charged for an account of this nature.
- (c) For each entire year that the Conservation Easement is in effect, an annual payment from the Special Account shall be made to Koniag as follows:

Year 1	\$372,100, paid on October 15, 2003
Year 2	\$405,589, paid on October 15, 2004
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- (d) If Koniag elects in accordance with the Agreement not to subsequently sell the lands to the United States in fee, and otherwise allows the easements to terminate, Koniag shall cease to have any right or claim with respect to any amounts in the Special Account, and the balance thereof shall be subject to use by the Governments in accordance with the consent decrees applicable to the use of the proceeds from the EVOS settlement and other applicable law. If Koniag elects to sell the lands covered by the Conservation Easement in fee to the United States, then it shall receive the balance in the Special Account in accordance with the terms of the Agreement.
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Provided further, that the funds provided above represent the only amounts under this resolution due to Koniag which are to be funded from the joint federal-State funds.

Adopted this 4th day of January, 2001, in Anchorage, Alaska.

DAVE GIBBONS Date
Trustee Representative
Alaska Region
USDA Forest Service

CRAIG TILLERY Date
Attorney General
State of Alaska

MARILYN HEIMAN Date
Special Assistant to the Secretary
for Alaska
US Department of the Interior

JAMES W. BALSIGER Date
Director, Alaska Region
National Marine Fisheries Service

FRANK RUE Date
Commissioner
Alaska Department of
Fish and Game

MICHELE BROWN Date
Commissioner
Alaska Department of
Environmental Conservation

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RESTORATION BENEFITS REPORT FOR THE MASTER AGREEMENT FOR PROTECTION OF CERTAIN LANDS AND RESOURCES BETWEEN KONIAG, INC. AND THE UNITED STATES OF AMERICA

REGION: KODIAK ARCHIPELAGO

The Koniag lands subject to this agreement are located within the *Exxon Valdez* Oil Spill (EVOS) zone along the coast and inland waterways on the west side of Kodiak Island, Alaska. The Agreement area encompasses a broad diversity of land forms including mountains, hills, plateaus, rivers, streams, lakes, and coastline within the boundary of Kodiak National Wildlife Refuge (Kodiak Refuge). The vast majority of Koniag's lands subject to this agreement are in the Karluk River and Karluk Lake drainage, the largest river system and largest lake in the Kodiak Archipelago and the Sturgeon River drainage. Vegetation is comprised mainly of maritime tundra, muskeg, deciduous woodlands, shrublands, and grasslands. Genetically unique fish stocks and plant species occur within the easement area due to the absence of Pleistocene glaciation.

RESTORATION BENEFITS

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The EVOS Habitat Protection Work Group ranked the lands in the Karluk Drainage and Uyak Bay as high. The lands in the Sturgeon Drainage were ranked moderate. The following discussion summarizes injured resources and services found on Koniag lands that received a high score in the Habitat Protection Work Group's evaluation:

Sockeye Salmon:

The Karluk River is the most productive sockeye salmon system in the Kodiak Management Area. Early and late runs of sockeye salmon collectively produce escapements of hundreds of thousands of fish. During 1998-2000, commercial fisherman harvested 775,000-1,117,000 fish returning to this drainage, which yielded a harvest value of \$4.9-7.3 million.

Pink Salmon:	Fourteen (14) documented spawning streams are wholly or partially on Koniag lands. Even year pink salmon escapements average over a million fish, which is the highest in the Kodiak Management Area. Commercial harvest of 1-6 million fish returning to Koniag rivers and streams in 1998-2000 resulted in a harvest value of \$0.5-3.2 million.
Dolly Varden:	Dolly Varden are widespread and abundant throughout drainages on Koniag lands. Karluk Lake provides critical overwintering Dolly Varden habitat.
Pacific Herring:	Herring spawn in the nearshore waters off most Koniag beaches in Larsen Bay and Uyak Bay. Commercial sac-rope and food/bait herring harvests were substantial in adjacent management units prior to closure of the fishery in 1995. The 1992 sac-rope harvest for districts adjacent to Koniag lands was 103.5 tons. The average price paid from 1979-1992 was \$943/ton. The 1992 harvest value consequently is estimated to have been \$97,600.
Bald Eagle:	Historically, the Karluk drainage has supported the densest and most productive population of nesting bald eagles on Kodiak Island. One hundred sixteen (116) pairs of bald eagles nested within the area, with most nesting concentrated in the vicinity of Karluk Lake. Non-breeding birds concentrate along the Sturgeon River during salmon runs.
Black Oystercatcher:	Large stretches of Koniag's coastline are used by feeding black oystercatchers. Nesting occurs along the rocky areas of Uyak Bay.
Harlequin Duck:	Nesting occurs along the numerous drainages. Biologists estimated 18-25 pairs nested in the Karluk watershed between 1994-96. Molting aggregations are common on nearshore rocks.
Marbled Murrelet:	Although undocumented, nesting is highly likely; recently fledged young have been observed in nearshore marine waters. Large flocks intensively use Uyak Bay in winter for feeding purposes.
Pigeon Guillemot:	Numerous nesting colonies occur along rocky shorelines of Koniag lands. Uyak Bay provides critical winter feeding habitat for pigeon guillemots.
Sea Otter:	Sea otters are abundant throughout Uyak Bay. Brown's Lagoon is a known sea otter pupping area and several haulouts are located in the region.

River Otter:	River otters are widespread with sizeable populations, especially along streams flowing into lakes. River otters provide income to local trappers.
Harbor Seal:	Nine known haul-out sites occur on rocks adjacent to Koniag lands.
Intertidal/Subtidal Biota:	Extensive mussel and eelgrass beds occur adjacent to shore. Uyak Bay and Sturgeon Lagoon have extensive eelgrass beds that attract a variety of marine life.
Recreation/Tourism:	The Karluk River drainage is a highly popular destination for sport fishing, flight-seeing, and bear viewing. Abundant chinook salmon, coho salmon, and steelhead populations in the Karluk River consistently attract the largest annual concentration of visitors within the Refuge boundary (e.g., 2,375 angler days in 1994). Island residents and non-residents hunt Sitka black-tailed deer and brown bears on Koniag lands. Several hunting and fishing guides are established on these lands. Recreational use is growing rapidly along with its value to local and state economies.
Wilderness:	Evidence of human use is limited to coastal sites, cabin sites, and the Portage Trail. The area retains outstanding wilderness characteristics.
Subsistence:	Many of the lands are primary harvest areas for Karluk and Larsen Bay village residents. Wildlife resources harvested include fish, deer, waterfowl, crab, and clams.
Cultural Resources	Archaeological sites are found extensively on these lands. Most bays contain prehistoric and historic village sites. The Karluk drainage is blanketed with cultural resource sites.

