



Alaska SeaLife Center

w i n d o w s t o t h e s e a



Alaska SeaLife Center®

w i n d o w s t o t h e s e a

**EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL MEETING**

DECEMBER 5, 2000

**Alaska SeaLife Center
Sustainability & Stability
EVOS Trustee Council Meeting
December 5, 2000**

The Alaska SeaLife Center is in the early stages of the organizational growth cycle. A number of functions and activities are underway that will help the Center stabilize and sustain itself as its reputation as a leader in the scientific community, visitor industry, and educational arena continues to grow.

- **Collaborations/partnerships with agencies and organizations that support the mission of the Center**

ASLC works with several agencies and organizations (in addition to EVOS) including the National Park Service, University of Alaska Fairbanks (UAF) Alaska Contaminants Program, Coastal America Partnership, the Alaska Native Harbor Seal Commission, Sea Otter and Steller Seal Lion Commission, National Marine Fisheries Service (NMFS), and Fish and Wildlife Service. ASLC actively searches out short and long-term collaborations and partnerships to increase funding opportunities and combine resources to better address ecosystem issues.

- **Diversified research projects that expand the Center's reputation as a premier marine research facility.**

The Center is one of four agencies funded by NMFS to assist with data collection to help NMFS recover the Steller Sea Lion species. An Eider research program is underway that is funded by Fish and Wildlife Service. The Center works with the EVOS Trustees Council to facilitate a wide variety of research projects. We have recently assisted the Northwest Cruise Ship Association to understand the ecological impact of cruise ship discharges in Alaskan waters.

We look forward to the development of the new North Pacific Research Institute that will be housed at ASLC. The addition of this institute will help expand our future as a premier research and education center for the North Pacific, as well enhance our reputation as a scientific leader in Alaska. We are also working with the EVOS GEM Plan to determine the Center's role.

- **Rehabilitation projects that provide opportunities to highlight the center's experience and knowledge in regards to marine animals and provide education about specific rehabilitation projects.**

The goals of the Alaska SeaLife Center Rehabilitation Program are:

- 1) Provide emergency care for sick, stranded, or injured marine mammals and seabirds;
- 2) Effectively treat and release animals back to the wild;
- 3) Learn from the animals in our care by collecting critical health data which provides important information to researchers studying their populations in the wild. The SeaLife Center attempts to tag all pinnipeds released from the program to conduct post rehabilitation survival studies;
- 4) Provide information to the public on marine mammals and seabirds.

The SeaLife Center works with the animal management agencies to educate the public on state and federal regulations that apply to marine mammals and seabirds. The Center also provides guidelines to the public to help well meaning individuals to determine when an animal is sick and needs help, and when it is in the animal's best interest to leave it alone.

- **Special and ongoing public education projects that expand the public's knowledge base regarding marine animals and the ecosystem and contribute to the Center's operating revenue**

The center provides a combination of static, dynamic and hands-on exhibits for visitors. In addition, the Center's school education and popular "Nocturne" programs provide an opportunity for students to study the marine ecosystem with knowledgeable and enthusiastic instructors. Visitor groups such as Elderhostel receive custom education programs. A new exhibit, "The Bering Sea: Waters at the Edge" is in the planning stages. The exhibit will remain at the Center for a year and then travel throughout Alaska and the rest of the U.S.

- **Facility use to generate additional revenue and provide opportunities for organizations to experience the ASLC**

Staff is working to attract conferences, meetings, and social events to the Center to maximize the use of the facility and increase operating revenue. Specific facility use materials are being developed, contracts and rental agreements revised, and an evaluation process implemented.

- **Marketing, public relations, and fund raising activities that expand the Center's visibility as a world class research, rehabilitation, and education facility and help ensure the long term financial stability of the Center.**

Staff is working to build ALSC's reputation as a strong, viable organization that uses grants, endowments, and other funding resources in a fiscally responsible manner; produces scientifically sound reports and results; is a respected resource in regards to knowledge regarding the marine ecosystem; and successfully combines husbandry, research and rehabilitation projects. Planned activities include enhancing visitor experience; expanding e-commerce; providing opportunities for greater media exposure, identifying new funding sources; expanding membership and donation program; and recognition of the Alaska SeaLife Center as a premier Alaskan visitor attraction.

Defining Critical Habitat for Marine Reserves EVOS

*--Researcher: Dr. Jennifer Nielsen
USGS, Alaska Biological Center*

*Assess and test the appropriate
application and effectiveness of a new
technology, satellite pop-up tags, that
could assist in critical marine habitat
assessment in the Gulf of Alaska*

Halibut release—November 21, 2000



Date **NOV 26 2000**
Anchorage
Daily News

Client No. 340

Halibut enlisted in research project

140 340 530 346 345A 350

By JON LITTLE
Daily News Peninsula Bureau

SOLDOTNA — A small, electronics-packed bobber that one day may help unlock the mysterious ocean life of salmon is being tested right now on seven Resurrection Bay halibut.

The halibut are big — the largest is 100 pounds — and well-suited to the prototype devices, 3-inch-long tags that look like snagged fishing lures attached to a halibut's back by

a tungsten wire.

"The halibut were just a species of choice. One, because they're large and, two, they were readily captured and seemed amenable to a period of time in captivity," said lead researcher Jennifer Nielsen, supervisor of fisheries research for the biological resource division of the U.S. Geological Survey.

Inside the cigar-shaped tag, topped with a 2-inch, air-filled ball, is a digital memory card and sensors

constantly recording water pressure, light and temperature.

The devices are programmed to corrode their tungsten wires with acid on June 15 and float to the surface, where they will begin transmitting their stored information to passing satellites.

Assuming everything works right, scientists can use the stored data to interpret where the halibut have been swimming all winter, Nielsen said.

Sunrise and sunset provide the longitude, while temperature and depth data suggest a fish's latitude. Accuracy is limited to a 40-nautical-mile range. That's imprecise, she said, but a more accurate locator, the global positioning system, doesn't work under water.

Five of the tagged halibut were released Monday in Resurrection Bay. Two others were left behind at the Alaska SeaLife Center in Seward, partly so Nielsen can watch how the

fish cope with their tags but also so the center can display the surprisingly lively halibut to visitors.

The flat-bodied fish adapted quickly in the month they were in captivity at the sea life center. They were being hand-fed within a week and were swimming to the surface of the center's holding pond to check things out.

The \$77,000 project, funded by the

See Page B-2, **PROJECT**

PROJECT: Researchers seek halibut behavior clues

140 340 532 346 347H 33E

Continued from Page B-1

Exxon Valdez Oil Spill Trustee Council, is one of nine ongoing research projects at the center.

While the project is really to test the tags, Nielsen hopes to learn a little about halibut behavior over the next eight months. For instance, will the halibut stick around, or will they migrate? If so, how far? "Some people say fish caught off California come from Alaska. We will be able to document any large ocean migrations these fish might perform," she said.

Even the two captive halibut are scheduled to have their tags pop to the surface June 15. Though the tags can operate for up to three years, Nielsen wanted the trial to run just as long as necessary so she could assess how they work.

While they've been used on other large fish species, such as tuna and marlin nearer the equator, this is the first test so far north, she said.

The ultimate goal is to test this relatively new technology so it can be used in other studies, whether it is halibut, ling cod or king salmon, she said.

*Some people say fish caught off California come from Alaska. We will be able to document any large ocean migrations these fish might perform.**

— Jennifer Nielsen,
lead researcher

Biologists understand a lot about salmon and other fish species in Alaska's rivers and streams, but little is known about how salmon behave, or even where they go, once they migrate to salt water.

The pop-up tags being tested require a fish of at least 7 pounds. But a smaller prototype is in the works that will do all the same things and fit smaller fish.

□ Reporter Jon Little can be reached at jlittle@adn.com or at 907-260-5248.



*Transferring halibut to fish
tote 11/21/00*



*Loading totes on
truck*



Loading tote on boat



Tote loaded on boat



Halibut on board



Water for halibut



*Dr Neilsen, ASLC staff, and
captain*



Return to harbor

Rehabilitation

*--Learning from Alaska's
sick and injured animals*

*Lacy, a ring seal was
found on an Alaska
Peninsula beach with a
fungal skin infection*

*Lacy has left the
quarantine tank and is
now in an outdoor tank at
the SeaLife Center*

*She will be released in
mid-December*



*Vic & Natalie load Lacy
into carrier*



*Pam & Jesssica carry Lacy
out of the quarantine tank*



Lacy gets weighed



*Pam & Jessica carry Lacy
to her outdoor tank*



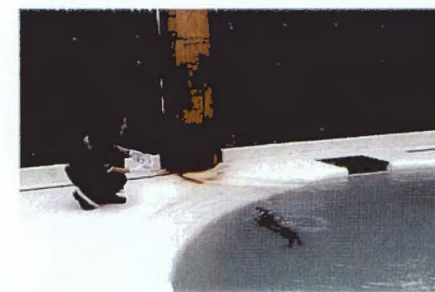
Footbath



*Getting ready for the
release*



*Lacy ventures out of the
carrier*



*Natalie throws herring to
Lacy*

Public Education/Community Involvement

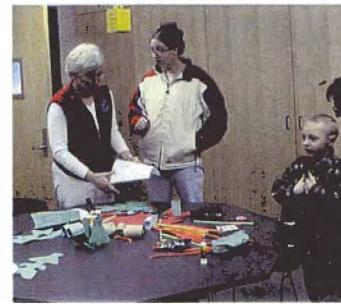
*--Using community activities like the
Holiday Party for Seward residents and
the Holiday train festivities to provide
education on the marine ecosystem*



*King Neptune
& Mermaids*



*Tylan & King
Neptune*



Animal Ornaments



Edible Art



Polar Express



Overlook



Dennis & Janelle



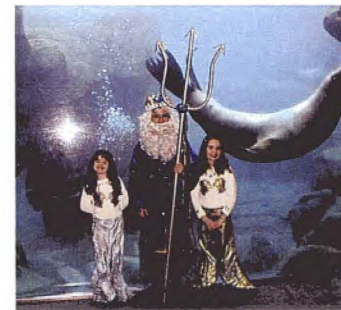
Michelle's Lecture



*Littlest
Auklet*



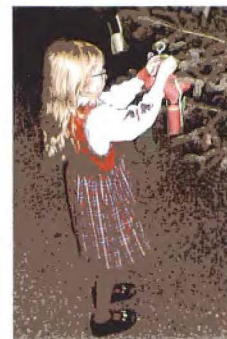
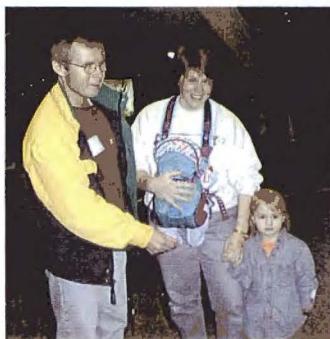
Outside Audience



Under the Sea



Serenading Stephanie





Alaska SeaLife Center

w i n d o w s t o t h e s e a

The Alaska SeaLife Center Fact Sheet

<u>Mission Statement:</u>	<i>The Alaska SeaLife Center is dedicated to understanding and maintaining the integrity of the marine ecosystem of Alaska through research, rehabilitation, and public education</i>
<u>Grand Opening:</u>	May 1998
<u>Location:</u>	Mile 0 of the Seward Highway, Seward, Alaska Approximately 125 miles south of Anchorage, Alaska
<u>Hours of Operation:</u>	October 1 through March 31 / Daily 10:00am to 5:00pm April 1 through April 30 / Daily 9:00am to 6:00pm May 1 through Labor Day, / Daily 8:00am to 8:00pm Tuesday after Labor Day through September 30 / Daily 9:00am to 6:00pm Closed Thanksgiving and Christmas
<u>Admission:</u>	\$12.50 Adults, \$10.00 Youth ages 7 to 12, 6 and Under admitted free Group rates are available for 15 or more with 24-hour advance reservation Memberships and Facility Rentals are also available
<u>Project History:</u>	For many years, scientists have recognized the need for a marine research center in Alaska. Following the 1989 <i>Exxon Valdez</i> oil spill, the need for an accessible rehabilitation facility to provide adequate care for injured animals was reinforced. In 1990, a group of concerned citizens and researchers founded the Seward Association of the Advancement of Marine Sciences (SAAMS). Its mission was to build a world-class facility dedicated to marine research, rehabilitation, and public education in Seward. The Alaska SeaLife Center, a non-profit organization, is fulfilling the SAAMS vision.
<u>Cost of the Facility:</u>	\$56 million. Funding for the project was made possible through the <i>Exxon Valdez</i> Oil Spill settlement, the city of Seward revenue bonds, and private/corporate fundraising.
<u>Site:</u>	Built on a seven-acre lot provided by the city of Seward, the 115,000 square-foot building sits on the edge of Resurrection Bay.
<u>Unique Aspects:</u>	The Alaska SeaLife Center is the only cold-water marine mammal research facility in the Western Hemisphere.
<u>Main Exhibits:</u>	The three main exhibits feature Steller sea lions, harbor seals and a variety of seabirds. The man-made habitats at the Center re-create the animals' natural "Rugged Coast" living environment. Specially placed arches, bubble nets, grottos, vegetation, burrows and ledges in each habitat promote animal enrichment and encourage the animals to interact with their environment.

AS 11/27/00

Steller Sea Lion Exhibit: The 162,000-gallon Steller sea lion habitat closely resembles the natural conditions in Resurrection Bay and has several observation areas for both researchers and the public.

Harbor Seal Exhibit: The harbor seal habitat resembles the rocky coastline with ample spaces for the seals to sun themselves. The laminated glass viewing barriers afford close proximity viewing of the animals' in their 90,000-gallon habitat.

Sea Bird Exhibit: The seabird exhibit has the deepest of all sea bird pools (21 feet) in the United States. Tufted Puffins, Common Murres, and Pigeon Guillemots reside in the 105,000-gallon exhibit, which includes extensive nesting burrows and ledges for breeding. In October 2000, Red-Legged Kittiwakes also became a part of the seabird exhibit, making them the only captive Red-legged Kittiwakes in the entire world.

Other Exhibits & Galleries:

Visitors are introduced to a variety of fish, including the silver salmon and Pacific halibut in **Open Waters**. **Ocean Grazers** house lion nudibranchs, while the **Kelp Forest** features many species of fish and marine invertebrates.

The **Animal ER**, an ASLC changing exhibit, is a hands-on display that lets patrons experience how injured, sick or stranded animals are retrieved, assessed, treated and released at the ASLC. Visitors can hear emergency phone calls, view animal X-rays, and participate in "mock" feeding and grooming.

The **Discovery Zone** includes a touch tank, which encourages visitors to use more than their sense of sight. Guests can feel sea stars, sea urchins, sea cucumbers and other marine invertebrates. The Discovery Zone is also home to a common basket star. The south wall of the Discovery Zone includes a window into one of the Center's wet labs, while the west wall provides patrons with view of the outdoor research deck. Both features allow visitors to observe on-going research projects.

A series of small aquariums in **Rocky Shores** depict the mini-habitats of marine creatures found along the coastline from the intertidal zone to the sea bottom.

The **Chiswell Island** exhibit provides both visitors and researchers with live video feeds of Stellar sea lions at Chiswell Island, a breeding rookery, 35 miles south of the ASLC in the rugged waters of Resurrection Bay. When weather conditions permit, visitors are able to pan and zoom live camera shots, for a more intimate view of sea lions in their natural habitat.

As guests descend into **Windows to the Sea**, they catch their first glimpse of the fantastic world below the waves. Sea lions, harbor seals and seabirds become graceful swimmers as they dive and play in their underwater world. **Deep Gulf**, **Harbor Bottom Life**, and **Denizens of the Deep** house a variety of ocean bottom dwellers including, king and dungeness crabs, sun stars, sea urchins, and a giant Pacific octopus.

The Alaska SeaLife Center's **Film Galleries** immerse the visitor in Alaska's rich marine environment and challenges them to become stewards for that environment.

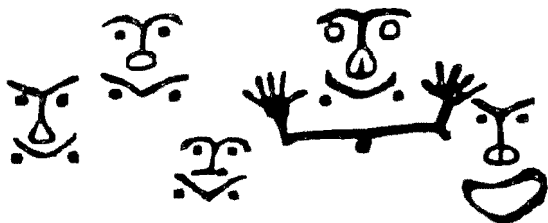
Right: Vicki Vanek, a veterinarian and Alaska Department of Fish and Game biologist, uses a balloon harbor seal to define the tip of the seal's nose for taking measurements. So far, 87 hunters have been trained in biosampling and are collecting measurements and samples of blubber, organs and other body parts for scientific study. Work by hunters and rural students is important for gathering scientific data and passing subsistence traditions to other generations, said commission executive director Monica Riedel of Cordova.





Photos by ERIK HILL / Anchorage Daily News

Above: Hunters Jerry Yagi, left, and Andy Shangan, right, both of Perryville, practice measuring a harbor seal Saturday with assistance from hunter and instructor John Boone of Valdez at the Alaska Native Heritage Center. Seven hunters and four students from Southcentral Alaska and the Alaska Peninsula participated in a scientific methods class in the morning before getting hands-on training in biosampling on two harbor seals brought to Anchorage by Boone that afternoon. Watching in back are Nanwalek students Raissa Ukatish and Stephanie Evans and Gilbert Paniptchuk of Anchorage. The biosampling training session was conducted by the Alaska Native Harbor Seal Commission as part of an effort to bring hunters and government scientists together in managing subsistence resources and to learn more about the decline of the seal population since the 1989 Exxon Valdez oil spill.



Alutiiq Museum and Archaeological Repository

215 Mission Road, Suite 101, Kodiak, Alaska 99615

(907) 486-7004 Fax: (907) 486-7048 E-mail: alutiiq2@ptialaska.net

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

RECEIVED

JAN 05 2001

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL

January 3, 2001

Dear Molly McCammon,

Thank you very much. The Alutiiq Museum is honored to have received the 2000 National Award for Museum Services from the Institute of Museum and Library Services.

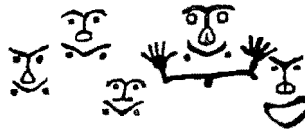
The award is wonderful in many ways because it puts the museum on the map with other museums across the United States and recognizes the excellent work it has done over the last five years. We plan on continuing all our community outreach programs and currently we are becoming more involved with the rural communities on Kodiak. We are putting together our first traveling exhibit "Grass Baskets" which will travel to all the rural towns here on Kodiak Island this spring. I have enclosed a pamphlet on this exhibit.

Please pass on my personal thanks the Board Members on the Trustee Council for helping us establish the Alutiiq Museum and Archaeological Repository. I also enclosed a press release from IMLS for the board members to read.

If you have any further questions please write or call me at: (907) 486-7004.

Sincerely,

Sven Haakanson Jr. Ph.D.
Executive Director



Alutiiq Museum Honored with National Award

The Alutiiq Heritage Foundation is proud to announce that the Alutiiq Museum and Archaeological Repository will receive the 2001 National Award for Museum Service, awarded annually to outstanding American museums. Bestowed by the Federal Institute of Museum and Library Services, and presented by First Lady Hillary Rodham Clinton, this prestigious award is the only national recognition of a museum's public service role. It is given to organizations that enrich life in their communities through sustained and innovative public service.

"This national honor is a tribute to the power of museums to engage children, families, and communities, in towns and cities all across America," noted the First Lady.

The Alutiiq Museum was singled out for three of its unique educational programs; *Community Archaeology* - an annual investigation of prehistoric archaeological sites which engages the Kodiak community in the exploration of Native heritage and the preservation of threatened archaeological sites; the *Alutiiq Word of the Week* - cultural lessons that share Alutiiq language and traditions through weekly radio, newspaper, fax and email broadcasts; and the *Rural School Art Show* - an annual exhibition of art with a Native Alaskan theme produced by students from nine remote village schools with help from the Kodiak school district. The exhibit encourages young artists to explore, maintain, and interpret the creative traditions of their ancestors.

"Since the museum's founding, the Alutiiq of Kodiak have begun to truly recognize the power of their heritage. It is the Museum's honor to be selected for this award, as it recognizes the importance of heritage exploration and honors our goals of sharing, promoting and teaching the Alutiiq culture. Thanks to the tireless efforts of our community, Alutiiq traditions will continue to shine brightly. We are proud to be recognized for this achievement and hope that our collaborative programming will serve as a model for other organizations seeking to promote cultural awareness," says Executive Director Sven Haakanson, Jr.

The Museum was one of more than 90 institutions nominated for the award last fall. Nominees were rigorously evaluated by the National Museum Service Board, an advisory panel of presidentially appointed and Senate confirmed members that assisted in selecting the winners. First Lady Hillary Rodham Clinton will present the award to this year's three winning museums at a private White House ceremony on December 20. Director Haakanson and Deputy Director, Amy Steffian, will accept the award on behalf of the Alutiiq Museum.





From Arlene Skinner:

"My weaving story began twenty years ago when I casually walked into a weaving class, expecting to be lead through a few single steps that would allow me to quickly

finish a basket. Instead, I soon discovered frustration in working with the touchy grass and tiny fine weave; however, by the end of the semester, my curiosity had been roused and I wondered how the master weavers had accomplished such a command of the fiber and then fashioned it into beautiful small baskets."

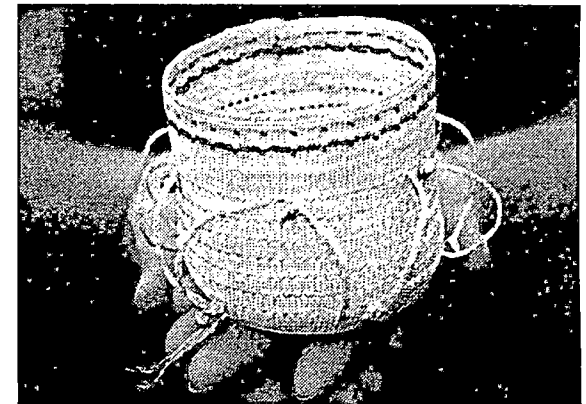
"I was anxious to try my hand at harvesting the grass and working on refining my weaving stitch. Through the years, family picnics at the beach have encouraged the leisurely gathering of the grass while winter days have been occupied trying to discover the secrets of a well formed basket. Time has only deepened my appreciation for the natural beauty of the wild grass; in my view, baskets woven with wild beach grass need very little enhancement, but I like to add a few stones, shells or silk floss designs."

Learn More:

The publications listed below contain additional information on Alutiiq weaving and Alaskan grass baskets:

- Black, Lydia T.
1982 *Aleut Art, Aleutian/Pribilof Island Association, Inc. Anchorage*
- Birket Smith, Kaj
1953 *Chugach Eskimos. Nationalmuseets Skrifter, Ethnografisk Raekke 6. Copenhagen.*
- Heizer, Robert F.
1956 *Archaeology of the Uyak Site Kodiak Island, Alaska. Anthropological Records 17:1. University of California Press, Berkley.*
- Knecht, Richard A.
1995 *Late Prehistory of the Alutiiq People. Pd.D. Thesis, Bryn Mawr College.*
- Lantis, Margaret
1984 *Aleut: In, Handbook of North American Indians, Vol. 5, Arctic, edited by D. Dumas, Pp: 161-184. Smithsonian Institution, Washington, DC*
- Lee, Molly
1981 *Pacific Eskimo Spruce Root Baskets. American Indian Art Magazine 6(2):66-73.*
- Murray, Martha G. and Peter L. Corey
1997 *Aleut Weavers. Concepts Alaska State Museums Technical Paper 8.*
- Russell, Priscilla
1991 *English Bay and Port Graham Alutiiq Plantlore. Pratt Museum, Homer*

Grass Baskets of Kodiak Island



*A traveling exhibit
featuring the basketry
of Arlene Skinner*

produced by the
Alutiiq Museum & Archaeological Repository
215 Mission Road, Suite 101
Kodiak, AK 99615
907-486-7004, alutiiq2@ptialaska.net
<http://www.alutiiqmuseum.com>



with support from the
Alaska Fund for the Future

Baskets

Inartat

If you were to enter a typical Alutiiq household of the seventeenth century, fine weaving would surround you. Grass mats would lie on sleeping benches, cover the walls, and hang in doorways. A central fireplace would be surrounded by woven containers for collecting, storing, and cooking food. People would wear woven socks, mitts and caps. A mother would hold her baby in a woven carrier. And in the rafters would lie woven tools, nets for fishing and birding, lines for harpoons and boats.

Our grass basketry exhibit explores this rich weaving tradition, focusing specifically on the elegant grass containers for which the Alutiit and their neighbors the Aleut, are famous.

A Heritage of Basketry

The practice of weaving is thousand of years old in coastal Alaska. Archaeological sites contain basket fragments and weaving tools, some dating to more than 500 years ago. These finds demonstrate the enduring contribution of woven objects to daily life.

In classical Alutiiq society, weaving has always been both a functional and aesthetic art. Woven objects were essential to many tasks, yet each was typically made with great care and many were decorated. Even baskets and mats used in household chore might be embroidered with strands of maidenhair fern, decorated with

feathers, or edged with colored gutskin. This concern for beauty in everyday objects reflects a connection with the natural world and a reverence for the plants and animals that provided for people.

Today, baskets are made and collected as an art form. Basket weaving remains a women's skill, taught through individual instruction, communal weaving and experience. Weaving symbolizes pride in Native heritage and the passage of knowledge from one generation of women to the next.

Arlene Skinner's baskets represent an unbroken chain of knowledge that stretches more than a century. She learned to weave from Eunice Von Scheele Neseth, attending her first class in the early 1980s. Neseth learned from Master Weaver Anfesia Tutiakoff Shapsnikoff - born on Atka in 1901, who in turn learned from her maternal aunt Mary Prokopiuff La Vigne - born on Attu in 1875. Today Arlene is passing weaving skills to her own daughters and to the Kodiak community through the classes she teaches.

Raw Materials

The Alutiit once made basketry from a great variety of natural fibers. Spruce root, wild grasses, birch bark, baleen and even animal sinew were fashioned into containers, tools, bedding and clothing.

Today, Kodiak weavers continue to work with both spruce root and grass (*weg'et* in the

Alutiiq language). Grass basketry is particularly prized for its extraordinarily fine weave and warm natural color. The most commonly harvested wild grass is beach rye (*Eymus Areharius*; also known as lyme grass), which is cut between June and September in coastal meadows.

Once cut, beach rye grass must be bleached and dried to create material suitable for weaving. First, the grass is wrapped in burlap bags and left to cure. Over a period of two weeks it is repeatedly aired to prevent mold. Next, the grass leaves are removed from their stems, sorted into pieces of similar length, color, and texture, and hung to dry. Sunshine or a saltwater bath helps in bleaching the grass to a pale brown. When drying is complete, the weaver removes the midrib from each leaf and splits the remaining plant tissue into strands of desired thickness.

Weaving Techniques

Alutiiq and Aleut grass baskets are woven beginning at the base of the basket. Typically, a weaver wets her fingers to keep the grass soft and pliable. Grass strands may also be soaked in cold water and wrapped in a damp towel. It is important, however, not to over wet the weaving strands, as they may rot or darken in color. Weaving is a time consuming process. It takes great skill to produce tiny, even stitches and to create unique shapes, like the woven grass bottle covers, tiny basket earrings, or wallets made by contemporary artists.

She is making a basket

Inartamek piliyuq

BEATY & DRAEGER, LTD.

Attorneys at Law
3900 Arctic Blvd., Suite 101
Anchorage, Alaska 99503

Roger H. Beaty (1946 - 1998)
Terry P. Draeger

Tel (907) 563-7889
Fax (907) 562-6936

FAX TRANSMITTAL SHEET

TO:

MOLLY Mc CANNON

COMPANY:

FAX NO.

276-7178

DATE:

1/9/01

FROM:

DENA HUEY

REGARDING:

KONIAG / KARLUK RIVER MGT CORP

TOTAL NUMBER OF PAGES TRANSMITTED (including cover):

11

ORIGINAL MAILED:

☐ YES☒ NO

MEMO:

AGREEMENT & CONCESSION AGREEMENT

AGREEMENT

THIS AGREEMENT, dated this ____ day of January, 2001 is by and between **KONIAG, INC.** (hereinafter "Koniag") a native regional corporation authorized in accordance with the Alaska Native Claims Settlement Act (hereinafter "ANCSA") and the **KARLUK RIVER MANAGEMENT CORPORATION**, an Alaska corporation (hereinafter KRMC).

WHEREAS, the KRMC is comprised of the original shareholders of the Karluk Native Corporation and Nu-Nachk Pit, Inc.; and,

WHEREAS, in 1980, the Karluk Native Corporation and Nu-Nachk Pit, Inc. merged with Koniag; and,

WHEREAS, as part of the merger, Koniag now holds lands originally conveyed to Karluk Native Corporation and Nu-Nachk Pit, Inc. consisting of approximately 57,800 acres within the Kodiak National Wildlife Refuge (hereinafter "KNWR"); and,

WHEREAS, Koniag is in the process of entering into an Agreement for Protection of Certain Lands and Resources between Koniag, Inc., the United States of America, and the State of Alaska (hereinafter "Protection Agreement"); and,

WHEREAS, the Agreement materially affects the land formerly held by the Karluk Native Corporation and Nu-Nachk Pit, Inc.; and,

WHEREAS, Koniag is desirous of protecting the rights and interests of the original shareholders of the Karluk Native Corporation and Nu-Nachk Pit, Inc.

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

1. Recitals. The recitals set forth above are incorporated herein by reference.
2. Sale of Land. Pursuant to Sections 4(a) and 4(b) of the Protection Agreement, Koniag has the right to sell various lands to the United States. Koniag hereby agrees that, prior to electing to sell said lands, said sale must be approved by a two-thirds vote of all the shareholders of KRMC. In the event said stock is held in trust, the approval shall be obtained by the trustees representing two-thirds of the shares of KRMC.
3. Concession Agreement. Koniag has retained a variety of rights under the Protection Agreement. Koniag agrees to allow KRMC the right to operate the commercial activities on the lands covered by the Agreement in accordance with the Concession Agreement attached hereto and made a part hereof as **Exhibit A**.
4. Payment. KRMC shall pay Koniag \$1,000 upon execution of this Agreement along with remuneration as set forth in the Concession Agreement.

5. Contingencies. This Agreement shall only become effective if the Protective Agreement is executed.

6. Binding Effect. All rights, duties, and liabilities herein given to or imposed upon the respective parties hereto extend to and bind the several respective heirs, executors, administrators, successors, and assignees of the said parties.

7. Partial Invalidity. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement for the application of such term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8. Waiver. The waiver by either party or breach of any term, covenant, or condition herein contained shall not be deemed to be a continuing waiver of any subsequent waiver or breach of any term, covenant or condition.

9. Entire Agreement. This Agreement and the exhibits attached hereto forming a part hereof set forth all covenants, promises, agreements, conditions, and understandings between either party concerning the Agreement and there are no other covenants, promises, agreements, conditions, or understandings either oral or written between them other than herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to the Agreement shall be binding upon either party unless reduced to writing and signed by them.

10. Governing Law. This Agreement shall be governed by the law of the State of Alaska and any dispute hereunder adjudicated in the Third Judicial District, State of Alaska.

11. Rule of Construction. Each party to this Agreement has had ample opportunity to have this Agreement reviewed by counsel of their own choosing. This Agreement and any related documents shall not be construed against the interests of the drafting party as a result of its preparation or approval of the documents.

12. Counterparts. This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages any of which may be executed by less than all of the parties, provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photocopy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of January, 2001.

KONIAG, INC.

By: _____
Dennis Metrokin, President

KARLUK RIVER MANAGEMENT CORPORATION

By: _____
Its President

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2001 before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **DENNIS METROKIN** known to me to be the **President** of **Koniag, Inc.**, the corporation named in the foregoing instrument, and who acknowledged to me that the foregoing document was executed on behalf of said corporation for the uses and purposes therein mentioned, by authority of its board of directors.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2001 before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me to be the **President of Karluk River Management Corporation**, the corporation named in the foregoing instrument, and who acknowledged to me that the foregoing document was executed on behalf of said corporation for the uses and purposes therein mentioned, by authority of its board of directors.

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

Notary Public in and for Alaska

My commission expires: _____

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT dated this ____ day of January, 2001 is by and between **KONIAG, INC.** (hereinafter "Koniag") a native regional corporation authorized in accordance with the Alaska Native Claims Settlement Act (hereinafter "ANCSA") and the **KARLUK RIVER MANAGEMENT CORPORATION**, an Alaska corporation (hereinafter KRMC).

WHEREAS, Koniag is in the process of entering into an Agreement for Protection of Certain Lands and Resources between Koniag, Inc., the United States of America, and the State of Alaska (hereinafter "Protection Agreement"); and,

WHEREAS, as part of the Protection Agreement, Koniag has retained various rights as set forth in: (1) the Non-Development Easement, dated December 13, 1995 as amended by the First Amendment to the Non-Development Easement (hereinafter "Original Easement"); (2) the Conservation Easement; and, (3) Camp Island Limited Development Easement (hereinafter "Camp Island Easement"); and,

WHEREAS, Koniag is desirous of protecting the rights and interest of the former shareholders of the Karluk Native Corporation and Nu-Nachk Pit, Inc.; and,

WHEREAS, KRMC represents the former shareholders of the Karluk Native Corporation and Nu-Nachk Pit, Inc. The former shareholders of these corporations comprise all the shareholders of KRMC.

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

1. Recitals. The recitals set forth above are incorporated herein by reference.
2. Agreement. Koniag agrees to allow KRMC to manage the Karluk River and KRMC agrees to take over the responsibility of managing the Karluk River on the terms and conditions stated herein.
3. Concession. Koniag hereby grants KRMC the right to operate and manage the commercial activities retained by Koniag in the Original Easement as amended, Conservation Easement, and Camp Island Easement as follows:

A. Original Easement as amended:

...to conduct its business of renting cabins and granting temporary land use licenses for the use of the Protected Property, including but not limited to the right to permit persons to set up and maintain temporary camp facilities provided, however, that such temporary camps may not remain at a single site for longer than twenty-one (21) consecutive days. (Section 5(d))

...rental to third parties of the six existing cabins owned by the Grantor, and described as follows: Four cabins located at the Portage site along the Karluk River, cabins located at the outlet of the Karluk Lake into the Karluk River, and one cabin located at Thumb Lake. (Section 3(a))

permit on the Protected Property the operation of more than three seasonal camps by commercial guides; provided, however, no more than two of such camps may be operated at any one time within the Karluk River drainage, and no more than one of such camps may be operated at any one time within the Sturgeon River drainage; provided, further that in no event may any such seasonal camp accommodate at any one time more than fifteen guests/clients of such guide(s). (Section 3(c))

B. Conservation Easement:

...the right to manage the five cabins identified in Section 3(a) hereof and any associated outbuildings. (Section 6(a))

...the right to operate, or to grant a concession for the operation of a bear viewing program only in the thumb River drainage. (Section 7 (b))

...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. (Section 7(c))

...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. (Section 7(c))

C. Camp Island Easement:

...lease the cabins presently existing on the Protected Property... (Section 3(a))

... 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. (Section 5)

...the right to develop up to a six acre 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. (Section 5(a)(i)).

Related facilities may include all those structures and facilities reasonably necessary for the operation of a lodge, including, but not limited to, cabins, a multipurpose room, dining room, kitchen, staff quarters, maintenance, utilities, office, reception area, storage, hot tub and sauna, recreational facilities, docks and trails. (Section 5(a)(ii)).