Direct Benefits: The Agreement package addresses conservation concerns through enhanced protection of EVOS-injured fish, wildlife, and services. The Karluk River drainage supports tremendous returns of pink and sockeye salmon worth millions of dollars to the Kodiak commercial fisheries and Alaska's economy. The Sturgeon River also supports substantial runs of pink salmon and resident Dolly Varden. Rich fisheries sustain an abundance of bald eagles and the densest brown bear population on the planet. The highly ranked Uyak Bay parcels encompass salmon-bearing streams and protected coastline that teems with marine wildlife such as harbor seals, sea otters, harlequin ducks, marbled murrelets, and black oystercatchers. The proposed Agreement acknowledges the relationship of Koniag Inc. shareholders to the land, and it ensures continued opportunity to access and use fish, wildlife, and habitat resources for customary and traditional purposes.

Other Benefits: Karluk Lake is the site of some of the highest densities of brown bears ever recorded. Chinook (king) and steelhead fishing on the Karluk river is popular with visitors from around the world. Hunters are attracted by abundant bear and deer populations. Koniag shareholders and the Kodiak economy benefit from the increasing popularity of recreational fishing, hunting, and wildlife viewing on Koniag lands. Waterfowl and seabirds congregate in the protected waters of Uyak Bay and Sturgeon Lagoon during the winter season. Nearshore waters along Shelikof Strait are frequented by killer, minke, and fin whales.

The broad economic and social values of protecting this intact ecosystem cannot be overstated. Ecosystem disruptions within the area will permeate the area and diminish the value of adjacent lands and waters. Although this restoration effort focuses on habitats of high value for specific injured species and services, long-term success requires conservation measures of broad scope and long duration.

The Alaska Department of Fish and Game and several agencies of the federal government work cooperatively on fish and wildlife management and research projects on the Kodiak Archipelago. Wildlife species and anadromous fish have wide ranges that include both public and private lands. Private lands can be closed or have restricted access at any time. However, the proposed agreement would ensure consistent agency access, and thus afford the basis for systematic monitoring, research, and management of fish and wildlife resources.

The Agreement provides for ready access to high quality recreational resources by the public while eliminating current fee requirements. Public confusion over the current patchwork of federal and private land ownership will be reduced.

Proposed Management Structure: Agreement lands will be managed as part of the Kodiak Refuge subject to the terms and conditions of the Agreement. Refuge purposes direct the U.S. Fish and Wildlife Service to manage for a diversity of fish and wildlife and human services including those which are a primary focus of EVOS restoration efforts. Refuge purposes include: conservation of fish and wildlife populations in their natural diversity; fulfillment of international treaty obligations; maintenance of the opportunity for subsistence use; and ensuring sufficient water quality and quantity. The well established legal authorities under which the Kodiak Refuge is managed and the terms of the Agreement will ensure injured resources and services are protected.

Koniag Area Land Status



Kodiak NWR

DRAFT

Shelikof Strait

Uyak Bay

Spiridon Bay

Karluk River

Karluk Lake

Zachar Bay

T31S,R33W SM

T31S,R31W SM

T30S,R30W SM

T29S,R28W SM

T30S,R2 SM

T32S,R33W SM

T32S,R31W SM

T31S,R28W SM

T33S,R34W SM

T32S,R33W SM

T33S,R32W SM

T33S,R31W SM

T33S,R30W SM

T33S,R28W SM

T34S,R28W SM

T33S,R28W SM

Legend

- Native Corporation Owned
- Other Private
- Conveyed Native Allotments
- Selected Native Allotments
- Conveyed 14(H)(1) Sites
- Karluk IRA

- LBTC Owned
- 10 Acre Parcels
- Koniag Owned/US Conservation Easement
- Koniag Owned/US Limited Development Easement
- Kodiak NWR Lands
- Lands Off Kodiak NWR



0 Miles 3
0 Kilometers 4.83

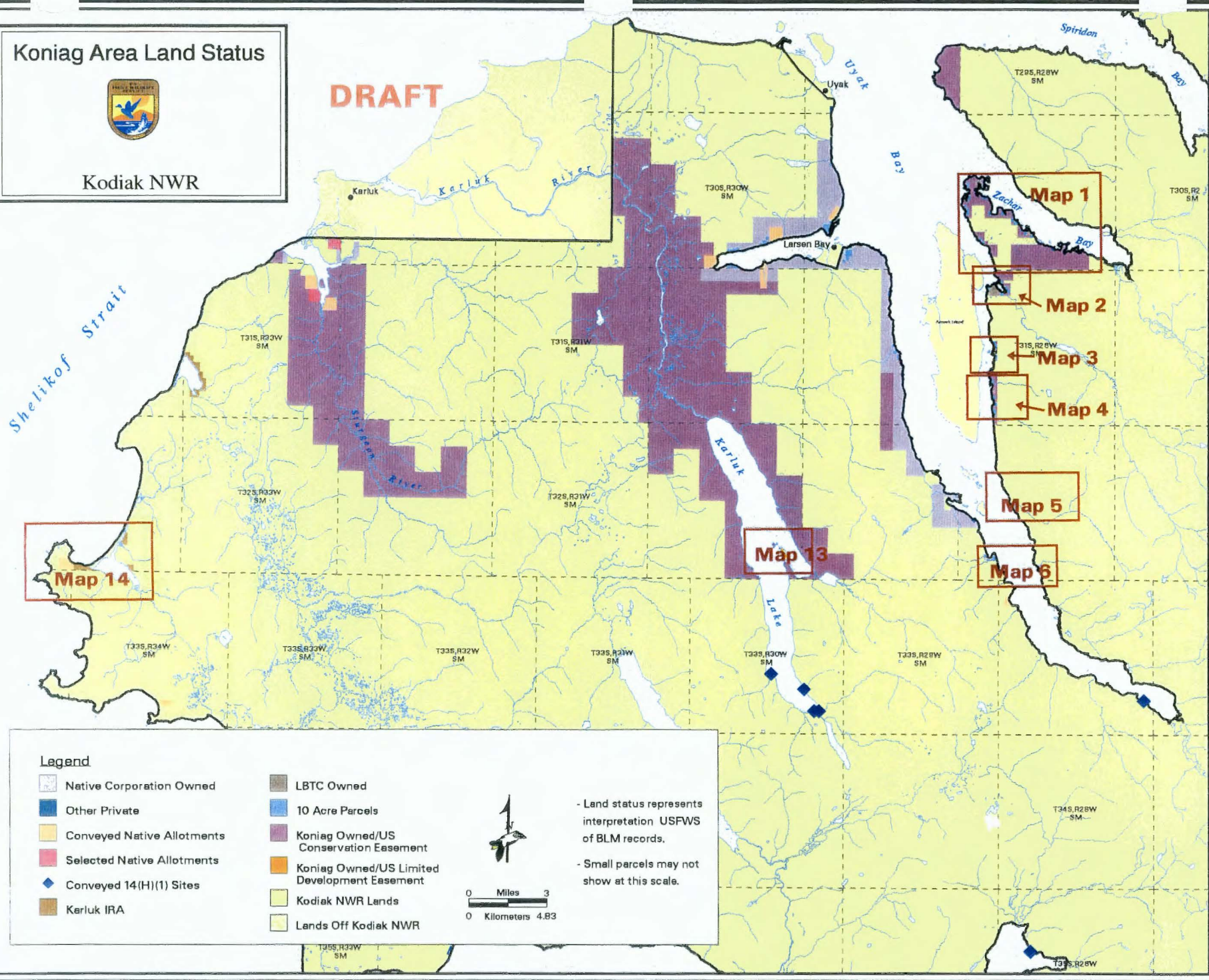
- Land status represents interpretation USFWS of BLM records.
- Small parcels may not show at this scale.