Nothing herein shall be construed to allow KRMC rights to any retained rights held by Koniag other than the rights as set forth above.

KRMC agrees to manage the commercial activities as set forth above in accordance with the Original Easement as amended, Conservation Easement and Camp Island Easement.

4. Conservation. KRMC shall pay Koniag fifteen percent (15%) of net profits from the operation of the activities as set forth in Section 3 of this Agreement. Notwithstanding anything set forth herein to the contrary, no part of the fees derived from operations awarded to KRMC directly by the Fish and Wildlife Services pursuant to Section 5(f) of the Conservation Easement shall be paid to Koniag.

5. Term. The term of this Agreement shall be for one year from February 1, 2001 through January 31, 2002 plus any extensions as provided in Section 6.

6. Extensions. KRMC shall be allowed to extend the term of this Agreement for consecutive one-year terms for as long as the Original Easement as amended, Conservation Easement or Camp Island Agreement are in effect.

7. Assignment. Koniag is relying upon the unique characteristics of KRMC to perform this concession and, in particular, the one hundred percent (100%) ownership of the corporation by the original shareholders of Karluk Native Village and Nu-Nachk Pit, Inc. and KRMC shall not assign this Agreement without the written consent of Koniag.

8. Ownership of KRMC. KRMC warrants that the ownership of KRMC will never be less than one hundred percent (100%) native-owned and in the event said ownership is less than one hundred percent, Koniag has the right to cancel all, or part, of this Agreement.

9. Contingencies. This Agreement shall only become effective if the Protective Agreement is executed.

10. Binding Effect. All rights, duties, and liabilities herein given to or imposed upon the respective parties hereto extend to and bind the several respective heirs, executors, administrators, successors, and assignees of the said parties.

11. Partial Invalidity. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement for the application of such term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12. Waiver. The waiver by either party or breach of any term, covenant, or condition herein contained shall not be deemed to be a continuing waiver of any subsequent waiver or breach of any term, covenant or condition.

13. Entire Agreement. This Agreement and the exhibits attached hereto forming a part hereof set forth all covenants, promises, agreements, conditions, and understandings between either party concerning the Agreement and there are no other covenants, promises, agreements, conditions, or understandings either oral or written between them other than herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to the Agreement shall be binding upon either party unless reduced to writing and signed by them.

14. Governing Law. This Agreement shall be governed by the law of the State of Alaska and any dispute hereunder adjudicated in the Third Judicial District, State of Alaska.

15. Rule of Construction. Each party to this Agreement has had ample opportunity to have this Agreement reviewed by counsel of their own choosing. This Agreement and any related documents shall not be construed against the interests of the drafting party as a result of its preparation or approval of the documents.

16. Counterparts. This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages any of which may be executed by less than all of the parties, provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a copy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of January, 2001.

KONIAG, INC.

By: _____
Dennis Metrokin, President

KARLUCK RIVER MANAGEMENT CORPORATION

By: _____
Its President

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2001 before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **DENNIS METROKIN** known to me to be the **President of Koniag, Inc.**, the corporation named in the foregoing instrument, and who acknowledged to me that the foregoing document was executed on behalf of said corporation for the uses and purposes therein mentioned, by authority of its board of directors.

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

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2001 before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, known to me to be the **President of Karluk River Management Corporation**, the corporation named in the foregoing instrument, and who acknowledged to me that the foregoing document was executed on behalf of said corporation for the uses and purposes therein mentioned, by authority of its board of directors.

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

Notary Public in and for Alaska

My commission expires: _____

1-5-01

Molly -

This meeting needs to take place Tuesday evening at 7 pm

We will not have "fair" access or reverse input to current negotiations unless we are offered to give input "prize" to Koriag special meeting on the tenth as stated in the meeting of 1-4-01.

We are requesting to meet with you at this time.

Please confirm. Many of our people will not be available after this date. We are getting ready for fishing. many will be off island

If you refuse this request then we will reflect it as being an attempt to continue with negotiations without hearing the People ~~affected~~ affected by it.

Please respond by noon today.

Dolly C.R. Reft

January 4, 2001

Ms. Molly McCammon
Executive Director
Exxon Valdez Oil Spill Trustee
Council
Fax: (907) 276-7178

RECOMMENDATIONS FOR UPCOMING
MEETING ON JANUARY 11, 2001.
CC: KARLUK INDIGENOUS MEMBERSHIP,
CONGRESSMAN YOUNG, LARSEN BAY
MEMBERS & RESIDENTS, E.V.O.S.
TRUSTEE COUNCIL MEMBERS, KONIAG,
ATTORNEY FILE.

Subject: Meeting of January 11, 2001

*This needs to be set for
Tuesday 7p.m Jan. 9, 2001*

Per our conversation regarding a meeting for next Thursday, I offer the following recommendations:

1. You inquired as to who should be contacted for this meeting.

I suggest that you publicize your meeting, place and time in the local newspaper as soon as possible in order to reach as many people in such short time notice. A note as to what the meeting is for and who Exxon Valdez Oil Spill Trustee Council is in addition to Ms. McCammon's Title and objective should be included. Many people don't even understand the subject matter regarding the acquisitions taking place or have had an opportunity to review any written documentation.

Describe areas (acres to be acquired) i.e. Karluk 1860 acres that are in current negotiations. This will allow the members from the area to identify themselves to their lands and describe how it may affect them.

2. An appropriate location for the meeting would be the high school pod where most public meetings are held. This seems to be the location that people are familiar with and would facilitate this type of forum.

3. Residents living in Larsen Bay may not have the financial ability to fly in for the meeting. An option would be to arrange for a charter for them to participate. You will need to confer with the City Council (Allan Panamaroff) or the Tribal Council (Virginia Squartsoff) concerning this. They would also be able to contact the community of Larsen Bay for interested individuals wishing to express their concerns. Most people are not comfortable speaking over the phone and there is little notice in addition to no written information to go by in the hands of the people affected.

4. After our attendance to the meeting today, I am advising you to clearly define what is meant by subsistence and our rights to subsistence. Just saying that we will have the same rights defined in ANILCA is not enough. How will you protect our way of life and access to our foods? Fishing, hunting and gathering...How will the different agencies involved, support and protect this statement? Commitments need to be clearly expressed. Native People need to be assured that you can clearly define our way of life before you can assure protections and rights to our way of life. We are concerned that our way of life

*Left several messages
to have p. 2 re-sent;
no response. mm 1/9/01*

PETITIONS OF SUPPORT SIGNATURES AS OF 12/30/00

1 Aamodt, Teresa Ann	51 Magers, Thelma Elizabeth	101 Sugak, Jr., Larry
2 Aho, Evdokia	52 Malutin, Eli B.	102 Sugak, Nick
3 Alpiak, Margaret	53 Malutin, Hazel Ann	103 Vinberg, Donald Jay
4 Alpiak, James John	54 Malutin, Virginia Ann	104 Vinberg, Donna Kay
5 Alpiak, Nick	55 Malutin, III, Herman	105 Vinberg, Edna Marie
6 Alpiak, Tom	56 Malutin, Jr., Herman	106 Vinberg, Sandra Lee
7 Ambrosia, Alex Charles	57 Marton, Roberta Louise	107 Wasbrikoff, Cheryl Lucille
8 Anderson, James Jacob	58 McCormick, Phillip Buddy	108 Waselie, David Willie
9 Antonson, Harry John	59 McCrory, Carolyn Katherine	109 Waselie, Tina
10 Ameson, Marilyn Denise	60 McNoise, Ann	110 Wasoloski, Brenda Elola
11 Benedetto, Maria	61 McNoise, Haines	111 White, Anne R.
12 Bennett-Ballutta, Kirstin	62 Merrigan, Carolyn Marie	
13 Benson, Marie	63 Naumoff, Michael P.	
14 Briner, Justine Janell	64 Needham, Darlene Joyce	
15 Brown, Madelyn Sophia	65 Needham, Robert Kemp	
16 Brown, Alex Jr.	66 Needham, Zoya Marie	
17 Brucato, Crystal Ann	67 Nickerson, Jr., Eugene	
18 Carlsen, Eileen Mae	68 Norell, Gladys R.	
19 Charliaga, Harold #269461	69 Norell, Lorena Peggy	
20 Charliaga, Nick Neal	70 Norris, Susan	
21 Charliaga, Kathryn Diane	71 Panamaroff, Alexander	
22 Chichenoff, Kathryn	72 Panamaroff, Allen John	
23 Chichenoff, Keith J.	73 Panamaroff, Arthur	
24 Chichenoff, Melodi K	74 Panamaroff, Dorothy	
25 Chichenoff, Michael	75 Panamaroff, Frieda Irene	
26 Chichenoff, Robert	76 Panamaroff, James Donald	
27 Chichenoff, Selma	77 Panamaroff, Mable Jessie	
28 Chya, Constance	78 Panamaroff, Shannon Rae	
29 Chya, Jori Lynn	79 Panamaroff, Sharon Marie	
30 Chya, Michelle Ann	80 Panamaroff, Jr., Alexander	
31 Chya, Olga June	81 Pavloff, Jr., Nick Andy	
32 Chya, Robin Edward	82 Prince, Patricia Ann	
33 Chya, Jr., Paul Wayne	83 Reft, Barbara Ann	
34 Diaz, Teresa Ann	84 Reft, Cathy Rae	
35 Dinglasa, Ellen Sophia	85 Reft, Charles John	
36 Eggemeyer, Wanda Katerinikoff	86 Reft, Edward	
37 Engles, Victoria	87 Reft, John Harold	
38 Ernest, Lory Ann	88 Reft, Nicholas Melvin	
39 Gutierrez, Christine Sally	89 Reft, Jr., Albert Andrew	
40 Hamilton, Thelma May	90 Russell, Curtis Lee	
41 Hochmuth, Barbara	91 Russell, Desiree Dawn	
42 Hochmuth, Robert Stanley	92 Russell, Evelyn Dawn	
43 Hochmuth, Jr., Joseph	93 Segien, Laktonen Nadia	
44 Holmes, Kimberly Ann	94 Seminario, June Catherine	
45 Holmes, Mary Ann	95 Shugak, Peter	
46 Hughes, Dee Enda	96 Shugak, Jr., Timothy	
47 Keeney, Carle Ann	97 Simeonoff, Edwin Dewayne	
48 Lindberg, Jennifer	98 Simeonoff, Janice E	
49 Lester, Dayna Rae	99 Squartsoff, Eli	
Lyons, Carolyn Kathryn	100 Sugak, Larry	

831

DRAFT 01/15/01rev.

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

adopted 1/16/01
January , 2001

SUMMARY OF THE CONTENTS

PAGE

(1)

INDEX OF EXHIBITS

Exhibit I

Exhibit II

Exhibit III

Exhibit IV

Exhibit V

**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 \$29,800,000, unless Koniag elects to exchange with the Service certain lands along Uyak and Zachar Bays, in which event the deposit will be \$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. Koniag further agrees that any and all former ANCSA Section 14(h)(1) site selection applications which have previously been closed or otherwise rejected by the appropriate bureau of the Department, shall remain closed hereafter . [Note: the Federal/State negotiators and Koniag have not reached agreement on this foregoing redlined insert.]

(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 \$29,800,000 (Twenty-nine million, eight hundred thousand and no/100 dollars) ("Special Account"), unless Koniag elects to exchange certain lands with the Service as provided in Section 20 hereof, in which event the deposit shall be \$29,550,000 (Twenty-nine million five hundred and fifty thousand and no/100 dollars). 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	\$606,523, paid on October 15, 2010
Year 9	\$640,012, 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.

(xii) No federal court has prohibited the payment of any amounts due hereunder at the Initial Closing.

(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;

(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; and

(vi) 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.

(vii) No federal court has prohibited the payment of any amounts due hereunder at such closing.

(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.

(20) Koniag Exchange Election.

With respect to those certain lands adjacent to Uyak and Zachar Bays ("Uyak Bay Lands") which are subject to the Conservation Easement, Koniag, in its sole discretion may elect by December 1, 2001 to pursue and complete with the United States a land exchange, pursuant to which Koniag will exchange the surface estate of

the Uyak Bay Lands for certain lands owned by the United States and under the jurisdiction of the Department which are located generally south of the community of Larsen Bay. Koniag will exchange all its lands on the east side of Uyak Bay and Zachar Bay within townships T. 30 S., R. 28 W.; T. 31 S., R. 28 W.; and T. 32 S., R. 28 W, and at its sole option those lands owned by it on the west side of Uyak Bay within T. 32 S., R. 28 W., and within T. 32 S., R. 29 W., Sections 13 and 24.

Koniag shall receive in exchange surface estate acreage of equal value to be selected by it from those within the Kodiak Refuge within T. 31 S., R. 29 W., Sections 4, 5 and 6; and T. 31 S., R. 30 W., Section 1, E½, or such other lands in the vicinity agreed to by Koniag and the United States. The lands selected by Koniag shall be compact and contiguous. Sections 4 and 5 within T. 31 S., R. 29 W. are subject to an existing State conservation easement.

Should such exchange be consummated, then the description of the Uyak Bay Lands shall be removed from the Limited Warrant Deed and the amount of the initial deposit to the Special Account to be made pursuant to Section 5(b) shall be reduced by Two Hundred Fifty Thousand Dollars (\$250,000.00). The determination of the value of the Uyak Bay Lands to be made for the purpose of the exchange shall be made without consideration of any such adjustment to the Special Fund.

Any exchange so negotiated shall be subject to the approval of the Board of Directors of Koniag, Inc. which may be withheld in its sole discretion. If Koniag elects to make this exchange, Koniag and the Department agree to complete this exchange by October 1, 2002.

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.

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

SEAL

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.

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

SEAL

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
NON-DEVELOPMENT EASEMENT**

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, 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
 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

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.

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

DRAFT 01/15/01 revised
AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
PAGE 35

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

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 1/15/01

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 2001, 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 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 as well as guided and unguided use. 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.
- (h) 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; Economic Review.

(a) 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 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.

(b) Economic Review. Following the end of the 2007 summer season, Grantor may review the economic consequences of the allocation of use permits between guided and unguided users on shareholder owned guiding and outfitting services. Should Grantor elect to perform such review and if prior to February 1, 2008, Grantor determines that there have

been significant adverse economic consequences to such shareholder owned guiding and outfitting services which consequences are directly attributable to the allocation balance and not to other business decisions, then it shall provide a copy of its determination and supporting documentation to the Grantee and the State. Within thirty (30) days of the provision of such copies, Grantor shall meet with the Grantee and the State to review its determination and supporting documentation. Within sixty (60) days following such meeting, Grantor shall have the right to terminate this easement upon thirty (30) days written notice to Grantee and State. Should Grantor elect to terminate this Easement as provided herein, no fee will be owed to Grantor for the partial year in which such election occurs.

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.

SEAL _____

My Con

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_____.

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 Commissi

DRAFT 01/15/01 revised
AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
PAGE 67

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: _____

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.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

By: _____, President

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

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)
NOTARY PUBLIC in and for Alaska
My Commission Expires: _____

(SEAL)

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 [Note: the precise legal description below is subject to Koniag's election under Section 20 of the Agreement]:

Seward Meridian, Alaska

T. 29 S., R. 29 W., (surveyed).
Sec. 24;
Sec. 25, excluding 14(c)(1) claim of Robert Griggs (approximately 1 1/2 acres);
Sec. 26, lots 1 and 2; and
Sec. 36, excluding 14(c)(1) claim of Laurel Peterson (approximately 1 1/2 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 NW¹/₄, E¹/₂NE¹/₄SW¹/₄, NW¹/₄NE¹/₄SW¹/₄, N¹/₂NW¹/₄SW¹/₄, N¹/₂NE¹/₄SE¹/₄SW¹/₄, N¹/₂S¹/₂NE¹/₄SE¹/₄SW¹/₄, W¹/₂NW¹/₄SE¹/₄, NW¹/₄SW¹/₄SE¹/₄;
Sec. 19, that portion of lot 1 located in the S¹/₂SW¹/₄NE¹/₄NE¹/₄, SW¹/₄NW¹/₄NE¹/₄, W¹/₂NW¹/₄NW¹/₄NE¹/₄, S¹/₂NE¹/₄SE¹/₄NE¹/₄, S¹/₂N¹/₂NE¹/₄SE¹/₄NE¹/₄, SE¹/₄SE¹/₄NE¹/₄, W¹/₂SE¹/₄NE¹/₄, SW¹/₄NE¹/₄, E¹/₂SE¹/₄NE¹/₄NW¹/₄, E¹/₂SE¹/₄NW¹/₄, SW¹/₄SE¹/₄NW¹/₄, S¹/₂SW¹/₄NW¹/₄, E¹/₂W¹/₂NW¹/₄NE¹/₄SW¹/₄, E¹/₂NW¹/₄NE¹/₄SW¹/₄, E¹/₂NE¹/₄SW¹/₄, SW¹/₄SE¹/₄SW¹/₄, E¹/₂SE¹/₄SW¹/₄;
Sec. 20, that portion of lot 5 located in the S¹/₂NW¹/₄, NE¹/₄SW¹/₄, N¹/₂NW¹/₄SW¹/₄, SW¹/₄ NW¹/₄ SW¹/₄, W¹/₂SW¹/₄SW¹/₄, SE¹/₄SW¹/₄SW¹/₄, S¹/₂S¹/₂SE¹/₄SW¹/₄, N¹/₂SE¹/₄, W¹/₂SW¹/₄SE¹/₄, SE¹/₄SW¹/₄SE¹/₄, SE¹/₄SE¹/₄;
Sec. 28, that portion of lot 1 located in the SW¹/₄NW¹/₄NW¹/₄, N¹/₂SE¹/₄NW¹/₄, SW¹/₄SE¹/₄NW¹/₄, NE¹/₄SW¹/₄, S¹/₂NW¹/₄SE¹/₄;

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 $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ excluding the easterly 220 feet;

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. 34, lot 2.**

Containing approximately 17.66 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]

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").