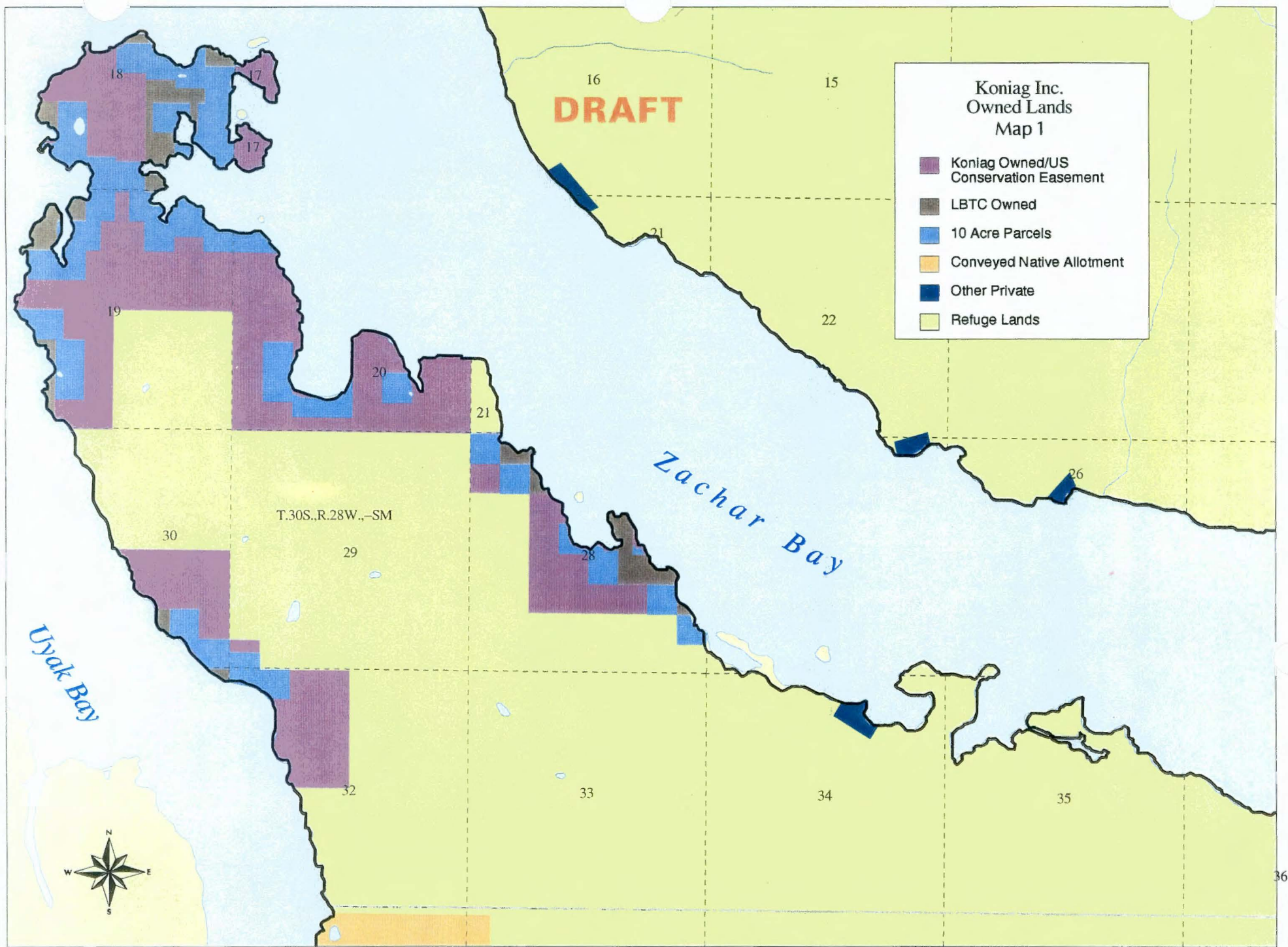
Koniag Area Land Status



Kodiak NWR

DRAFT





Koniag Inc.
Owned Lands
Map 2

-  Koniag Owned/US Conservation Easement
-  LBTC Owned
-  10 Acre Parcels
-  Conveyed Native Allotments
-  Other Private
-  Refuge Lands
-  Amook Island

DRAFT

Amook Island

Uyak Bay

T.30S.,R.28W.,-SM

T.31S.,R.28W.,-SM

32

33

34

4

3

8

9

10

17

16

15



Koniag Inc.
Owned Lands
Map 3

-  Koniag Owned/US Conservation Easement
-  LBTC Owned
-  10 Acre Parcels
-  Other Private
-  Refuge Lands
-  Amook Island

DRAFT

Amook Island



Uyak Bay

T.31S.,R.28W.,-SM

8

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27

Koniag Inc.
Owned Lands
Map 4

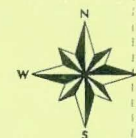
-  Koniag Owned/US Conservation Easement
-  LBTC Owned
-  10 Acre Parcels
-  Other Private
-  Refuge Lands
-  Amook Island