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

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 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

DRAFT 01/15/01 revised
AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
PAGE 109

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: _____

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

DRAFT 01/15/01 revised
AGREEMENT BETWEEN KONIAG, INC.
AND THE UNITED STATES OF AMERICA
PAGE 113

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

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

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: _____

DRAFT 01/03/01 9:30 PM VERSION

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 2001, 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").

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 subject to a conservation easement 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 is interested in acquiring through a subsequent purchase fee title to the Conservation Property; and

WHEREAS, the Grantor does not wish at this time to convey the Conservation Property either in fee or to convey a conservation easement thereon in perpetuity; 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. 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. In the event that Grantor elects to extend that certain Conservation Easement pertaining to the Conservation Property, the term of this Easement shall automatically extend to that same date without any further action by the Parties hereto. 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 under the Agreement, unless sooner terminated in accordance with its terms. In the event of such an extension, Grantee is authorized to prepare and record in the records of the Kodiak Recording District, Third Judicial District, State of Alaska, a notice of the extension. []

(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 of that certain Conservation Easement pertaining to the Conservation Property and executed simultaneously hereto, 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 Grantor may have.

Section 3. Prohibited Uses by Grantor. During the term of this Easement and except to the extent reasonably necessary for Grantor to exercise its rights pursuant to Sections 5 and 6 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 during the Primary Term of this Easement. Notwithstanding the foregoing, 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, during the Secondary Term or any extension 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 5 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 proposed same treatment for both initial and permanent camp island easements?]

- (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 3(g) or as may be reasonably required to effect the development contemplated by Section 5.

- (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 5(a) hereof or to construct and maintain lodging and related facilities at those locations as provided in Section 5 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 4. 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 5. 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) During the Primary and Secondary Term of this Easement, the total developed facilities, exclusive of trails, docks and utilities, shall not exceed 30,000 square feet. Should there be any further extensions of this Easement, facilities may be expanded beyond this 30,000 square foot limitation with the written approval by the Regional Chief of the National Wildlife Refuge System-Alaska or his/her successor in function ("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) During the Primary Term of this Easement, lodging capacity shall be limited to twenty-eight (28) guests plus appropriate staff to service those guests. After the Primary Term of this Easement, Grantor may increase the lodging capacity, without prior

approval of the Grantee, to forty (40) guests plus appropriate staff to service those guests.

(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.

(iii) Notwithstanding the provisions of Section 5(b) of the Conservation Easement, those persons who are guests of the lodge shall have the right to use during their stay at the lodge, those lands described in Section 5(b)(ii) of the Conservation Easement; provided however, their use of such lands shall be subject to the same terms and conditions as is the use of such lands by the holders of permits issued under such Section 5(b), except for those terms related to the number of permitted users under Section 5(b)(ii).

Section 6. 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 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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.

Section 14. 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 this Easement and a release of all interest in the Protected Property that the Grantee or the State may have held pursuant to its terms in the form attached to the Agreement as Exhibit ____.

* * * * *

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.

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
Camp Island Limited Development
Easement Page 13

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.

Notary Public in and for Alaska
SEAL

My Commission expires:_____

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____.

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 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

My Commission Expires:_____

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)

Printed or typed name of Notary)

NOTARY PUBLIC in and for Alaska

(SEAL)

My Commission

Expires: _____

Exxon Valdez Oil Spill Trustee Council

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



REVISED AGENDA 1/11/01 EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL MEETING

January 16, 2001 9:30 a.m.
645 G STREET, Suite 401, ANCHORAGE

DRAFT

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
State Chair

1. Call to Order - 9:30 a.m.
 - Approval of Agenda
 - Meeting notes

December 4th, 5th, & 8th, 2000
January 4th, 2000
2. Public comment period - 9:45 a.m.
3. Koniag conservation easement* - 10:00 a.m.

Minor amendments *if needed*
4. Possible additional deferred FY 01 projects* - 10:30 a.m.
5. GEM* - 10:45 a.m.

Conceptual approach to developing draft Research and Monitoring Plan

6. Small parcel habitat grant* - 11:30 a.m.

7. Three Kodiak 10-acre parcels (possible*) - 12:30 p.m.
KAP 2061, KAP 2067, KAP 2068

Adjourn 1:00 p.m.

* indicates tentative action items

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 16, 2001 9:30 a.m.
645 G STREET, Suite 401, ANCHORAGE



DRAFT

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
State Chair

1. Call to Order - 9:30 a.m.
 - Approval of Agenda
 - Meeting notes
 - December 4th, 5th, & 8th, 2000
 - January 4th, 2000
2. Public comment period - 9:45 a.m.
3. Possible additional deferred FY 01 projects* - 10:30 a.m.
4. GEM* - 10:45 a.m.
 - Conceptual approach to developing draft Research and Monitoring Plan
5. Small parcel habitat grant* - 11:30 a.m.
6. Three Kodiak 10-acre parcels (possible*) - 12:30 p.m.
 - KAP 2061, KAP 2067, KAP 2068

Adjourn 1:00 p.m.

* indicates tentative action items

Federal Trustees
U.S. Department of the Interior
U.S. Department of Agriculture

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

DRAFT

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.

pdh

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

January 4, 2001

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, See, Tillery, Slater

● Alternates:

Marianne See served as an alternate for Michele Brown for the entire meeting.
Claudia Slater served as an alternate for Frank Rue for the entire meeting.

Meeting convened at 9:35 a.m., January 4, 2001

1. Approval of the Agenda as amended

APPROVED MOTION: Amended the agenda by adding Project 01404 and 01126 to the agenda. Approved the amended agenda. Motion by Balsiger, second by Heiman .

Public comment period began at 10:03 a.m.

Public comments received telephonically from 1 individual in Anchorage and 1 in Kodiak, and from 7 individuals present in Anchorage.

Public Comment period closed at 10:43 a.m

BREAK: Off the record at (10:44 a.m.)
On the record at (10:55 a.m.)

2. Koniag conservation easement proposal

APPROVED MOTION: Adopted resolution 01-05 (attachment A) providing funds for the United States and the State to enter into an Agreement with Koniag, Inc., for the protection of 57,900 acres of Koniag lands, including:

- 1.) \$300,000 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 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 ("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
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

- (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.

Motion by Heiman, second by Tillery.

3. Amendment to Project 01126

APPROVED MOTION: Approved a motion to amend approved project 01126,

"Habitat Protection and Acquisition Support," to add funds in the amount of \$11,700 for the US Fish and Wildlife Service to cover costs associated with the Koniag acquisition as outlined in the attached memo (attachment B).

Motion by Heiman, second by Balsiger.

4. Revisions to Project 01404

APPROVED MOTION: Approved a motion to make two revisions to the approved project 01404, "Archival Tags for Tracking King Salmon at Sea Migrations, Biology and Oceanographic Preferences in Prince William Sound": 1) test the tags on coho instead of chinook salmon, 2) release the fish at Ship Creek in Cook Inlet rather than at the Ester Island hatchery in Prince William Sound.

Motion by Heiman, second by Slater.

Meeting adjourned at 11:08 a.m.

Motion by Balsiger, second by See.

pdb

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: FY 01 Work Plan: Deferred Projects

DATE: January 10, 2001

In December the Trustee Council deferred action on two additional projects:

HERRING "PLACEHOLDER": Following the herring synthesis workshop held in November 2000, the Alaska Department of Fish and Game was offered the opportunity to submit proposals on three topics identified at the workshop: (1) use of otoliths and lipids to identify subpopulations of herring within Prince William Sound, (2) ASA hindcasting, and (3) aerial surveys. One proposal -- Project 01538/Evaluation of Two Methods to Discriminate Pacific Herring Stocks Along the Northern Gulf of Alaska (#1 above) -- was received and is recommended for funding.

PSP: This project (01482/Establishment of a Biotoxin Monitoring Program in the Kodiak Island Area) was deferred pending evaluation of FY 00 results, which were delayed from their expected due date of September 30, 2000. A report has now been received (December 28) and is under review by the Chief Scientist. Preliminary review suggests that the report is not complete (some results are not due until March 2001) and that the DPD (which was submitted in April 2000) is obsolete. Further, there are multiple sub-projects and multiple funding sources for this project, and it is unclear at this point where future Trustee Council funding might fit in. I am recommending no funding for FY 01, but that the Council consider a new proposal in FY 02.

Approval of funding for the herring project would bring the total approved for the FY 01 work plan to \$5,945,700. The cap set by the Trustee Council for the FY 01 Work Plan is \$6 million.

Approved by TC in August	\$4,685.7
Approved by TC in December	1,249.9
Recommended for approval	<u>10.1</u>
TOTAL	\$5,945.7

More detail on my recommendation is contained in the attached spreadsheet.

Federal Trustees

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

State Trustees

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

Proj.No.	Project Title	Proposer	Lead Agency	New or Cont'd	Funded FY 01	Deferred to Dec.	RECOM-MENDATION	FY02 Recom.	Total FY01-02
Pacific Herring							\$10.1	\$47.1	\$57.2
01538	Evaluation of Two Methods to Discriminate Pacific Herring Stocks along the Northern Gulf of Alaska	T. Otis/ADFG, R. Heintz/NOAA	ADFG	New 1st yr. 2 yr. project	\$0.0		\$10.1	\$47.1	\$57.2

Project Abstract

This project will perform a comparative investigation of two promising stock identification techniques for Pacific herring -- elemental analysis of otoliths and fatty acid profile analysis of select soft tissues. Limited samples from Sitka Sound, Prince William Sound, Kamishak Bay, Kodiak Island, and Togiak will be collected and analyzed to determine if stock differences are detectable by each procedure, and at what scale. Successful results from this pilot study should be followed up with future evaluations of the temporal and structural (i.e., sex, age, maturity) stability of these biomarkers.

Chief Scientist's Recommendation

The Trustee Council has a long-term investment in Prince William Sound herring. Whether there is only one herring stock in Prince William Sound, or more than one stock, is fundamental to managing this resource and fundamental to understanding how the population changes. The Council has previously supported Alaska Department of Fish and Game research which found no significant genetic differences in adult herring spawning in different areas in the sound. This new proposal will apply two kinds of sophisticated and innovative chemical analyses, elemental composition of otoliths and fatty acid residue patterns from heart tissue, to see if there are regional differences in the origin of herring spawning in different areas of the sound. This is a very good exploratory proposal and has been rated high in the review process. Fund.

Executive Director's Recommendation

Fund. The ability to determine the stock of origin for herring sampled during field investigations will allow increased understanding of the distribution and mixing of northwest Gulf of Alaska herring stocks and assist in the identification of important habitats and rearing areas for individual populations.

Proj.No.	Project Title	Proposer	Lead Agency	New or Cont'd	Funded FY 01	Deferred to Dec.	RECOM-MENDATION	FY02 Recom.	Total FY01-02
Subsistence						\$50.0	\$0.0		\$0.0
01482-BAA	Establishment of a Biotoxin Monitoring Program in the Kodiak Island Area	J. Jellett/Jellett Biotech Limited	NOAA	Cont'd 2nd yr.	\$0.0	\$50.0	\$0.0		\$0.0

Project Abstract

During FY 00, this project was to develop and optimize a rapid test for detecting paralytic shellfish poisoning (PSP) in shellfish samples from Kodiak Island. Funding in FY 01 will establish a beach-monitoring program for marine biotoxins in partnership with the Kodiak Youth Area Watch (Project /610). The project will also adapt the rapid tests to detect toxic phytoplankton in water samples as an "early warning system" of toxic blooms. The relationship between toxic alga blooms and the contamination of shellfish will be researched. The data generated may identify beach areas that tend to be free of toxins over the year and help target areas for shellfish harvest or even aquaculture production.

Chief Scientist's Recommendation

This proposal addresses an area of serious public health concern, paralytic shellfish poisoning (PSP). There have been a number of deaths on Kodiak Island in recent years attributable to PSP. The Trustee Council's support for this project has favored aspects of the research that directly related to optimizing PSP test kits for the people of Kodiak Island. Recently, other cost-sharing sponsors have been added by the proposer to support a number of related objectives. The latest Detailed Project Description requests support for PSP testing in water, which is not recommended here. Findings in a recently submitted final report for FY 00 (Project 00482) are still being reviewed. Because scientific questions remain about the FY 00 report, including insufficient bivalve samples from Kodiak Island, and the current Detailed Project Description does not reflect recent progress, including which sponsors are supporting the various objectives, funding for this project in FY 01 is not recommended. It may be appropriate to consider a recast proposal in FY 02. Do not fund.

Executive Director's Recommendation

Do not fund. This project was deferred pending evaluation of FY 00 results, which were delayed from their expected due date of September 30, 2000. A report has now been received (December 28) and is under review by the Chief Scientist. Preliminary review suggests that the report is not complete (some results are not due until March 2001) and that the Detailed Project Description (which was submitted in April 2000) is obsolete. Further, there are multiple sub-projects and multiple funding sources for this project, and it is unclear at this point where future Trustee Council funding might fit in. The Council may wish to consider a new proposal in FY 02.

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

DATE: January 10, 2001

RE: GEM

Enclosed you will find a number of items pertaining to development of the Gulf Ecosystem Monitoring and Research Program:

- Revised draft framework for GEM Plan, describing the steps to be taken in developing the draft plan;
- Revised draft outline of the GEM Plan;
- Revised set of figures and tables that will be used to summarize the GEM Plan;
- Scope of work for contracted writing team; and
- Comments received since December meeting on GEM materials, and our responses.

In revising these documents, we have tried to be responsive to the comments received from the Trustee Council, the National Research Council review committee and Trustee agency staff. In some cases, we have made specific changes to the documents. In other cases, we are referring the comments to the member(s) of the writing team responsible for that section of the scientific background for their consideration. In all cases, the documents should be considered works in progress, likely to undergo substantial revision as the process progresses further.

What I am seeking from you at the January 16, 2001 meeting is your concurrence in moving ahead with this conceptual approach. This does not mean that everyone has to agree with every detail. However, I would like some sense from you that we are on the right track.

I will also be giving you at the meeting a draft schedule for completing the draft plan.

If you have any questions, please don't hesitate to contact me before the meeting. I apologize for getting these materials to you late, but I wanted to offer the maximum opportunity for agency staff to respond, given the timing of the review period over the holidays.

Federal Trustees

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

State Trustees

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

DISCUSSION DRAFT

Gulf Ecosystem Monitoring and Research Plan: Framework for Development

The GEM Monitoring and Research Plan starts with the GEM mission and goals (April 2000), derives from our current understanding of the north Gulf of Alaska ecosystem, and is developed by identifying and filling gaps in relevant information. Limited funding requires setting priorities and explaining why activities have been selected. The draft framework identifies the seven steps to be taken, resulting in a final plan.

Step 1.

Describe current scientific information and understanding of how we think system works; e.g., scientific background and conceptual foundation (Figures 1-?).

Step 2.

Select the species that will provide the focus for GEM (Table 1). These "GEM reference species" are selected from prominent species and species groups in the Gulf of Alaska ecosystem based on criteria identified in the GEM program document (April 2000). They provide useful "windows" into the system.

Step 3.

Assess the significance of human and natural factors that may be limiting population abundance for these species in order to prioritize information needs (Table 2). These factors are evaluated on the basis of scientific evidence and/or the conceptual foundation for the northern Gulf of Alaska ecosystem.

Step 4.

Note ongoing monitoring and research efforts in terms of GEM reference species (Table 3).

Step 5.

Identify gaps in high priority information needs (Table 4). Steps 3 & 4 combined provide the "gap analysis" in order to ensure that GEM efforts will complement, but not duplicate, existing efforts.

Step 6.

Sum the contents of the first four steps into recommendations for GEM, in relation to other monitoring and research efforts (Tables 5a and 5b).

Step 7.

Present the proposed GEM Monitoring and Research Plan from a variety of other perspectives, such as geographic region (Prince William Sound, Cook Inlet, Kodiak, Gulf of Alaska), habitat type (e.g., pelagic, watershed, terrestrial), and trophic level (Tables 6-?).

GEM Monitoring and Research Plan

Discussion Draft Outline

January 8, 2001

Table of Contents

Acknowledgements

Foreword: Description of process of developing GEM monitoring & research plan

Executive Summary

Section A. Introduction to and Need for GEM Program

- I. GEM Mission & Goals
- II. Responding to regional needs in resource management
 - a. Human uses (from I.C. – H April 2000; use Table 1, highlight Table 1 species)
 - b. Resource management issues (from I.C. – H April 2000; use Table 1, highlight Table 1 species)
- III. Building on the lessons of the past (re-written and focused IV.A.; use Table 1, highlight Table 1 species)

Section B. Our Scientific Understanding of the Northern Gulf of Alaska— “The State of the Gulf”

IV. Scientific Background

GOA Ecosystem – Section IV. C. in GEM Science Program document, updated and revised to incorporate evidence for GEM reference species (Table 2 “e”)

- a. The Gulf of Alaska (IV. C. 1.)
- b. Determinants of climate (IV. C. 1. e. Climatic Oscillations)
- c. Terrestrial Boundaries IV. (C. 1. a.)
- d. Marine-Terrestrial Linkages (IV. C. 1. c.)
- e. Physical and Geological Oceanography: Coastal Boundaries & Coastal and Ocean Circulation (IV. C. 1. b + d.)
- f. Chemical Oceanography: Marine Nutrients and Fertility (IV. C. 1. f.)
- g. Biological Oceanography: Plankton (IV. C. 1. f. + IV. C. 1. g. Plankton and Productivity)

- h. Nearshore communities: Intertidal and subtidal (IV. C. 1. h. Benthos)
- i. Forage Species (IV. C. 2. a + IV. C. 1. f.)
- j. Seabirds (IV. C. 2. b.)
- k. Fish and Shellfish (IV. C. 2. a)
- l. Marine Mammals (IV. C. 2. c.)