DRAFT

Amook Island

Uyak Bay

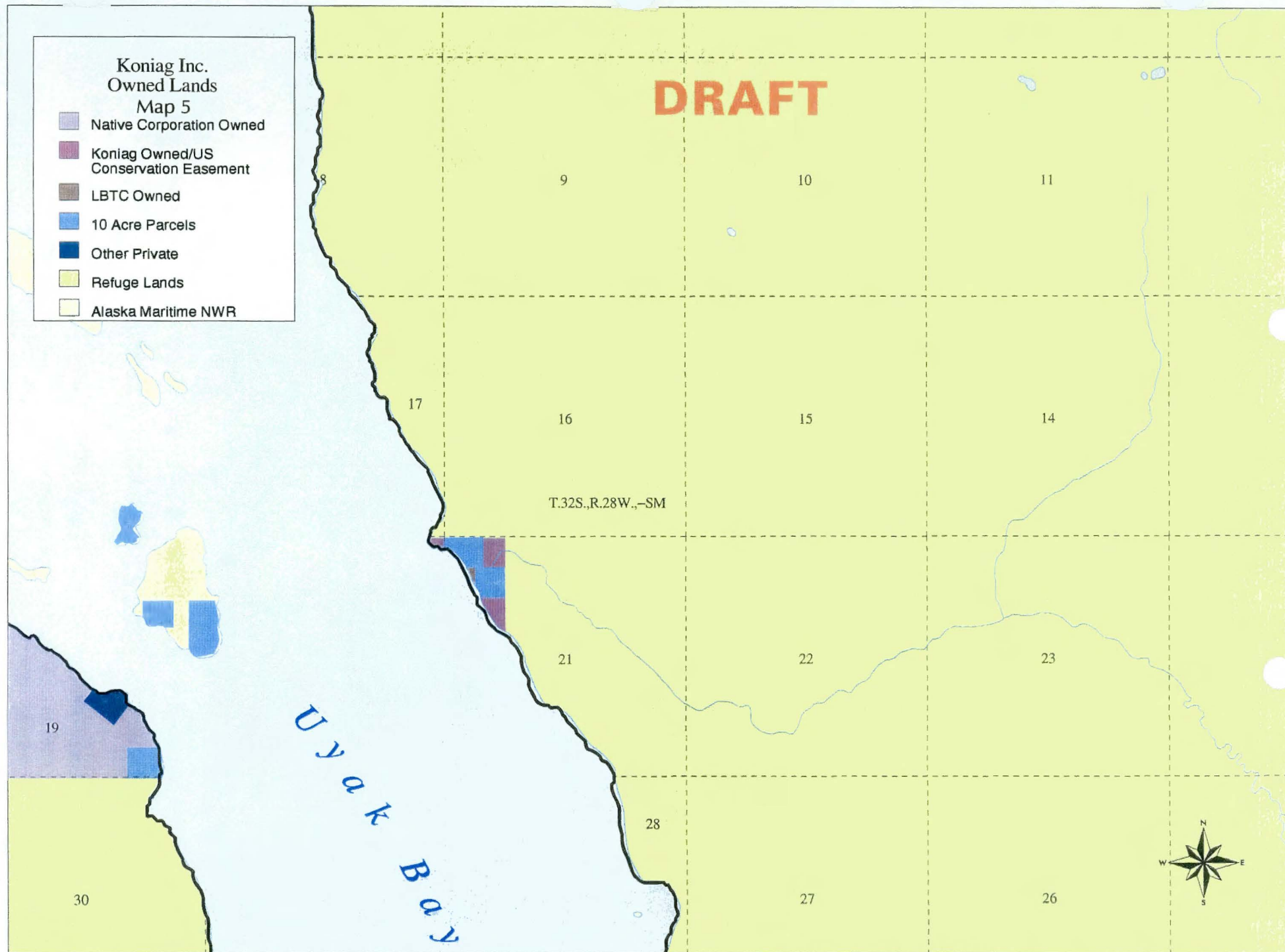
T.31S.,R.28W.,-SM



Koniag Inc.
Owned Lands
Map 5

-  Native Corporation Owned
-  Koniag Owned/US
Conservation Easement
-  LBTC Owned
-  10 Acre Parcels
-  Other Private
-  Refuge Lands
-  Alaska Maritime NWR

DRAFT



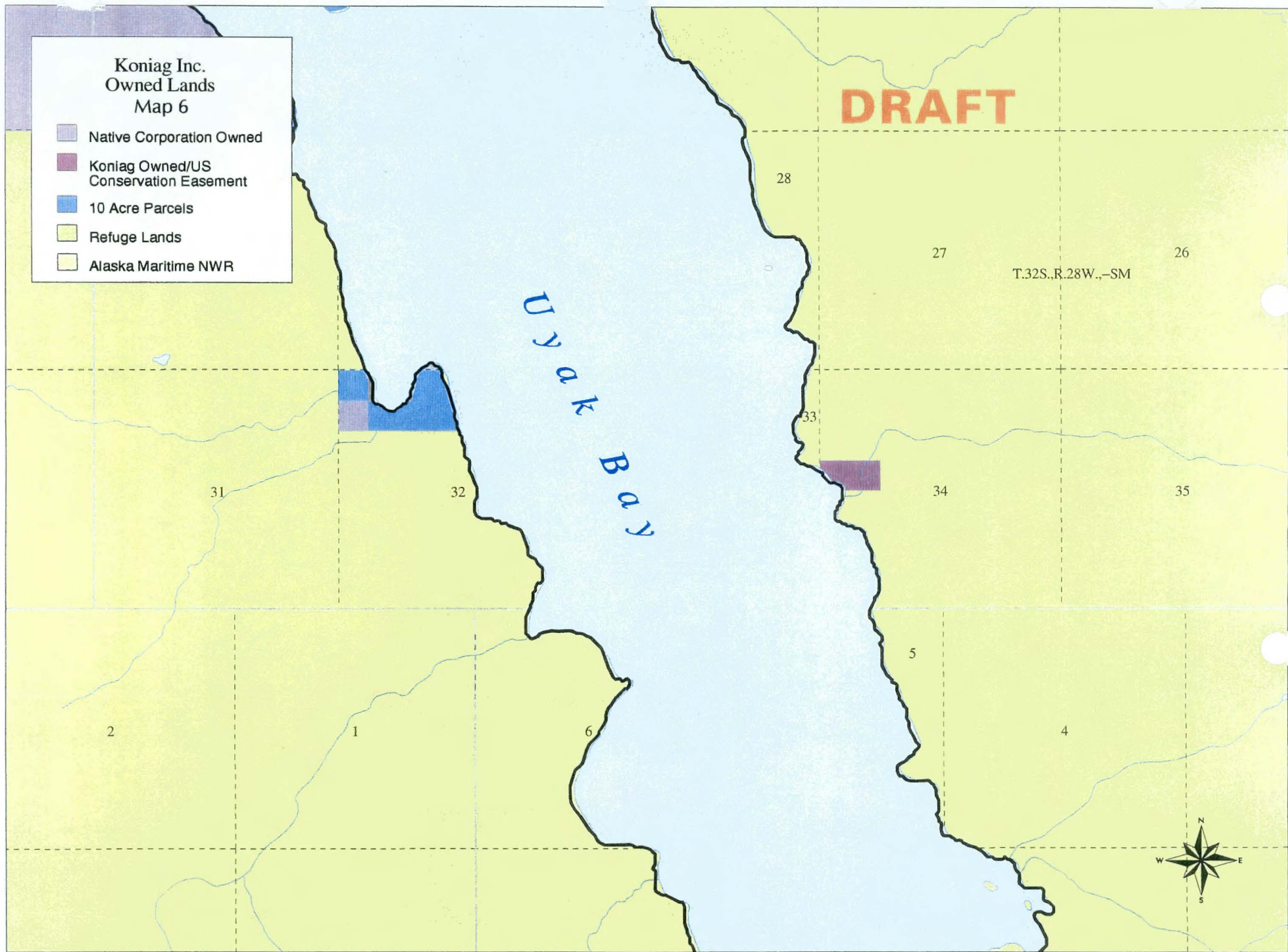
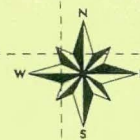
Koniag Inc.
Owned Lands
Map 6