V. Conceptual Foundation plus alternate models, from Watersheds to the Alaska Gyre

(Section IV.D. in GEM Science Program document, updated and revised to include alternate models)

- a. Overview
- b. Terrestrial-marine linkages
- c. Intertidal-subtidal (nearshore)
- d. Alaska coastal current to the continental shelf break
- e. Beyond the continental shelf break

Section C. Draft Monitoring and Research Plan

VI. GEM Reference Species (table 1) and Natural and Human Factors Potentially Influencing Their Abundance (table 2)

- VII. Summary of GAP analysis (tables 3 and 4)
- a. Monitoring elements
 - b. Ecosystem process studies
 - c. Modeling
 - d. Retrospective analysis
 - e. Management tools & technology
 - f. Data management/information transfer

VIII. Draft Plan FY 2003 – FY 2007

- a. Monitoring elements
- b. Ecosystem process studies
- c. Modeling
- d. Retrospective analysis
- e. Management tools & technology
- f. Data management / Information transfer
- g. Tables 6 & ...: Other ways of presenting plan:
 - By geographic region
 - By habitat type (watershed, coastal, pelagic)
 - By trophic level
 - By abundance factors – food, habitat, removals

XI. Literature Cited

X. Guide to Related Monitoring and Research Activities

- a. Acronyms & links for related activities
- b. Glossary of agencies and programs
- c. Summary of related monitoring and research activities
 - 1. Monitoring elements
 - 2. Ecosystem process studies
 - 3. Modeling
 - 4. Retrospective analysis
 - 5. Management tools & technology
 - 6. Data management/information transfer

Figures 1 - ? will describe the current scientific information and understanding of how we think the system works (based on scientific background and conceptual foundation).

ASSESSMENT OF SIGNIFICANCE OF FACTORS THAT MAY LIMIT POPULATION ABUNDANCE

The presently understood significance of alternative factors that may be limiting population abundance (columns) for each of the GEM reference species (rows) is based on a consideration of the published scientific evidence for the species and factor, and/or a concept of how abundance of the species could be limited by the factor. The origin of the rank (L=Low, M=Medium, H=High) in each cell, for either a limiting influence or lack of a limiting influence, is identified as published evidence (e) or conceptual foundation (c). Published evidence includes findings from the Exxon Valdez Oil Spill Restoration Program and the published scientific literature; conceptual foundations are those existing or proposed in GEM. If there is substantial uncertainty about the rank, then a (U) for unknown is used. The ranks are based on the best current understandings of conditions in the GOA, which are expected to change over time according to new evidence and better models of how factors limit abundance.

FACTORS POTENTIALLY INFLUENCING POPULATION ABUNDANCE														
	Food					Habitat		Removals						
	Prey Availability	Food Production			Food Quality	Habitat Availability	Habitat Degradation	Predation	Oil Spill Impacts	Contaminants/ Pollution	Competition	Disease	Resource Exploitation	
		Physical Oceanography	Biological Oceanography	Chemical Oceanography										
Marine Mammals														
Harbor Seals	H (c)	H (c)	H (c)	H (c)	H (e,c)	L (e)	L (e,c)	H (e,c)	L (e)	M (c)	M (c)	L (e)	H (e)	
Sea Otter	L (c)	L (c)	L (c)	L (c)	H (e,c)	L (c)	M (c)	H (e,c)	M (e)	M (e)	L (e)	L (e)	M (e)	
Killer Whale	L (c)	L (c)	L (c)	L (c)	L (c)	L (c)	M (c)	L (e,c)	L	M (e,c)	L (c)	L (c)	L (c)	
Sea Lion	H (c)	H (c)	H (c)	H (c)	H (c)	L (c)	M (c)	H (c)	L (e)	M (e,c)	L (c)	H (e)	L (c)	
Beluga Whale	L (c)	L (c)	L (c)	L (c)	L (c)	L (c)	M (c)	L (e,c)	L	M (e,c)	L (c)	L (c)	M (e,c)	
Seabirds & Seaducks														
Kittiwake	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	M (e,c)	L (e,c)	L (e,c)	L (e)	U	L (e)	L (e)	L (e)	
Murre	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	M (e,c)	L (e,c)	M (e,c)	M (e,c)	L (c)	L (c)	L (c)	L (c)	
Seaducks	U	U	U	U	U	L (c)	H (e,c)	L (c)	M (e)	L (c)	L (c)	L (c)	M (c)	
Fish & Shellfish														
Salmon	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (e,c)	H (e,c)	H (e,c)	L (e,c)	M (e,c)	H (c)	L (e)	H (e,c)	
Herring	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (e,c)	M (e,c)	L (e,c)	M (e,c)	H (e,c)	H (e,c)	
Pollock	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	M (e,c)	
Cod	M (c)	H (e,c)	M (c)	M (c)	M (c)	H (e,c)	H (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	M (e,c)	
Halibut	M (e,c)	M (e,c)	M (e,c)	M (e,c)	H (c)	H (c)	H (c)	H (e,c)	L (e,c)	L (e,c)	M (e,c)	L (e,c)	H (e,c)	
Shrimp	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	M (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	M (e,c)	
Crabs	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	M (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	
Forage Species														
Juvenile Herring	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	L (e,c)	M (e,c)	M (c)	L (c)	H (c)	L (c)	
Capelin	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	U	L (e,c)	U	U	H (c)	L (c)	
Sand Lance	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (c)	H (c)	H (c)	L (e,c)	L (e,c)	L (c)	L (c)	H (c)	L(c)	
Euphausiids	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	L (e,c)	
Communities														
Intertidal	M (e,c)	M (e)	M (e,c)	H (e)	L (c)	H (c)	H (c)	M (e)	H (e)	L (c)	L (c)	L (c)	M (c)	
Subtidal	M (c)	M (c)	M (e)	M (c)	L (c)	H (e)	M (e)	M (e)	M (e)	L (c)	L (c)	L (c)	L (c)	
Plankton														
Phytoplankton	H (e,c)	H (e,c)	H (e,c)	H (e,c)	L (c)	H (e,c)	L (e)	L (e)	L (e)	L (e,c)	M (e)	L (c)	L (c)	
Zooplankton	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	H (e,c)	L (e)	M (e)	M (e)	L (c)	M (e)	L (c)	L (c)	

Draft Definitions (Table 2):

FOOD

Food Production is the amount of biomass that could be used as food. Primary and secondary production are influenced by physical, biological, and chemical factors.

Food Availability is the accessibility of food to the species. Availability depends on distribution and abundance of prey, and species that support prey. It includes all trophic levels, from primary producers (plants) to prey.

Food Quality is species composition in the diet and their nutritional value.

Food Removals is included under competition (see below).

HABITAT

Habitat Availability is the availability of the proper habitat for all phases of the life history of a species.

Habitat Degradation includes human activities that degrade or destroy habitat, such as logging, road building, noise pollution, and other aspects of urbanization, as well as some fishing methods.

REMOVALS

Predation is loss of individuals through foraging by other species.

Oil Spill Impacts are impacts of the 1989 *Exxon Valdez* oil spill.

Contaminants/Pollution is the reduction of a population by contamination effects.

Competition is loss of forage or habitat due to use by other species. It includes man competing with apex predators (for example, fishing).

Disease is pathology leading to population decline.

Resource Exploitation is direct mortality from harvesting or as bycatch (unintentional taking) in fisheries.

DISCUSSION DRAFT (1/10/01) Table 3 DISCUSSION DRAFT (1/10/01)
ONGOING MONITORING OF FACTORS POTENTIALLY LIMITING POPULATION ABUNDANCE: WHO'S DOING WHAT IN THE GOA?

This table briefly summarizes current information in the Trustee Council's GEM database of historical and ongoing projects in the Gulf of Alaska. The reference number (#) refers to the i.d. number in the database. The table is very preliminary. Making sure the table is complete, at least at a broad level, is an essential step in identifying gaps and avoiding duplication of effort. This table does not reflect all monitoring and research efforts ever undertaken for these species in the northern gulf. Our attempt in this table is to highlight the most significant and relevant efforts that are currently ongoing.

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Harbor Seal	<u>NMFS #060</u> (abundance & related information) <u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (stock assessments) <u>USFWS #135</u> (wintering marine bird & mammals; Kodiak) <u>ADF&G #157</u> (ground counts, survival, & reproduction at Tagidak I.)	<u>MMS #118</u> (forage fish abundance, composition, biomass; inventory of capelin, eulachon, herring; Cook Inlet) <u>UAF #206</u> (stable isotope analysis RE nutrient transfer; FY 99-01) <u>NPMR #262</u> (diet of Steller sea lions & harbor seals in Kodiak area)	<u>BRD #147</u> (pelagic seabird atlas)	<u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (annual mortalities of marine mammals in Alaska) <u>NPMR #267</u> (ANHSC biological sampling) FOR ALL SPECIES: <u>MMS #123</u> (pollutant levels down-current of Cook Inlet oil & other development) <u>USGS #152</u> (monitor fresh waters of Cook Inlet Basin; through 9/01) <u>ADFG #194</u> (subsistence harvest information; all species) <u>CIKeeper #238</u> (citizen water quality monitoring; Kenai, Homer, Anchor Point) <u>PWSRCAC #241</u> (hydrocarbon concentrations & sources; PWS)	FOR ALL SPECIES: <u>NWS #004</u> (buoys in GOA collect temperature, pressure, wind, & wave data; 1979 on) <u>NESDIS #007</u> (satellite data on sea temperature for all coastal US waters) <u>GLOBEC #028</u> (satellite data on transport & circulation in NE Pacific; 1985 on) <u>GLOBEC #029</u> (zooplankton, CTD, fluorescence, nutrients, chlorophyll, planktivorous fish; N. Central GOA shelf including Seward & Cape Fairfield lines & PWS Knight I. passage, Montague transect) <u>NASA #031</u> (SeaWIFS satellite data on chlorophyll & phytoplankton; 1997-02) <u>NASA #032</u> (MODIS satellite data on phytoplankton) <u>NASA #036</u> (satellite data on sea surface temperature) <u>NASA #037&040</u> (satellite data on global weather; 1996 on) <u>NESDIS #044</u> (sea surface temperatures, 1986 on) <u>NMFS #086</u> (upwelling indices, including GOA; 1946 on)

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Sea Otter	<u>NMFS #72</u> (MMPA & ESA compliance - incidental sightings and takes) <u>USFWS #131</u> (marine mammal tagging program RE Alaska Native hunt) <u>USFWS #132</u> (coastal areas) <u>USFWS #135</u> (wintering marine bird & mammals; Kodiak) <u>BRD #143</u> (methods for population assessment) <u>BRD #146</u> (genetics studies RE population status & management strategies) <u>NPMR #266</u> (sitings & biological samples; GOA)	<u>USFWS/ASOC #013</u> (diet)	<u>BRD #147</u> (pelagic seabird atlas)	<u>USFWS/ASOC #013</u> (archived samples available for contaminants, disease analysis) <u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (annual mortalities of marine mammals in Alaska) <u>USFWS #131</u> (monitor subsistence harvest) <u>NPMR #266</u> (sitings & biological samples; GOA)	FOR ALL SPECIES, CONT: <u>NWS #095</u> (meteorological observations at 4 GOA stations; 1980 on) <u>NWS #096</u> (buoys at 3 GOA sites measure waves, temperature, pressure, and some wind) <u>OAR #100</u> (GOA shelf data on current & bottom pressure) <u>NSF #117</u> (surveys of upper 1,500 meters of N. Pacific) <u>ADFG #177</u> (water temp. near Near I., Kodiak; 1971 on) <u>UAF #204</u> (GOA coastal flow & sediment data; every other year) <u>UAF #207</u> (GAK 1 temperature/salinity/depth; Resurrection Bay; 1970 on) <u>UNESCO #211</u> (subsurface temperature data using ships of opportunity; locations? 1970 on) <u>UNESCO #212</u> (floating temperature, salinity, velocity profilers; location? should begin 2000) <u>UNWMO #213</u> (oceanic variability) <u>WOCE #216</u> (subsurface floats; measurements? locations? years?) <u>WOCE #217</u> (surface buoys measure surface velocity & some atmospheric pressure) <u>WOCE #219</u> (upper ocean thermal measurements by commercial ships; global)
Killer Whale	<u>NMFS #72</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #078</u> (Pacific Marine Mammal Stock Assessments, not in Alaska waters but of whales that range into Alaska waters)		<u>BRD #147</u> (pelagic seabird atlas)	<u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (annual mortalities of marine mammals in Alaska)	
Sea Lion	<u>NMFS #011</u> (land counts at 151 locations in Aleutians & GOA, 1958 on) <u>NMFS #72</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (AK marine mammal stock assessments) <u>USFWS #135</u> (wintering marine bird & mammal studies; Kodiak) <u>NPMR #261</u> (survival & foraging of juveniles; GOA) <u>NPMR #262</u> (abundance & distribution; Kodiak) <u>NPMR #266</u> (sitings & biological samples; GOA)	<u>NMFS #056</u> (analyzed 1976-91 data RE sea lion abundance/ pollock fishing) <u>MMS #118</u> (forage fish abundance, composition, biomass; inventory of capelin, eulachon, herring; Cook Inlet) <u>NPMR #260</u> (stress hormones in feces; Kodiak, PWS, BS) <u>NPMR #262</u> (use of prey compared to prey availability)	<u>BRD #147</u> (pelagic seabird atlas)	<u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (annual mortalities of marine mammals in Alaska) <u>ADFG #195</u> (contaminant levels using fecal samples; SE AK & western AK) <u>NPMR #266</u> (sitings & biological samples; GOA)	

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Beluga Whale	<u>NMFS #57</u> (annual survey of Cook Inlet belugas) <u>NMFS #072</u> (MMS & ESA compliance; incidental sightings & take) <u>NMFS #077</u> (GOA stock assessments) <u>USGS #243</u> (distribution of seabirds & mammals; GOA)		<u>BRD #147</u> (pelagic seabird atlas)	<u>NMFS #072</u> (MMPA & ESA compliance - incidental sightings and takes) <u>NMFS #077</u> (annual mortalities of marine mammals in Alaska)	ALL SPECIES, CONT: <u>WOCE #220</u> (sea surface salinity on WHP cruises and voluntary ships) <u>WOCE #222</u> (tide gauges) <u>FOC #225</u> (interannual variability of NE Pacific Ocean at Station P & along line P; at least once a year survey is extended north to Alaska coast or south to OR/WA coast) <u>NESDIS #231</u> (radar altimeters measure sea level; 1991 on) <u>ADFG #245</u> (plankton, temperature, salinity; Kitoi Bay) <u>NMFS #245</u> (stationary mooring—currents, temperature salinity; Chiniak Bay, Kodiak) <u>NMFS #247</u> (temperature & Secchi disk; Kodiak, Trident Basin) <u>NMFS #248</u> (temperature; Woman's Bay, Kodiak)
Black-Legged Kittiwake	<u>USFWS #003</u> (statewide plan for monitoring at breeding colonies & on the water) <u>NMFS #072</u> (MMS & ESA compliance; incidental sightings & take) <u>USFWS #136</u> (non-game migratory bird surveys) <u>USGS #227</u> (census, population dynamics & feeding ecology at Middleton Island; kittiwakes, murres, cormorants; 1974 on) MULTIPLE SPECIES OR SPECIES NOT NAMED: <u>MMS #122</u> (species, locations, and years not specified) <u>USFWS #133</u> (10 AMNWR sites; species?; 1970 on) <u>USFWS #135</u> (Kodiak archipelago 1979 on; species? "seaducks, seabirds, marine mammals") <u>USGS #145</u> (arctic breeding shorebirds; CI Inlet, Alaska Peninsula) <u>USFWS #223</u> (multiple species at periodic sites in GOA, some with EVOS \$) <u>USGS #243</u> (distribution of seabirds & mammals; GOA)	<u>MMS #118</u> (forage fish abundance, composition, diet, nutrient quality; Cook Inlet) <u>USGS #127</u> (relationships between biology, behavior & food availability in light of changes in prey population & marine climate) <u>USGS #227</u> (census, population dynamics & feeding ecology at Middleton Island; kittiwakes, murres, cormorants; 1974 on)	<u>USGS #127</u> (relationships between biology, behavior & food availability in light of changes in prey population & marine climate) <u>BRD #142</u> (seabird database - trend data) <u>BRD #147</u> (pelagic seabird atlas) <u>USFWS #223</u> (detect conditions that are expected to result in population trends; GOA) <u>USGS #227</u> (Middleton I.) <u>USFWS #271</u> (database of size & location of all seabird colonies in AK)	<u>MMS #120</u> (Alaskan Frozen Tissue Collection) <u>NMFS #076/BRD #148</u> (Marine Mammal Tissue Archive) <u>ADFG #194</u> (subsistence harvest database) <u>USFWS #223</u> (detect conditions that are expected to result in population trends; GOA) <u>USFWS #272</u> (subsistence harvest records; GOA)	

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Murre	<u>NMFS #072</u> (MMS & ESA compliance; incidental sightings & take) <u>USGS #227</u> (census, population dynamics & feeding ecology at Middleton Island; kittiwakes, murre, cormorants; 1974 on)	<u>MMS #118</u> (forage fish abundance, composition, diet, nutrient quality; Cook Inlet) <u>USFWS #123</u> (food supply in Cook Inlet & GOA) <u>USGS #227</u> (census, population dynamics & feeding ecology at Middleton Island; kittiwakes, murre, cormorants; 1974 on)	<u>BRD #140</u> (seasonal movements & pelagic habitat use) <u>BRD #142</u> (seabird database) <u>BRD #147</u> (pelagic seabird atlas)	<u>USFWS #014&138</u> (collect eggs at AMNWR to test for POPs; 1998 on)	FOR ALL SPECIES, CONT. <u>NPMR #263</u> (dynamics of AK Coastal Current) <u>NPMR #264</u> (temperature, salinity, velocity, nutrients, chlorophyll at 2 moorings on continental shelf S. Seward; see also GLOBEC) <u>NPMR #267</u> (ANHSC biological sampling)
Seaducks	<u>USFWS #135</u> (Kodiak archipelago 1979 on; "seaducks, seabirds, marine mammals")	<u>MMS #118</u> (forage fish abundance, composition, biomass; inventory of capelin, eulachon, herring; Cook Inlet)	<u>BRD #140</u> (seasonal movements & pelagic habitat use) <u>BRD #142</u> (seabird database) <u>BRD #147</u> (pelagic seabird atlas) <u>USFWS #242</u> (characteristics, extent, status of wetlands)		