- Native Corporation Owned
- Koniag Owned/US
Conservation Easement
- 10 Acre Parcels
- Refuge Lands
- Alaska Maritime NWR







DRAFT

Uyak Bay

T.32S.,R.28W.,-SM



Koniag Inc.
Owned Lands
Map 13

-  Koniag Owned/US Conservation Easement
-  Koniag Owned/US Limited Development Easement
-  LBTC Owned
-  10 Acre Parcels
-  Conveyed Native Allotments
-  Refuge Lands

DRAFT

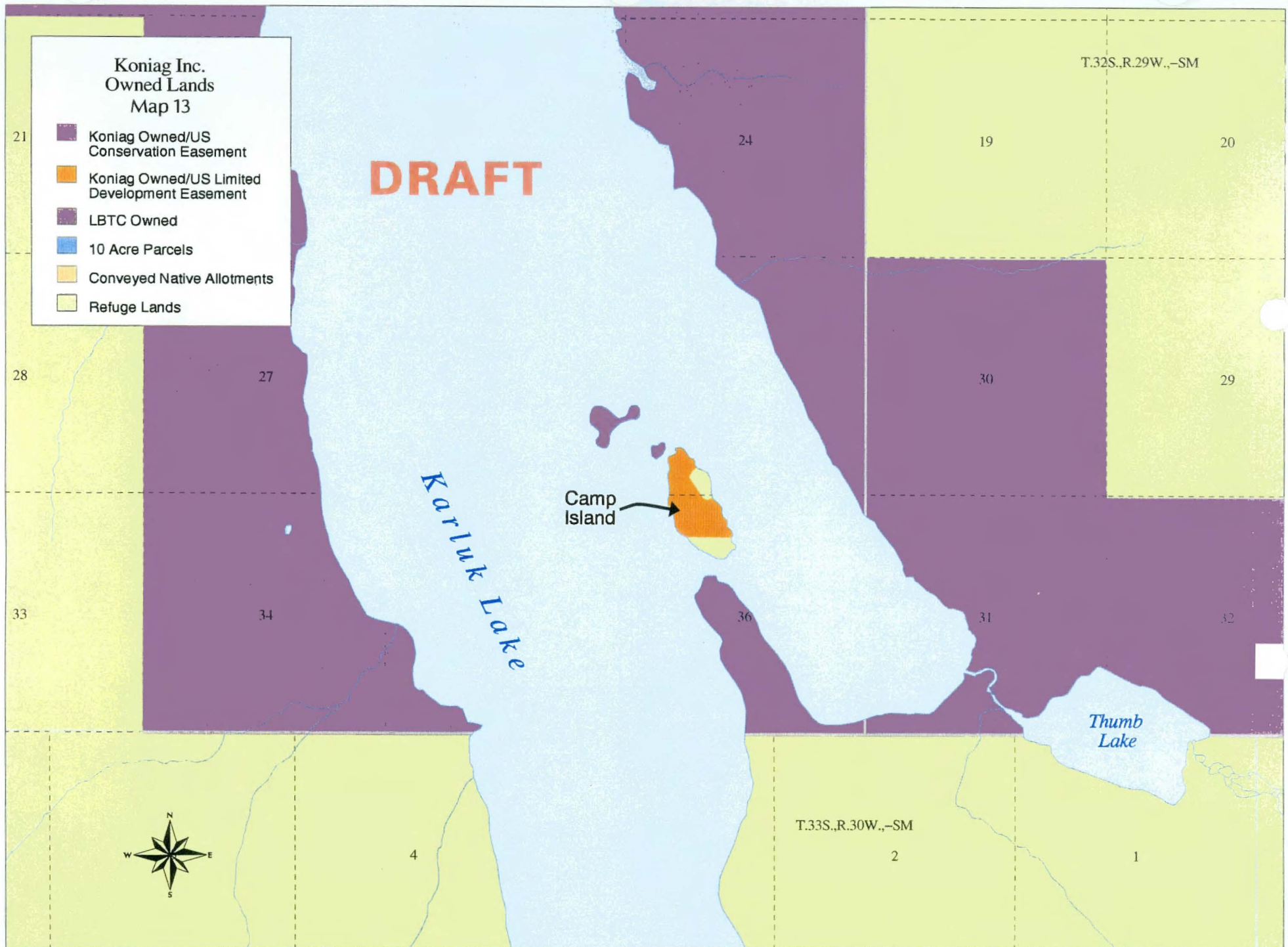
Karluk Lake

Camp
Island




T.32S.,R.29W.,-SM

*Thumb
Lake*

T.33S.,R.30W.,-SM



Koniag Inc.
Owned Lands
Map 14

-  Koniag Owned/US
Conservation Easement
-  Conveyed Native Allotments
-  Karluk IRA
-  Refuge Lands

DRAFT

Halibut Lagoon

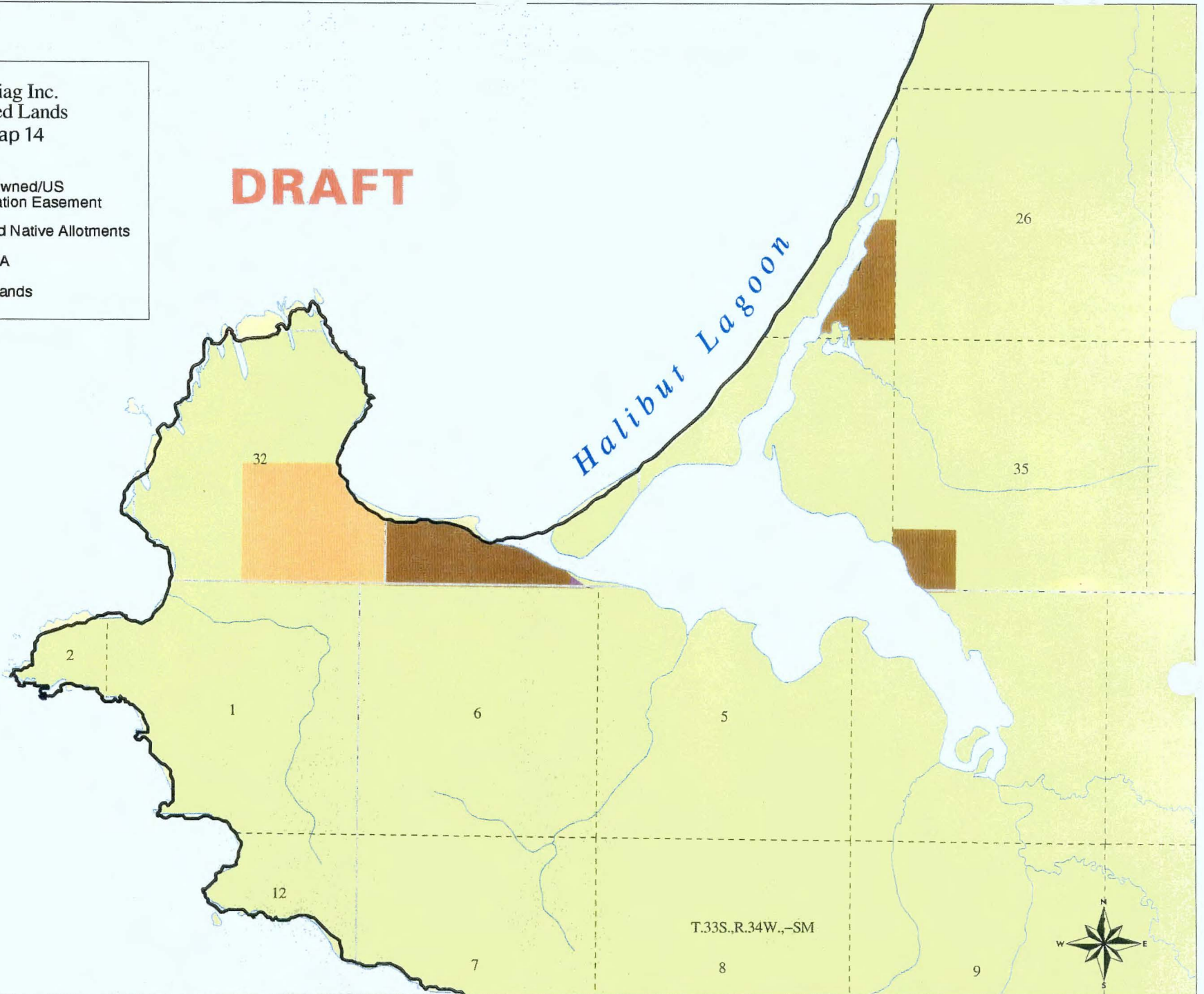
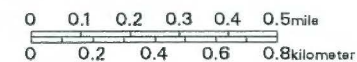


EXHIBIT A Koniag Conservation Easement Subsistence Trails Map

Township 30 South, Range 30 West
Seward Meridian, Alaska



**Kodiak National
Wildlife Refuge**

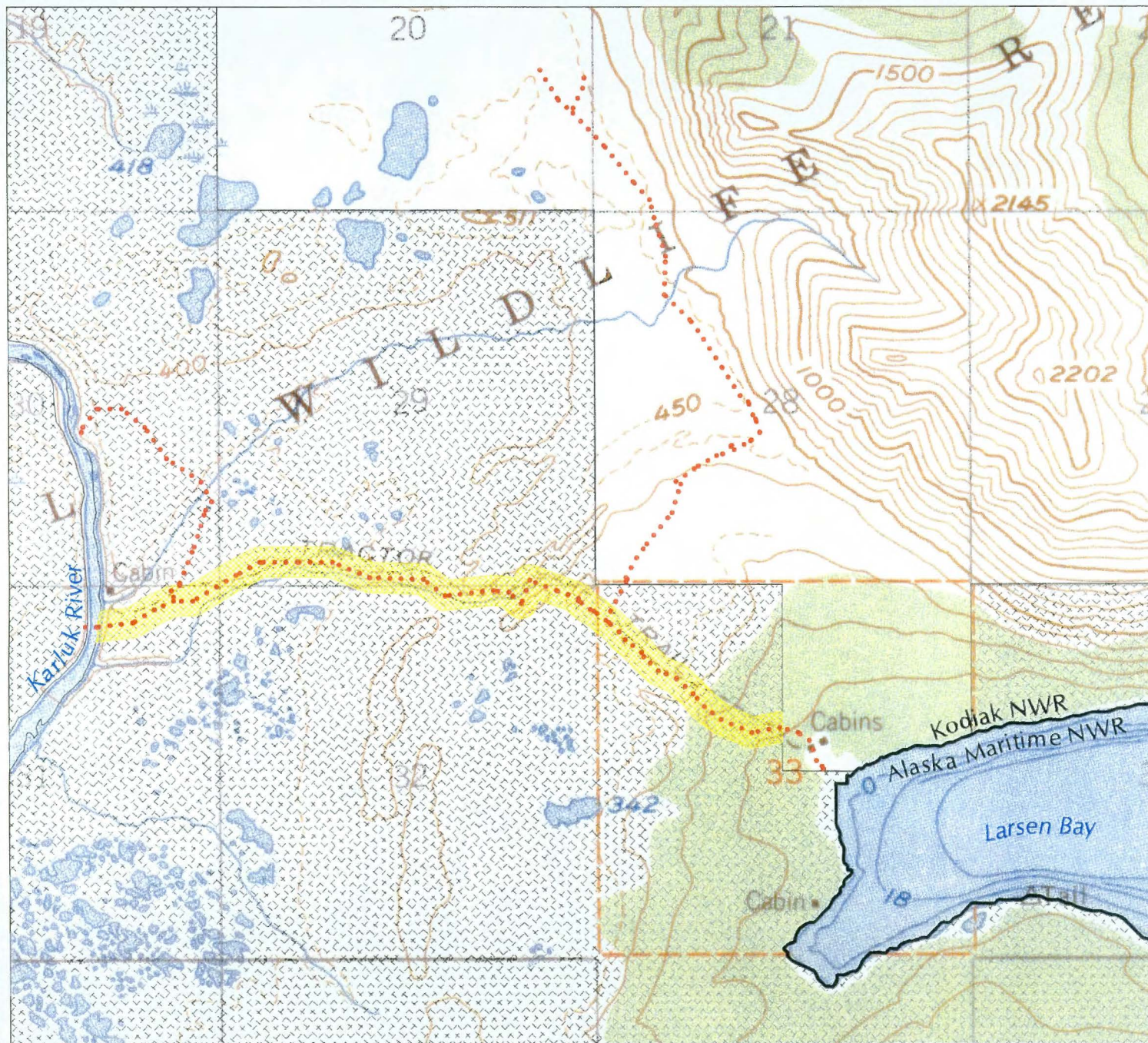
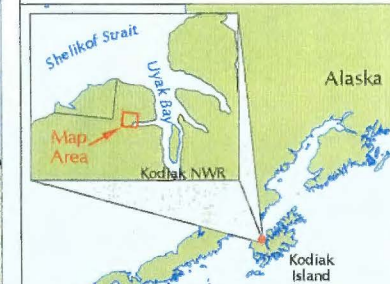


- ATV trails
- Approximate location of ANCSA 17(b) easement (EIN 12 C6 D9 L)
- Conveyed land

Trail location was derived from airborne GPS waypoints obtained Sept. 9, 2000 by Denny Zwiefelhofer and Jay Bellinger, Kodiak NWR.