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Salmon	<p><u>NMFS #020</u> (Ocean Carrying Capacity Program, N. Pacific coast of Alaska, 1995 on)</p> <p><u>NMFS #022</u> (various locations in Alaska)</p> <p><u>GLOBEC #029</u> (zooplankton, CTD, fluorescence, nutrients, chlorophyll, planktivorous fish; N. Central GOA shelf including Seward & Cape Fairfield lines & PWS Knight I. passage, Montague transect)</p> <p><u>NMFS #064</u> (GOA biennial survey; includes subadults)</p> <p><u>USFWS #130</u> (stream counts APNWR; 1994 on)</p> <p><u>ADFG #153</u> (sonar counting of returns to Kenai, Kasilof, Susitna, Crescent rivers in CI and Copper River in PWS)</p> <p><u>ADFG #158&190</u> (weir & tower counts of returning adults; CI, Kodiak, PWS)</p> <p><u>ADFG #159</u> (aerial counts of returning adults & stream walks; PWS, CI)</p> <p><u>ADFG #160</u> (weir counts of outmigrating smolt & fry; Kodiak, NGOA)</p> <p><u>ADFG #161</u> (AWL of returning adults; PWS, CI, Kodiak, NGOA)</p> <p><u>ADFG #191</u> (coded wire tagging; PWS, CI, Kodiak)</p>	<p><u>NMFS #020</u> (Ocean Carrying Capacity Program, N. Pacific coast of Alaska; 1995 on)</p>	<p><u>NMFS #020</u> (Ocean Carrying Capacity Program, N. Pacific coast of Alaska; 1995 on)</p> <p><u>CI Keeper #237</u> (water quality of Anchor R., Stariski Cr., Ninilchik R., Deep Creek)</p> <p><u>CIKeeper #238</u> (supplemental freshwater quality monitoring)</p> <p><u>USFWS #242</u> (characteristics, extent, status of wetlands)</p>	<p><u>USGS #152</u> (presence of contaminants in fish tissues; fresh waters of Cook Inlet basin; through 9/01)</p> <p><u>ADFG #183</u> (Commercial Fish Division, subsistence fish & shellfish harvest; PWS, CI, Kodiak, NGOA)</p> <p><u>ADFG #194</u> (subsistence division harvest database)</p> <p><u>CI Keeper #237</u> (water quality of Anchor R., Stariski Cr., Ninilchik R., Deep Creek)</p> <p><u>ADFG #254/255</u> (commercial & sports fish catch data; PWS, CI, Kodiak, NGOA)</p>	<p><u>CI Keeper #237</u> (water quality of Anchor R., Stariski Cr., Ninilchik R., Deep Creek)</p>
Herring	<p><u>ADFG #169</u> (dive surveys)</p> <p><u>ADFG #170</u> (aerial surveys)</p> <p><u>ADFG #171</u> (catch sampling; 1980 on)</p>				

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Pollock	<u>NMFS #009</u> (winter acoustic & trawl surveys, Shelikof Strait 1981 on) <u>NMFS #064</u> (GOA biennial survey; includes subadults) <u>ADF&G #166</u> (catch sampling of AWL for pollock and cod in PWS & lower Cook Inlet; 1980s on)	<u>NMFS #068</u> (census eggs, oceanographic variables, & predator/prey densities in GOA)		<u>NOS#001&091</u> (Mussel Watch-chemical concentrations in mollusks, fish & sediments;1986 on) <u>NMFS #067</u> (identify & track parasitism in juvenile walleye pollock in N. Pacific)	
Cod	<u>NMFS #064</u> (GOA biennial survey; includes subadults) <u>ADF&G #166</u> (catch sampling of AWL for pollock and cod in PWS & lower Cook Inlet; 1980s on)			<u>NOS#001&091</u> (Mussel Watch-chemical concentrations in mollusks, fish & sediments;1986 on)	
Halibut	<u>NMFS #010&071</u> (biomass of groundfish species, by on-board observers) <u>IPHC #030</u> (statewide, using data from the commercial fishery & scientific surveys; 1974 on) <u>NMFS #064</u> (biomass of groundfish species using bottom trawls; 1984 on)			<u>NOS#001&091</u> (Mussel Watch-chemical concentrations in mollusks, fish & sediments;1986 on)	
Shrimp	<u>NMFS #064</u> (biomass of commercially important invertebrates using bottom trawls; 1984 on) <u>ADFG #178</u> (onboard observers collect data) <u>ADFG #181</u> (trawl surveys)				

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Crab	<u>NMFS #064</u> (biomass of commercially important invertebrates using bottom trawls; 1984 on) <u>ADFG #173</u> (trawl surveys of king & tanner; PWS, lower Cook Inlet, Alaska Peninsula) <u>ADFG #175</u> (dockside sampling for crabs & scallops; statewide) <u>ADFG #178</u> (onboard observers collect data; years?) <u>NMFS #248</u> (Women's Bay)		<u>NMFS #246</u> (hatch timing of Tanner crabs in relation to environmental variables) <u>NMFS #248</u> (dive surveys; Women's Bay)	<u>ADFG #183</u> (subsistence fish & shellfish harvest) <u>ADEC #184</u> (monitor PSP in king, tanner, & dungeness being harvested; PWS, CI, Kodiak)	
Juvenile herring	<u>MMS #118</u> (forage fish abundance, composition, diet, biomass, nutrient quality; Cook Inlet)				
Capelin	<u>NMFS #64</u> (biennial bottom trawl survey) <u>MMS #118</u> (forage fish abundance, composition, diet, biomass, nutrient quality; Cook Inlet) <u>ADFG #181</u> (shrimp trawl surveys; Kodiak, lower CI) <u>BRD #244</u> (abundance at seabird monitoring sites) <u>NPMR #259</u> (remote sensing abundance; CI)	<u>MMS #118</u> (forage fish abundance, composition, diet, biomass, nutrient quality; Cook Inlet)	<u>NOS #029</u> (GLOBEC transects of physical & chemical measures; GAK1 location, continental shelf northern GOA) <u>NMFS #268</u> (Pavlof Bay temperature mooring)	<u>NOS#001&091</u> (Mussel Watch-chemical concentrations in mollusks, fish & sediments;1986 on)	
Sand lance	<u>MMS #118</u> (forage fish abundance, composition, diet, biomass, nutrient quality; Cook Inlet) <u>NPMR #259</u> (remote sensing abundance; CI)	<u>MMS #118</u> (forage fish abundance, composition, diet, biomass, nutrient quality; Cook Inlet)			

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Euphausiids	<u>GLOBEC</u> #029 (zooplankton, CTD, fluorescence, nutrients, chlorophyll, planktivorous fish; N. Central GOA shelf including Seward & Cape Fairfield lines & PWS Knight I. passage, Montague transect)				
Intertidal	<u>MMS</u> #119 (community structure) <u>NOS</u> #251 (Kachemak Bay NERR)			<u>NOS</u> #001&091 (Mussel Watch-chemical concentrations in mollusks & sediments;1986 on) <u>ADEC</u> #236 (water quality & marine toxin sampling at several listed beaches) <u>PWSRCAC</u> #241 (hydrocarbons in mussels & sediments at 9 sites)	
Subtidal	<u>USGS</u> #152 (fish, benthic invertebrates, & algae in streams of Cook Inlet basin; from through 9/01) <u>Alyeska</u> #253 (benthic invertebrates & sediments; PWS, Valdez Arm)			<u>PWSRCAC</u> #241 (hydrocarbons in mussels & sediments at 9 sites) <u>Alyeska</u> #253 (benthic invertebrates & sediments; PWS, Valdez Arm)	

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Phytoplankton	<p><u>GLOBEC #029</u> (zooplankton, CTD, fluorescence, nutrients, chlorophyll, planktivorous fish; N. Central GOA shelf including Seward & Cape Fairfield lines & PWS Knight I. passage, Montague transect)</p> <p><u>NASA #031</u> (SeaWIFS satellite data; 1997-02)</p> <p><u>NASA #032</u> (MODIS satellite data)</p> <p><u>DFO #228</u> (relative abundance of phytoplankton & zooplankton & habitat parameters; GOA)</p> <p><u>ADEG #235</u> (plankton, salinity, temperature at Kitoi Bay, Kodiak; 1990 on)</p> <p><u>NPMR #257/DFO #229</u> (qualitative data on phytoplankton species composition; GOA, PWS)</p>				
Zooplankton	<p><u>GLOBEC #029</u> (zooplankton, CTD, fluorescence, nutrients, chlorophyll, planktivorous fish; N. Central GOA shelf including Seward & Cape Fairfield lines & PWS Knight I. passage, Montague transect)</p> <p><u>DFO #228</u> (relative abundance of phytoplankton & zooplankton & habitat parameters; GOA)</p> <p><u>ADEG #235</u> (plankton, salinity, temperature at Kitoi Bay, Kodiak; 1990 on)</p> <p><u>NPMR #257</u> (relative abundance of zooplankton; PWS, GOA)</p>		<u>GLOBEC #029</u> (habitat characteristics of zooplankton; PWS, GOA)		

DISCUSSION DRAFT ONLY (1/10/01)

Table 4

DISCUSSION DRAFT ONLY (1/10/01)

GAPS: FACTORS IN TABLE 2 THAT CURRENTLY ARE NOT BEING SUFFICIENTLY ADDRESSED IN GOA

NOTE: THESE ARE EXAMPLES ONLY

This table completes the gap analysis process begun in Table 3 by identifying those areas of monitoring and research that are important and are not currently being addressed.

Species	Population Abundance	Food Quality	Habitat	Removals	Food Production
Harbor Seal			Coastal oceanography measurements for understanding sea lion & harbor seal feeding areas adjacent to haulouts	Tissue archival network for contaminants analysis	
Kittiwake & Murre				Tissue archival network for contaminants analysis	Real-time coastal oceanography measurements for understanding prey distribution & availability
Capelin			Real-time coastal oceanography measurements for understanding capelin distribution & availability to predators	Tissue archival network for contaminants analysis	
Salmon			Add marine nitrogen measurements to existing water quality surveys	Tissue archival network for contaminants analysis	Develop methods for measuring early marine survival in nearshore environments
and so on for all GEM reference species...					

PROPOSED GOA MONITORING STRATEGIES, FIRST 3-5 YEARS

NOTE: THESE ARE EXAMPLES ONLY

Items in **bold** would be funded by GEM. "L-M-H" refers to Table 2, which identifies factors that may limit population abundance. Note that, in most instances, a strategy proposed to fill a major gap for one factor also provides information related to other factors.

SPECIES	MONITORING AREAS			
	Prince William Sound	Cook Inlet	Kodiak Archipelago	Gulf of Alaska
Harbor Seal				
- Pop. abundance	ADFG/NMFS surveys	NMFS MMPA & ESA compliance	ADFG/NMFS/NPMR surveys	NMFS MMPA & ESA compliance
- Food production (H)	ADFG/NMFS/USFWS compliance monitoring (ESA, MMPA); coastal observation network, including trawl surveys, community monitoring sites, & moorings	ADFG/NMFS/USFWS compliance monitoring (ESA, MMPA); coastal observation network, including trawl surveys, community monitoring sites, & moorings	ADFG/NMFS/USFWS compliance monitoring (ESA/MMPA); coastal observation network, including trawl surveys, community monitoring sites, & moorings	ADFG/NMFS/USFWS compliance monitoring (ESA, MMPA); coastal observation network, including trawl surveys, community monitoring sites, & moorings
- Food quality (H)	Coastal observation network, including trawl surveys, community monitoring sites, & moorings	Coastal observation network, including trawl surveys, community monitoring sites, & moorings	Coastal observation network, including trawl surveys, community monitoring sites, & moorings	Coastal observation network, including trawl surveys, community monitoring sites, & moorings
- Removals (LMH)	ADFG/ANHSC/NMFS subsistence harvest and predation; tissue archival network for contaminants analysis	ADFG/ANHSC/NMFS subsistence harvest and predation; tissue archival network for contaminants analysis	ADFG/ANHSC/NMFS subsistence harvest and predation; tissue archival network for contaminants analysis	ADFG/ANHSC/NMFS subsistence harvest and predation; tissue archival network for contaminants analysis
- Habitat (L)	NMFS MMPA & ESA compliance; coastal observation network, including trawl surveys, community monitoring sites, & moorings	NMFS MMPA & ESA compliance; coastal observation network, including trawl surveys, community monitoring sites, & moorings	NMFS MMPA & ESA compliance; coastal observation network, including trawl surveys, community monitoring sites, & moorings	NMFS MMPA & ESA compliance; coastal observation network, including trawl surveys, community monitoring sites, & moorings

SPECIES	MONITORING AREAS			
	Prince William Sound	Cook Inlet	Kodiak Archipelago	Gulf of Alaska
Kittiwake-Murre - Pop. abundance - Food production (H) - Food quality (H) - Habitat (LM) - Removals (LM)	USFWS/USGS surveys NOAA/NASA/NSF; coastal observation network measures food production Coastal observation network measures forage species distribution in relation to seabirds USFWS/USGS surveys Tissue archival network for contaminants analysis	USFWS/USGS surveys NOAA/NASA/NSF; coastal observation network measures food production Coastal observation network measures forage species distribution in relation to seabirds USFWS/USGS surveys Tissue archival network for contaminants analysis	USFWS/USGS surveys NOAA/NASA/NSF; coastal observation network measures food production Coastal observation network measures forage species distribution in relation to seabirds USFWS/USGS surveys Tissue archival network for contaminants analysis	USFWS/USGS surveys NOAA/NASA/NSF; coastal observation network measures food production Coastal observation network measures forage species distribution in relation to seabirds USFWS/USGS surveys Tissue archival network for contaminants analysis
Capelin - Pop. abundance - Food production (H) - Food quality (H) - Habitat (H) - Removals (LHU)	ADFG/MMS/NPMR/BRD/NMFS surveys; coastal observation network measures forage species NOAA/NASA/NSF Coastal observation network measures plankton Coastal observation network measures habitat parameters Tissue archival network for contaminants analysis	ADFG/MMS/NPMR/BRD/NMFS surveys; coastal observation network measures forage species NOAA/NASA/NSF Coastal observation network measures plankton Coastal observation network measures habitat parameters Tissue archival network for contaminants analysis	ADFG/MMS/NPMR/BRD/NMFS surveys; coastal observation network measures forage species NOAA/NASA/NSF Coastal observation network measures plankton Coastal observation network measures habitat parameters Tissue archival network for contaminants analysis	ADFG/MMS/NPMR/BRD/NMFS surveys; coastal observation network measures forage species NOAA/NASA/NSF Coastal observation network measures plankton Coastal observation network measures habitat parameters ADFG/NMFS incidental harvest, no directed harvest; tissue archival network for contaminants analysis

SPECIES	MONITORING AREAS			
	Prince William Sound	Cook Inlet	Kodiak Archipelago	Gulf of Alaska
Salmon	ADFG/NMFS/GLOBEC/USFWS	ADFG/NMFS/GLOBEC/USFWS	ADFG/NMFS/GLOBEC/USFWS	ADFG/NMFS/GLOBEC/USFWS
- Pop. abundance				
- Food production (H)	Coastal observation network measures food; use of biomarkers and develop models of early marine survival in PWS only; extend to other areas later	Coastal observation network measures food	Coastal observation network measures food	Coastal observation network measures food
- Food quality (H)	OSRI	NOS	MMS	NMFS OCC
- Habitat (H)	ADFG/ADEC/USGS/EPA; coastal observation network measures habitat; add marine nitrogen to existing water quality surveys in watersheds	ADFG/ADEC/USGS/EPA; coastal observation network measures habitat; add marine nitrogen to existing water quality surveys in watersheds	ADFG/ADEC/USGS/EPA; coastal observation network measures habitat; add marine nitrogen to existing water quality surveys in watersheds	ADFG/ADEC/USGS/EPA; coastal observation network measures habitat
- Removals (LMH)	ADFG/NMFS/USFWS; tissue archival network for contaminants analysis	ADFG/NMFS/USFWS; tissue archival network for contaminants analysis	ADFG/NMFS/USFWS; tissue archival network for contaminants analysis	ADFG/NMFS/USFWS; tissue archival network for contaminants analysis
and so on for all GEM reference species...				

DISCUSSION DRAFT ONLY (1/10/01)

Table 5b

DISCUSSION DRAFT ONLY (1/10/01)

PROPOSED GEM RESEARCH/SYNTHESIS STRATEGIES, FIRST 3-5 YEARS

NOTE: THESE ARE EXAMPLES ONLY

SPECIES	RESEARCH				DATA MANAGEMENT	SYNTHESIS & COMMUNICATION
	Ecosystem Process Studies	Retrospective Analysis	Modeling	Management, Tools & Technology		
Harbor Seal	Origin of food		Support development of models to help organize and understand information collected by GEM & related programs, such as herring overwinter bioenergetics survival, juvenile salmon survival in relation to food & predators, hydrology & circulation in NGOA.	Help extend PWS methods to NGOA	Deliver information suitable to user-defined needs, provide links to existing databases	Solicit synthesis based on user-defined needs, track for use in State of Gulf Index
Kittiwake & Murre	Links between birds & prey & common controlling factors				Deliver information suitable to user-defined needs, provide links to existing databases	Solicit synthesis based on user-defined needs, track for use in State of Gulf Index
Capelin	Origin of food				Deliver information suitable to user-defined needs, provide links to existing databases	Solicit synthesis based on user-defined needs, track for use in State of Gulf Index
Salmon	Early marine survival, fate of marine nitrogen in freshwater			Methods for measuring early marine survival in nearshore environments	Deliver information suitable to user-defined needs, provide links to existing databases	Solicit synthesis based on user-defined needs, track for use in State of Gulf Index
and so on for all GEM reference species...						