Land status derived from BLM Master Title Plats.

Base map USGS Karluk C-1 (1952) 1:63,360 quad.



A P P L I E D

marine

S C I E N C E S

Memo

January 4, 2001

To: Exxon Valdez Trustee Council

From: Robert Spies, Chief Scientist

Re: Testing archival tag technology in Alaskan salmon (Project 01404)

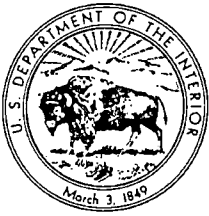
At your December 5 meeting you approved \$75K for Dr. Nielsen to proceed with this project, but requested that some further consideration be given to the species, Coho vs. Chinook salmon, and site of release for the fish. As a result of your request, Dr. Nielsen has met with representatives of the Alaska Department of Fish and Game and has proposed the following changes:

1. Testing the tag technology on Coho instead of Chinook salmon, and
2. Releasing the tagged fish at Ship Creek in Cook Inlet instead of Easter Island hatchery in Prince William Sound.

I find that the requested changes are consistent with the overall goal of testing tag technology. In fact, they may allow a greater rate of tag recovery, which will make the project more cost effective. I am therefore recommending that the revisions be accepted and that the project proceed as now planned.

Cc: M. McCamon
P. Mundy
S. Schubert





United States Department of the Interior

U.S. GEOLOGICAL SURVEY
BIOLOGICAL RESOURCES DIVISION
Alaska Science Center
1011 E. Tudor Road
Anchorage, Alaska 99503

IN REPLY REFER TO:

Memorandum

To: *Exxon Valdez* Oil Spill Trustee Council

From: Dede Bohn, USGS liaison

Subj.: Revisions requested for Project 01404

Date: January 2, 2001

At your December 5 meeting, you approved \$75,000 in funding for Dr. Jennifer Nielsen to proceed with project 01404, "Archival Tags for Tracking King Salmon at Sea Reveal Migrations, Biology, and Oceanographic Preferences in Prince William Sound". We appreciate and thank you for your support.

At this time, we would like to request two revisions to the project that will not affect the scientific intent of the study, which is to test the tag technology. The revisions were raised by ADFG hatchery officials as Dr. Nielsen met with them in late December to get this project underway; Dr. Nielsen concurs with the recommendations. The requested revisions are: 1) Test the tags on Coho instead of Chinook salmon, and 2) Release the fish at Ship Creek in Cook Inlet rather than the Ester Island hatchery in Prince William Sound.

Coho salmon are being requested for the first year of the project because Chinook currently available at the hatchery come from the year 2000 brood stock, and are too small to support tags, even by accelerating growth conditions. Coho salmon, however, can be obtained from 1999 brood stock, and can be raised by March to the size necessary for tagging (150 - 300 mm) through accelerated growth conditions (warmer water and more food). In addition, ADFG data from Ship Creek show both significantly higher returns for Coho (10%) than Chinook (2%), and faster return rates for Coho (18 months) than Chinook (3 years), improving the success of the project. Note that by accelerating early growth, as proposed in this project, these returns are predicted sooner.

Release at Ship Creek instead of Ester Island is proposed to increase the chance of fish recovery. Ship Creek is favored because there is a weir that can be monitored, its close proximity to the hatchery reduces transport distance and handling of the fish, and advantage can be made of existing ADFG reporting programs, which include volunteers at Ship Creek and a sport fishery program.

We appreciate your consideration of this request.

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

FROM: Molly McGammon
Executive Director

RE: Amendment to Project 01126/Habitat Protection & Acquisition Support
Support Costs for Koniag Acquisition

DATE: January 3, 2001

Per the attached memorandum from Glenn Elison, Assistant Regional Director, US Fish and Wildlife Service, I am recommending that the Trustee Council approve additional funds in the amount of \$11,700, as outlined below, for the USFWS. These funds will cover costs associated with the Koniag acquisition that were not anticipated at the time the habitat support budget (Project 01126) was approved by the Council back in August.

Travel	
- Site inspections	\$ 1,000
Contractual	
- Air charter for site inspections	\$ 2,500
- Title insurance	\$ 7,500
- GA (7% of contractual costs)	\$ 700
TOTAL	\$11,700

Recommended Motion:

MOVE THAT the Trustee Council approve the addition of \$11,700 to Project 01126 for the US Fish and Wildlife Service for support costs for the Koniag acquisition.

01126am



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Rd.
Anchorage, Alaska 99503-6199

IN REPLY REFER TO:

RE/4373.S2

JAN 3 2001

Ms. Molly McCammon
Executive Director
Exxon Valdez Oil Spill Trustee Council
645 G Street, Suite 401
Anchorage, Alaska 99501

Dear Ms. McCammon:

In its January 4, 2001, meeting, the Trustee Council is expected to vote on the Koniag Phase II habitat protection package. If approved, that acquisition package would involve closing and recording of a number of documents that were not anticipated or provided for in the Fiscal Year 2001 budget request prepared by the Fish and Wildlife Service last summer. In anticipation of the Council's approval of the package, the Service hereby requests a supplement to the 2001 budget previously approved by the Council to pay for the necessary closing costs associated with Koniag Phase II.

The Koniag acquisition will involve the recording of four documents (the Master Agreement, the extension of the existing Koniag Non-development Easement, the new Conservation Easement, and the Camp Island Limited Development Easement), the title insurance for the lands to be included in the these actions, and required field inspections. While the actual final costs cannot yet be determined, we estimate we will incur the following costs to close the land acquisition:

Title insurance (25% of estimated fee value of land)	\$7,500
Recording costs	500
<u>Inspection fees (including travel and charter aircraft)</u>	<u>3,500</u>
Total	\$11,500

The Fiscal Year 2001 budget approved by the Council that provides funds related to this closing included only \$500 for recording costs. Therefore, I request a supplement of \$11,000 be made to the U.S. Fish and Wildlife Service for payment of closing costs pertinent to the Koniag Phase II habitat protection actions. Should the closings fail to occur this fiscal year, these funds would be available for return to the restoration fund.

Please contact me with any questions you may have.