Tables 6 and on will present the proposed GEM Monitoring and Research Plan from a variety of other perspectives, such as geographic region (Prince William Sound, Cook Inlet, Kodiak, Gulf of Alaska), habitat type (e.g., pelagic, watershed, terrestrial), and trophic level.

**FIXED PRICE CONTRACT
GULF ECOSYSTEM MONITORING PROGRAM (GEM)**

This Fixed Price Contract will be between Applied Marine Sciences, Inc. (AMS) and Dr. Lloyd Lowry. This contract provides a special Statement of Work to be executed as described below for the fixed price indicated.

Special Statement of Work

Dr. Lowry will assist the Executive Director, Chief Scientist and Science Coordinator of the Exxon Valdez Oil Spill Trustee Council and other writing team members to help revise the draft Gulf Ecosystem Monitoring program (GEM) Research and Monitoring Plan. This assistance will take the form of specific tasks as described in the Scope of Work below.

Scope of Work

Participate in teleconference in January 2001 to discuss the goals and objectives as a writing team member and reviewer for the GEM Monitoring Plan.

Preliminary drafts due February 28, 2001

1. Revise GEM Scientific Background, specifically Section IV.C.2.c Marine Mammals in accordance with the enclosed outline (attachment A). Also, review and comment on related sections (i.e., Introduction) as appropriate. This will be used, together with a revised conceptual foundation, to form the basis for developing a draft GEM Monitoring and Research Plan (revised outline of M&R Plan, attachment B, will arrive under separate cover).

The following tasks will be performed as required by March 30, 2001:

2. Review, provide potential revisions, and comments
 - a. Selection of GEM Species - (Table 1)
 - b. Conceptual Model(s)
 - c. Population Control Factors - (Table 2)
 - d. Gap Analysis-(Table 3) - *[available end of January]*
 - e. Final GEM Plan Strategy - (Tables 4 & 5 are discussion drafts only)
3. You will be provided the following materials by the EVOS office on diskette:
 - a. Copy of section IV.C. with literature Cites for the April 2000 version
 - b. Comments received in the past year (individually, or at regional focus groups or annual workshop) that may be pertinent to your section (a few were simply xeroxed).
 - c. Bibliography of recent literature citations of interest.

- d. A copy of the April 2000 GEM Science Program document.
- 4. Attend possible Workshop/Meeting in March 2001

Dr. Lowry will provide this assistance for a firm, fixed-price of \$9,000. AMS will reimburse travel expenses, lodging (maximum of \$95 per night), and meals and incidental expenses (maximum of \$42 per day).

ACCEPTED:

Dr. Lloyd Lowry

Applied Marine Sciences, Inc.

Signature: _____

Signature: _____

Date: _____

Date: _____

Synopsis of Revised Scientific Background Section

<u>Outline</u>	<u>Notes</u>
<p><i>General characteristics for each group of species (eg. Sea birds , marine mammals)</i></p> <ul style="list-style-type: none"> a) Range b) Population structures (if general pattern is known) c) Habitat use d) Aggregations e) Foraging & trophic position <ul style="list-style-type: none"> 1. Diet composition 2. Food quality f) Predators g) Any general population trends <p><i>II. Topic outline for individual species and groups of species (Table 2.) Use any existing authoritative literature reviews as building blocks. Also, put as much of the information into summary tables or figures as possible. Address Table 2 "e" in its entirety by end of this section.</i></p> <ul style="list-style-type: none"> a) A narrative describing the ecology of the species, including the following elements: <ul style="list-style-type: none"> 1. Geographical range relative to GOA 2. Habitat use & movements/ migrations 3. Special adaptations/ behavior 	<ul style="list-style-type: none"> I. Keep the introductory section as short as possible. Identify major synthesis references. II. <ul style="list-style-type: none"> a) All (bold) species in Table 1 to be addressed in this section, but not by the same author. Species groups may need to take some short cuts. Work to keep text short. b) Address Table 3 activities – how do we know what we know, who studies this. Address one major

b) Life history & life cycle in relation to GOA

1. Breeding – Where? When?
2. Parturition/ incubation/ birth/ hatching
3. Larval/ juvenile stages
 - a) Growth
 - b) Food, habitat, removals
4. Sub-adult stages – Where? When?
 - a) Food, habitat, removals
5. Adults – Where? When?
 - a) Food, habitat, removals

c) Population status & trends

1. Historical trends
2. History of exploitation
3. Effects from or correlation with climate, physical oceanography
4. Population structures (metapopulation?)
5. Existing population model(s)

d) How managed

1. Who has management responsibility?
2. What is the management responsibility?
3. How is species managed?
4. Special problems and issues

information gap in each section (Table 4.) Checklist:

1. Monitoring
2. Ecosystem process studies
3. Modeling
4. Retrospective analysis & synthesis
5. Management tools & technology
6. Databases, web sites

- c) What is the source of information (Table 3) and how solid is the information (Table 4.) See II b) checklist

- d) What statutes require management & monitoring (Table 3) such as MMPA, ESA, treaties. What information is required by statute.

- Operational: References in Pro Cite bibliographic soft ware or compatible format. Document including all tables & figures must be developed in a format that is compatible with Word. Figures in jpg format preferred.

DRAFT
January 8, 2001

Ms. Molly McCammon
Executive Director
Exxon Valdez Oil Spill Trustee Council
Restoration Office
645 G. Street, Suite 401
Anchorage, Alaska 99501-3451

Dear Molly:

This responds to your request dated December 15, 2000 for our review of the five Gulf Ecosystem Monitoring (GEM) tables.

At the GEM workshop on October 12-13 the GEM conceptual model was discussed and many changes were suggested. Therefore, we anticipated that the conceptual model would change or that alternative models would be included in the next draft proposal. Since the new draft proposal has not yet been completed, we do not know if the conceptual model has changed, therefore it is difficult to comment on the contents of Tables 1-5 at this time. We will, however, comment on the general approach taken by using the tables and on the general structure of the tables.

You listed six steps to complete a final plan from the GEM reference species. Our comments have been arranged to respond to these six steps and to your general approach.

Comments on the Six Steps

Step 1.

Select the species that will provide the focus for GEM (Table 1). These "GEM reference species" are selected from prominent species and species groups in the Gulf of Alaska ecosystem based on criteria identified in the GEM program document (April 2000).

To select the species we must know the objectives of GEM and the conceptual model(s) driving GEM. Until the model and the objectives have been revised we cannot decide what species should be involved.

THE OUTLINE OF THE DRAFT PLAN INDICATES THAT THE FIRST SECTION IS A DESCRIPTION OF OUR CURRENT UNDERSTANDING OF THE NORTH GULF OF ALASKA ECOSYSTEM, BASED UPON SCIENTIFIC EVIDENCE AND THE CONCEPTUAL FOUNDATION. THIS IS CURRENTLY UNDER REVISION TO REFLECT COMMENTS WE'VE RECEIVED IN THE PAST 6 MONTHS, ESPECIALLY

THOSE ASKING US TO MORE CLEARLY DESCRIBE THE EFFECTS OF REMOVALS AND HABITAT ON PRODUCTION AND ABUNDANCE. THE DRAFT FRAMEWORK WILL BE REVISED TO CLEARLY INDICATE THAT THIS IS STEP ONE IN THE PROCESS. IT WILL BE DESCRIBED VISUALLY IN A SET OF FIGURES THAT ARE BEING DEVELOPED.

IT ALSO NEEDS TO BE EMPHASIZED THAT THE GEM REFERENCE SPECIES – BY THEMSELVES ALONE – ARE NOT THE PRIMARY FOCUS OF THE GEM PROGRAM. RATHER, GEM ACTIVITIES SHOULD HELP US UNDERSTAND WHAT IS HAPPENING WITHIN THE ECOSYSTEM, AS EXPLAINED THROUGH THESE SPECIES. THESE ARE TO BE VIEWED AS REPRESENTATIVE SPECIES THAT ARE SOCIALLY, CULTURALLY AND ECOLOGICALLY IMPORTANT. LIMITING THESE IS SOMEWHAT ARBITRARY, BUT MUST BE DONE IN ORDER TO HAVE A MANAGEABLE PROGRAM. TO ACHIEVE THE GEM MISSION AND GOALS, THE GEM ACTIVITIES MUST LEAD TO GREATER UNDERSTANDING AND IMPROVED MANAGEMENT OF THESE SPECIES. IT DOES NOT MEAN THAT THE PROGRAM WILL BE DEVOTED TO COUNTING THESE SPECIES.

Step 2.

Assess the significance of human and natural factors that may influence population abundance for these species in order to prioritize information needs (Table 2). These factors are evaluated on the basis of scientific evidence and/or the conceptual foundation for the northern Gulf of Alaska ecosystem.

This table attempts to capture a very complex array of factors that influence populations of several species. It is not clear if the oceanography titles are subheadings under food; if so, they need to be more clearly labeled. The heading "FOOD", includes Food Production and Food Quality, but food removal is not listed even though it could be as important as food production and food quality. Under "REMOVALS" there are several factors that apply equally to food and to the reference species. In present form, the table does not make it clear whether food removals are considered and it is not clear what removals refer to. This lack of clarity makes it difficult to assign ranks to the factors. For example, if predation by pollock on herring caused herring to decline, which then caused kittiwakes and murrelets to decline, the current table it cannot show this. We suggest adding another category of Food Removals and listing the factors again. This may make the table more burdensome, but in its present form it does not clearly address important factors that can cause population changes in the reference species.

IT IS PROBABLY NOT POSSIBLE TO COMPLETELY AND ACCURATELY PORTRAY ALL ECOSYSTEM PROCESSES IN A VERY SIMPLE, TWO-DIMENSIONAL TABLE. WE HAVE A REVISED VERSION THAT HOPEFULLY IS BETTER, BUT WE ANTICIPATE THIS NEEDING FURTHER REVISION AS WE GO THROUGH THE PROCESS. ALSO, DEFINITIONS OF ALL THE HEADINGS ATTACHED TO THE TABLE NEED TO BE REVIEWED.

Step 3.

Note ongoing monitoring and research efforts in terms of GEM reference species (Table 3).

The duration and spatial extent of each project needs to be clearly identified. Are these monitoring projects that may continue for the next 100 years or are they of shorter duration? A gap analyses cannot be completed without this information. At what point in the process of the GEM plan development are the spatial and temporal scales of existing effort and future needs going to be identified? Table 3 does not sufficiently identify the spatial and temporal extent of the projects, which will also be needed to complete a gap analysis.

TABLE 3 IS A SIMPLE SUMMARY OF MORE DETAILED INFORMATION IN A DATABASE. THAT INFORMATION WILL BE INCLUDED, IF KNOWN, FOR EACH DETAILED PROJECT AND PROGRAM RECORD. WE WILL BE LOOKING AT REVISING TABLE 3 TO BETTER CAPTURE SUMMARY INFORMATION.

Step 4.

Identify gaps in high priority information needs (Table 4). Steps 3 & 4 combined provide the "gap analysis" in order to ensure that GEM efforts will complement, but not duplicate, existing efforts.

See comments under Step 3.

Gaps cannot be identified until one knows what it is that needs to be accomplished, including the spatial and temporal scales of interest.

AGREE THAT ADDITIONAL INFORMATION NEEDS TO BE GATHERED ON CURRENT EFFORTS. DETAIL ON SPATIAL AND TEMPORAL SCALES OR FUTURE GEM EFFORTS WOULD BE ADDRESSED IN THE IMPLEMENTATION PHASE OF THE GEM PLAN. WE ARE NOT AT THAT STAGE YET.

Step 5.

Sum the contents of the first four steps into recommendations for GEM, in relation to other monitoring and research efforts (Tables 5a and 5b).

See comments under Step 3 and Step 4.

SEE ABOVE.

Step 6.

Present the proposed GEM Monitoring and Research Plan from a variety of other perspectives, such as geographic region (Prince William Sound, Cook Inlet, Kodiak, Gulf of Alaska), habitat type (e.g., pelagic, watershed, terrestrial), and trophic level.

This approach could help with the spatial and temporal scale issue that we raised above, but the scales would need to be specifically addressed and incorporated into Steps 3, 4, and 5.

Comment on the General Approach

There is the potential that this approach will be useful to understand GEM, however as you know, these tables are not yet complete or clear. The test of whether this approach works is whether the tables are understandable and adequately address the concerns when they are complete. That question cannot be answered yet.

These tables cannot be completed adequately until the objectives and conceptual model are stated to address the temporal and spatial scales for data to be collected and better clarify the questions to be answered.

THE TABLES ARE INTENDED TO VISUALLY SUMMARIZE INFORMATION THAT WILL BE INCLUDED IN THE NARRATIVE OF THE DRAFT PLAN.

Lastly, we would also like to know how the GEM plan will address lingering oil and its continuing effects. Several papers have been published recently showing long-term effects on marine birds and sea otters. How will we know when these species recover?

THE TRUSTEE COUNCIL HAS ADOPTED RECOVERY OBJECTIVES FOR EVOS INJURED SPECIES. PROGRESS ON ACHIEVING THOSE WAS LAST REVIEWED IN FEBRUARY, 1999, AND WILL BE REVIEWED AGAIN IN 2002. NON-RECOVERED SPECIES HAVE BEEN ADDED TO TABLE 1.

Thank you for the opportunity to comment on the GEM program.

Sincerely,

David Irons

cc: Marilyn Heiman
William Seitz

REVIEW COMMENTS FROM JIM BODKIN, January 7, 2001

1) Table 1. It is not at all clear how criteria were assigned to species or groups and I am sure that most if not all the assignments (or not) are arguable. For example, if grey whales are important to humans and rely almost exclusively on euphausiids, are then euphausiids also important to humans? or why are most marine mammals ecologically important but not grey whales or dolphins, and what dolphin species are being referred to? Why are some groups bolded? What is the distinction between fish & shellfish and forage species? Why the generic crab, shrimp, and rockfish that include hundreds of species and then a few specific fish bird and mammal species? Suggest deleting identifying criteria for each group and simply say they were selected for these 6 reason, not all of which may apply to each group equally.

AGREE. CRITERIA ENUMERATION HAVE BEEN DELETED. A NARRATIVE IN THE PLAN WILL EXPLAIN WHY THESE PARTICULAR SPECIES WERE CHOSEN.

Why are species or groups identified for each category yet inter-tidal and subtidal communities have no listings?

Suggest (algae or kelps, seagrasses (Alaria, fucus, zostera), mussels (mytilus), clams (protothaca, saxidomus), snails and limpets, sea stars, urchins, crabs, fishes, seabirds, shorebirds, sea ducks, marine mammals (listed under appropriate categories)

Suggest that the groupings be taxonomically consistent e.g. species, or classes with examples of species.

THE IDEA BEHIND THE TABLES IS TO USE THEM AS A SIMPLE, VISUAL TOOL. JUST AS WE DON'T LIST ALL THE INTERTIDAL/SUBTIDAL SPECIES ON THE EVOS INJURED SPECIES LIST, IT IS EASIER TO LIST THEM AS COMMUNITIES IN THIS TABLE.

Should shorebirds be included?

WE ARE CONSIDERING ADDING BLACK OYSTERCATCHER.

2) Table 2. How were assignments of factors made? Again, there would seem to be a great deal of arbitrary decision making that took place to make this table and I would bet that exception could be made to most of the assignments. A reasonable argument can be made that for most species or groups there is simply not enough known to make such generalizations. Further, there are likely critical levels or thresholds for each of the factors that likely vary with species density.

In some cases the factors are not well connected to the species or group (e.g. is food production or quality important to inter-tidal or sub-tidal communities) and in others they are simply wrong (e.g. competition and predation are both very important in structuring some marine communities). I would suspect that our ability to accurately complete such a table is severely limited by basic knowledge.

Suggest basically removing all assignments and simply list those factors which could potentially limit species abundances.

WE NEED TO KEEP THE CONTENTS OF EACH CELL AS A GUIDE TO THE WRITING TEAM. WRITERS HAVE BEEN ASKED TO VERIFY THE SCIENCE BEHIND EACH CELL, AND THE TABLE WILL BE CHANGED ACCORDINGLY. THE INFORMATION SUMMARIZED IN THE TABLE WILL BE FURTHER DEVELOPED, WITH LITERATURE CITES, IN THE NARRATIVE OF THE PLAN. IN ADDITION, WE ARE CLARIFYING THAT WHAT IS BEING EMPHASIZED ARE NOT THOSE FACTORS THAT MAY INFLUENCE POPULATION ABUNDANCE, BUT RATHER, THOSE FACTORS THOUGHT TO LIMIT (OR CONTROL) ABUNDANCE.

Table 3. This is an essential component and as such must be accurate in reflecting what has, is, and will be done. It should also describe methods. For example under food quality (sea otters) the listed work is a collection of a small sample of stomachs of harvested animals. There is no analysis of these samples underway. How does the tagging of shot sea otters, incidental sightings or genetic study result in information on population abundance? Similar questions arise under the habitat and removals categories for sea otters, the species I most understand. I assume other experts would find similar questions for the other species or groups.