Sincerely,

Glenn Ellison
Assistant Regional Director
Migratory Birds and State Programs

U.S. FORM 99 (1-90)

FAX TRANSMITTAL

of pages

To: Sandra Schubert

From: Glenn Ellison

Agency: [blank]

Phone: 786 3545

Fax: 786 3640

NSN 7540-01-317-7298 5099-101 GENERAL SERVICES ADMINISTRATION

KARLUK IRA TRIBAL COUNCIL**COUNCIL MEMBERS:**

Council
Alicia L Reft- President
Larry Sugak Sr.-Vice-President
Sarah Reft-Sec./Treasurer
Kathryn Reft-Member
Dale Reft- Member
Mary Reft- Member
Emil Sugak- Member

Karluk IRA Tribal

Post Office Box 22
Karluk, Alaska 99608

Phone # (907)241-2218
Fax # (907)241-2208

FAX TRANSMITTAL SHEET

FAX #: 907-276-7176
NAME: Exxon Trustee Council (to ALL members)
ADDRESS: Anchorage, Alaska
FROM: Karluk IRA Tribal Council

KARLUK IRA TRIBAL COUNCIL**FAX # (907)241-2208****TOTAL NUMBER OF PAGES INCLUDING COVER****SHEET:** 3 **DATE:** 01/03/01**SPECIAL INSTRUCTIONS:**

PLEASE stop the negotiations
regarding the conservation on
our land!

REPRESENTING THE NATIVE VILLAGE OF KARLUK

Public Comment

KARLUK IRA TRIBAL COUNCIL**COUNCIL MEMBERS:**

Council
Alicia L Reft- President
Larry Sugak Sr.-Vice-President
Sarah Reft-Sec./Treasurer
Kathryn Reft-Member
Dale Reft- Member
Mary Reft- Member
Emil Sugak- Member

Karluk IRA Tribal

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PLEASE stop the negotiations
regarding the Conservation ON
Our land! EASEMENT

REPRESENTING THE NATIVE VILLAGE OF KARLUK, ALASKA

KARLUK IRA TRIBAL COUNCIL
P.O. BOX 22
KARLUK, ALASKA 99608

RESOLUTION NO. 2001-01

ENTITLED: Opposition to Koniag, Inc. Conservation Easement Agreement

WHEREAS, The Karluk IRA Tribal Council is the governing body of the Native Village of Karluk; and,

WHEREAS, The Karluk IRA Tribal Council and the members of the Native Village of Karluk are comprised of Koniag, Inc. shareholders; and,

WHEREAS, The lands which are subject to the Conservation Easement are lands formerly owned by the Karluk Native Corporation and Nu-Nach-Pit, Inc; and,

WHEREAS, The subject lands and other village corporation assets were merged into Koniag, Inc. through a "legally flawed" merger agreement of 1980; and,

WHEREAS, In early 2000, Koniag, Inc. management and board of directors committed to the Larsen Bay Tribal Council and local Larsen Bay Koniag, Inc. shareholders that a management plan for commercial sport fish operations involving some 30 to 60 permits which were to have been managed locally, was to be developed directly involving the Larsen Bay Tribal Council, which to date has not materialized; and,

WHEREAS, Koniag, Inc. has not shared any details of the proposed Conservation Easement Agreement with the Karluk IRA Tribal Council, nor with any local Koniag, Inc. shareholders, which Easement Agreement may not be in the best interests of the Koniag, Inc. shareholders; and,

WHEREAS, President-Elect George W. Bush is to be sworn in as President of the United States of America on January 20, 2001; and,

WHEREAS, President-Elect Bush has nominated Gale Norton as Secretary of Interior, who is reportedly pro-property rights and pro-opening of the Arctic National Wildlife Refuge (ANWR) for oil exploration;

WHEREAS, The Koniag, Inc. shareholders voted by majority vote in the mid to late 1980's for a trade of the former Karluk/Larsen Bay lands for lands in ANWR for potential oil revenue royalties for Koniag, Inc.; and,

WHEREAS, The Koniag, Inc. shareholders have not voted to authorize the pending sale of the Conservation Easement to the Exxon Trustee Council; and,

WHEREAS, The Karluk IRA Tribal Council and shareholders believe that the best interests of the Koniag, Inc. shareholders is not represented in the proposed Conservation Easement Agreement between Koniag, Inc. and the Exxon Trustee Council; and, NOW THEREFORE BE IT RESOLVED by the Tribal Council of the Native Village of Karluk in a meeting assembled on the 2nd day of January, 2001, that the Karluk IRA Tribal Council hereby strongly opposes the execution of the Conservation Easement Agreement between Koniag, Inc. and the Exxon Trustee Council.


BE IT FURTHER RESOLVED that the Karluk IRA Tribal Council strongly requests that Koniag, Inc. drop the concept of the Conservation Easement and explore trading the subject lands for ANWR lands for potential oil revenue royalties, which we believe would be more beneficial for all Koniag, Inc. shareholders.

BE IT FURTHER RESOLVED that a copy of this resolution be distributed to the following:

1. All Kodiak Tribal Councils
2. Koniag, Inc. Board of Directors
3. Koniag, Inc. Region Village Corporations
4. Exxon Trustee Council
5. Congressional Delegation
6. Alaska Inter-Tribal Council
7. Alaska Federation of Natives, Inc.
8. National Congress of American Indians

Approved this 2nd day of January, 2001 by a vote of 4 for and 0 against.


Alicia Lynn Reft, President

ATTEST: 
Secretary

**NATIONAL AUDUBON SOCIETY COMMENTS ON
KONIAG CONSERVATION EASEMENT PROPOSAL
EVOS TRUSTEE CONCIL MEETING**

January 4, 2001

John Schoen, Ph.D.
Senior Scientist
Alaska State Office
National Audubon Society

On behalf of the National Audubon Society and our 550,000 members, including 2,300 Alaska members, I offer our strong support for the proposed protection agreement between Koniag and the EVOS Trustees. For several decades, the National Audubon Society has had a strong interest in conservation of the Kodiak National Wildlife Refuge and has played a significant role in the Kodiak Brown Bear Trust.

The drainages of the Karluk River and Sturgeon River are biologically very important to the Kodiak Refuge in terms of providing valuable habitat for some of the refuge's most significant salmon runs, brown bear populations, nesting bald eagle populations, and many other wildlife resources. The Karluk Drainage, in particular, is a very important recreational resource with high wilderness values. We believe this agreement will safeguard these important lands and ultimately provide an opportunity to include them once again in the Kodiak Refuge system.

This agreement provides a significant opportunity for protecting the ecological integrity of the Kodiak Refuge and providing continuing opportunities for subsistence, recreational, and commercial uses of this region's significant biological and recreational resources. Audubon considers this a win-win agreement for Koniag Inc. and the Evos Trustee Council, and we believe this agreement will bring significant benefits local residents and ultimately all Americans. We want to reiterate our thanks to the Trustee Council and to Koniag for their continuing dialogue on this issue and all your conservation efforts within the Kodiak Archipelago. Finally, we strongly encourage you to sign this important agreement.

Thank you for considering our comments.

SUMMARY OF THE CONTENTS

PAGE

(1)

INDEX OF EXHIBITS

Exhibit I

Exhibit II

Exhibit III

Exhibit IV

Exhibit V