THIS TABLE IS A WORK IN PROGRESS AND WE WILL USE YOUR COMMENTS TO IMPROVE ITS ACCURACY. WE WELCOME YOUR ADVICE ON WHERE EXISTING PROJECTS BEST FIT INTO THE TABLE. THERE MAY BE BETTER WAYS TO PRESENT THIS DATA, AND WE'LL BE EXPLORING THOSE IN THE NEXT TWO MONTHS.

If tables 2 and 3 can be completed accurately then tables 4 and 5 could follow, but not until. Unless tables 2 and 3 are accurate and complete tables 4 and 5 will likely be misleading.

AGREE.

From: See, Marianne [Marianne_See@envircon.state.ak.us]
Sent: Monday, January 08, 2001 5:43 PM
To: 'Molly McCammon'
Cc: Brown, Michele
Subject: Comments on GEM draft tables

Re: GEM review comments on draft tables, due Jan. 8

The one comment at this time is about the GOA monitoring strategies table. We strongly support the contaminants analysis category for each species (under removals). However, it's not entirely clear what the scope would be of the "tissue archival network for contaminants analysis". We presume that the term "network" is sufficiently broad to include surveys and analyses as well as the archival support for samples.

YOU ARE REFERRING TO TABLE 5a, GEM MONITORING STRATEGIES. THE PROJECTS IN THIS TABLE ARE EXAMPLES ONLY AT THIS POINT. ACTUAL PROPOSED ACTIVITIES WILL BE DEVELOPED FURTHER ALONG IN THE PROCESS.

Tom Dean Review Comments for GEM Framework, Jan. 2001

I have looked over the new GEM plan. It is not clear to me how this processs will proceed, but it looks as if they are on the right track in terms of a planning process. Clearly the tables are the meat of the plan, but these are not yet fully developed, and comment on them seems premature. As a result, I don't have any substantive comments at this time.

I am a little confused about table 6 (which at the moment does not exist as far as I can tell). Is Molly suggesting doing this as an additional table? If so, I guess it would be good to do it from several different perspectives. I think the most divergent ones would be species and processes (food, habitat, removals I guess). My guess is that these will ultimately lead to the same point and that the choice of how it is presented will be a matter of which is easier to understand and how the Trustees want it to be perceived. Doing the table both ways could lead to some fundamental differences in approach, but I doubt it.

TABLES 6 - ? WILL BE DEVELOPED AFTER WE HAVE A DRAFT PLAN. THESE WILL BE A SERIES OF TABLES LOOKING AT THE SAME PLAN FROM DIFFERENT PERSPECTIVES.

I would be glad to look over the table on intertidal/subtidal resources. (*for Table 3*) You may want to consider adding a column here that indicates how long the project is funded for and what the liklihood of continued funding is. At some point, it may also be interesting to trace the history of one or several of these programs. While several have been in existence for some time, their focus and level of effort has changed dramatically in some cases, and for the most part do not provide a continuous long term data set that is useful for long term monitoring. For example in the PWS RCAC 'mussel watch' there are only a handful of stations that have been monitored continuously over the past 5 or so years. This wouldn't be that hard to pull together.

WE WILL FORWARD THIS SUGGESTION TO THE KEEPER OF THE DATABASE.

From: Bob Small [mailto:bob_small@fishgame.state.ak.us]
Sent: Monday, January 08, 2001 3:38 PM
To: Sandra Schubert
Cc: claudia_slater@fishgame.state.ak.us
Subject: Re: GEM comments due Jan. 8

Hi Sandra ...

Below are a few comments regarding the latest draft GEM document. Unfortunately, I was not able to make a thorough review due to the Steller sea lion 'crisis' of late. Overall, I think the GAP process outlined in the new GEM document is an improvement, though I don't understand how it will be fully integrated with the conceptual model.

Specific comments on the tables:

Table 1: Under marine mammals, "Dolphin" is listed ... which species? White-sided? Porpoise?

DOLPHINS HAVE BEEN DELETED FROM TABLE 1 BECAUSE THEY ARE NOT PROPOSED AS GEM REFERENCE SPECIES. EVOS INJURED AND NON-RECOVERED SPECIES ADDED.

Table 2: FOOD - How can the availability, distribution, and abundance of prey not be considered to influence population abundance @ HIGH for all the marine mammal species? REMOVALS - There is published information that disease has the potential to impact seal population abundance @ HIGH levels. There is also published information on HIGH rates of incidental take (Resource Exploitation) of sea lions by commercial fisheries, and I would consider the recent sharp decline of belugas by subsistence mortality (Resource Exploitation) to be HIGH.

WE WILL PASS THESE COMMENTS ON TO THE MARINE MAMMAL MEMBER OF THE WRITING TEAM. ANY LITERATURE CITES WOULD BE HELPFUL.

Table 3: In my feedback to the first draft of these tables last fall, I provided the following information regarding project #157:

"The ADF&G is doing a fair bit more than population trend surveys; I know I sent Stan Senner our annual reports in the past, and will send your office our new annual report when it's completed in a month or two. For now, know that we are also looking at diet, condition, and survival and reproduction (Tugidak photo-ID). A research plan has recently been completed that your office may find of interest, as it outlines all the research being conducted by both NMFS and ADF&G in Alaska on harbor seals. This research plan will be updated annually - for a copy contact Kaja Brix at the NMFS Regional office in Juneau (586-7824; Kaja.Brix@noaa.gov)."

So, I'm not sure what other information on #157 you obtained to end up with what is presented for harbor seals under Population Abundance. #157 does not examine diet, condition, survival,

and reproduction in PWS, SE, and Kodiak. Currently, there is no research planned for PWS. The survival and reproduction research is based on the Tugidak Island photo-ID study; no other survival or reproduction work is being conducted. The condition work by Kathy Frost in PWS was continued last year, but is not funded for this year. Scat is being collected in Kodiak, and some stomachs in PWS through the subsistence hunt. Finally, the statewide aerial abundance surveys are not conducted under #157, but #060.

ADF&G also has a sea lion study that should be included in Table 3 under Population Abundance; I suggest you contact Dr. Lorrie Rea for details (267-2291; lorrie_rea@fishgame.state.ak.us)

WE'VE GIVEN THE ABOVE INFORMATION TO THE KEEPER OF OUR DATABASE.

Table 4 and 5a: I would argue that a major GAP exists in monitoring the food quality for harbor seals, and that the link between food availability/quality and that consumed by seals, and their subsequent condition is a key link or process to be monitored. Table 5a mentions "coastal observation network, including trawl surveys, community monitoring sites, & moorings" for food quality ... but I don't understand what this may or may not include.

WE'RE STILL SUMMARIZING WHAT IS CURRENTLY BEING DONE, BEFORE IDENTIFYING MAJOR GAPS FOR TABLE 4. THE ACTIVITIES LISTED IN TABLE 5A ARE EXAMPLES ONLY. THEY MAY OR MAY NOT BE IN A FINAL DRAFT OF THE PLAN.

Thanks for the chance to comment. I look forward to the next draft and further involvement.

Bob

From: dede_bohn@usgs.gov
Sent: Tuesday, January 09, 2001 1:09 PM
To: Molly McCammon; Sandra Schubert
Subject: USGS review of GEM documents

Molly and Sandra,

I just now finished meeting with Bill Seitz for the GEM review. He won't be sending you an official response; instead I'll summarize his comments here.

USGS supports the current Framework for Development of GEM. There was some concern over whether nonrecovering species would fit into GEM; we feel they should not be dropped, though they may not be a species you need to monitor in the long-term. Although 'lingering oil' fits under 'removals' in Table 4, it appears that if the species doesn't qualify as a GEM species in Table 1, it's already out of the running by Table 4. However, after talking with Molly this morning and hearing that injured species may be addressed in gray highlight on Table 1, we're comfortable with that solution. An additional topic of discussion were the rankings given for seaducks in Table 2. Bill feels that USGS has some additional info that would assist in evaluating the rankings, particularly the U's. Hopefully we'll provide that information to you soon.

SEE REVISED TABLE 1 WITH INCLUSION OF EVOS INJURED SPECIES. ALSO, WE WOULD APPRECIATE ANY ADDITIONAL INFORMATION TO ASSIST IN DEVELOPING SEADUCKS AND OTHER SPECIES FOR TABLE 2.

We asked for individual reviews from John Piatt, Scott Hatch, Jennifer Nielsen, Gail Irvine, Dan Esler, Jim Bodkin; and Tom Dean and Dan Roby (contractors). Because of unfortunate schedules, we received review comments only from Tom Dean and Jim Bodkin. I'll attach those here.

Thank you for the opportunity to allow USGS to review this stage of the process.

National Park Service Comments on EVOS GEM Discussion Draft, 1/8/01

We have no comments on the GEM Mission, programmatic goals, or institutional goals.

Table 1: Though we recognize the human and ecological importance of species like beluga whale and arrowtooth flounder, we feel the GEM program should ensure first the monitoring and recovery of EVOS-injured species and resources. Under the heading of seabirds and & seaducks, we believe the American Black Oystercatcher should be added with GEM program criteria 2, 3, and 6 indicated for this species. Seaducks should be listed by species, and we should also consider adding to this list: bald eagle, pelagic cormorant, red-faced cormorant, and double-crested cormorant.

WE ARE SERIOUSLY CONSIDERING ADDING BLACK OYSTERCATCHER. WHETHER TO LIST SEADUCKS BY SPECIES AND WHICH SPECIES, NEEDS FURTHER THOUGHT AND DISCUSSION. WE'VE ASKED SEVERAL MEMBERS OF THE WRITING TEAM TO LOOK AT THIS. WE ALSO ADDED THE NON-RECOVERED EVOS SPECIES TO THE LIST.

The NPS has no specific comments to make on tables 2-4 at this time.

Table 5a: The document needs to clearly define and identify the monitoring areas. We wonder which monitoring area includes the Outer Kenai Peninsula? Is it in the Cook Inlet area, Prince William Sound area, or Gulf of Alaska area? We note that ecologically the outer coast is very dissimilar to Cook Inlet, and even Lower Cook Inlet is significantly different than upper Cook Inlet. We need to give careful thought as to how we define and map the monitoring areas.

WE HAVE NOT DEFINED THESE ECOREGIONS USING RIGID GEOGRAPHIC BOUNDARIES. THIS CAN BE DONE LATER IF IT BECOMES NECESSARY. HOWEVER, THE OUTER KENAI PENINSULA WOULD BE IN THE GULF OF ALASKA AREA.

We have no comment on table 5b at this time.

If American Black Oystercatchers are added to the matrix in table 2, we would like to note a study supervised the last two years by Mr. Michael Tetreau of Kenai Fjords National Park (907-224-2112). The basic hypothesis was that coastal campers and tour boats disturbed nesting sites to the extent reproductive success was lowered. The investigators found that nests with eggs failed before tour boats or coastal campers arrived to areas near the nest sites. The investigators do not know for certain what caused the nest failures, but predation is strongly suspected. Lack of adequate food or contamination could also have been factors. The study will be continued into the future to determine the causes of nest failure and the suspected drop in oystercatcher population in the Kenai Fjords.

THIS PROJECT WILL BE ADDED TO OUR DATABASE.

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: \$1 Million Habitat Grant and Resolution

DATE: January 9, 2001

The draft resolution and grant in your meeting binder differ from the version that you reviewed at the December Trustee Council meeting, in response to further review by Trustee agencies and attorneys. Major differences are as follows:

- Eliminate references to possible future \$25 million grant.
- Specify termination date of the \$1 million grant as September 30, 2002, unless an extension is mutually agreed to by the parties. Provide for one of the non-profits to become the sole recipient of the grant if the other non-profit wants to terminate.
- Provide for agency costs and DOI's administrative costs (GA) to come from within the \$1 million. Specify that DOI's GA will be based on the Trustee Council's procedures (7% of first \$250,000 plus 2% of \$750,000 balance). Provide for agency budget requests to be submitted and approved by the Council once the parcels that will be pursued are selected (i.e., following grantee's consultation with the Council).
- Clarify that the \$1 million will remain in the Trustee Council's state investment fund until disbursed (basically monthly and at time of purchase).
- Require that the grant recipients consult with the acquiring agencies about potential parcels prior to consulting with the Trustee Council about which parcels to pursue.
- Clarify that appraisals conducted by the grant recipients must be approved by the acquiring government.
- Provide for the governments, rather than the grant recipients, to perform hazardous materials surveys.
- In Attachment B, define "acquiring government" and "non-acquiring government" in regard to which agency activities the Trustee Council will fund. Clarify that both the acquiring and non-acquiring governments will review title and conduct inspections.

Also attached are a summary of the acquisition process under the proposed grant (the "steps") and a comparison of the current acquisition process to the proposed grant.

**DRAFT RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
CONCERNING A
GRANT FOR HABITAT PROTECTION**

WHEREAS in November 1994, following an extensive public process, the *Exxon Valdez* Oil Spill Trustee Council adopted the *Restoration Plan* to guide a comprehensive and balanced program to restore resources and services injured by the oil spill;

WHEREAS the Trustee Council has used the *Restoration Plan* to guide long-term protection of habitat considered important to the long-term recovery of injured resources and services;

WHEREAS the *Restoration Plan* recognized that complete recovery from the oil spill likely would not occur for decades and in fact full recovery of many injured resources and services is not yet complete;

WHEREAS, consistent with the *Restoration Plan*, on March 1, 1999 the Trustee Council determined there is a need for a continuing comprehensive and balanced restoration program that includes protection of additional key habitats;

WHEREAS private, non-profit organizations can bring certain efficiencies to a habitat protection program, such as responding more quickly than government to opportunities for acquisition of priority lands, leveraging resources by attracting matching funds, and in many cases further broadening the protection impact of dollars spent by achieving below-appraised-value purchases through use of tax incentives and estate planning strategies;

WHEREAS on March 16, 2000 the Trustee Council directed the Executive Director to develop a proposal to create a habitat protection program to be administered by a private, non-profit organization;

WHEREAS The Conservation Fund and The Nature Conservancy are private, non-profit organizations which have substantial experience in negotiating land acquisition packages in Alaska as well as elsewhere and which have expressed their interest in collaboratively implementing a habitat protection program on behalf of the Trustee Council;

THEREFORE BE IT RESOLVED that \$1,000,000, less Trustee agency costs as described below, be awarded as a grant to The Conservation Fund and The Nature Conservancy, to be administered jointly by these two private, non-profit organizations for a habitat protection effort in the *Exxon Valdez* oil spill-area ecosystem on behalf of the Trustee Council; the grant funds will reside in the Alaska Department of Revenue's *Exxon Valdez* Oil Spill Investment Fund and be disbursed per the terms of the Grant Agreement (draft, Attachment A);

BE IT FURTHER RESOLVED that the grant funds are to be used by The Conservation Fund and The Nature Conservancy for the acquisition of lands and interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill-area ecosystem;

BE IT FURTHER RESOLVED that The Conservation Fund and The Nature Conservancy shall pursue protection of any specific parcel only after consultation with the entity that would own and manage the interests in the parcel and with the Trustee Council and, during the acquisition process, shall work closely with the entity that would own and manage the interests in the parcel;

BE IT FURTHER RESOLVED that The Conservation Fund and The Nature Conservancy shall acquire parcels only from willing sellers;

BE IT FURTHER RESOLVED that The Conservation Fund and The Nature Conservancy shall acquire parcels only after unanimous approval of the Trustee Council; Trustee Council approval or disapproval shall be given promptly and in no event more than 90 days after receipt

of an acquisition package from The Conservation Fund and The Nature Conservancy; furthermore, the approval process shall include reasonable and adequate public notice about the proposed acquisition and an opportunity for public comment;

BE IT FURTHER RESOLVED that, following review of the land acquisitions expected to occur under the grant and in accordance with Attachment B, the Trustee Council may designate some portion of the \$1 million to pay for Trustee agencies' direct costs of receiving title to land acquired under the grant;

BE IT FURTHER RESOLVED that the \$1 million be further reduced by payment of \$32,500 to the U.S. Department of Interior, in accordance with the *Exxon Valdez Oil Spill Trustee Council Procedures* (August 3, 2000), for their expenses in administering the grant;

BE IT FURTHER RESOLVED that this grant shall terminate September 30, 2002 unless the Trustee Council or The Conservation Fund and The Nature Conservancy, with proper notice, earlier terminates the grant or unless, by mutual consent, the Trustee Council and The Conservation Fund and The Nature Conservancy agree to extend the grant.

BE IT FURTHER RESOLVED that any substantive changes in the language contained in the Grant Agreement (draft, Attachment A) must be approved by the Trustee Council; non-substantive changes may be made by the U.S. Department of the Interior.

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

DAVE GIBBONS Date
Trustee Representative
Alaska Region
USDA Forest Service

CRAIG TILLERY Date
Assistant 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

**DRAFT RESOLUTION
of the
Exxon Valdez Oil Spill Trustee Council
concerning a
Grant for Habitat Protection**

**ATTACHMENT A
DRAFT GRANT AGREEMENT**

Grant Number:

Segment:

Title: *Exxon Valdez Oil Spill Trustee Council: Funding Source for Habitat Protection*

Beginning Date:

Ending Date: September 30, 2002

State: Alaska

Parties: United States Department of the Interior (Interior)

The Nature Conservancy & The Conservation Fund (Recipients)

Other Interested Agencies: State of Alaska (State)

Exxon Valdez Oil Spill Trustee Council (Trustee Council)

Authorities: Pub. L. 106-113, Sec. 350, 113 Stat. 1501, An Act Making Appropriations for the District of Columbia and Other Activities for the Fiscal Year Ending September 30, 2000 and for Other Purposes, 1999

Pub. L. 102-229, Sec. 207, Dire Emergency Supplemental Appropriations Act, 1992

Documents attached and incorporated herein:

Resolution of the *Exxon Valdez Oil Spill Trustee Council*, January, 16, 2001, Concerning a Grant for Habitat Protection

Objective:

This Grant Agreement provides \$1 million for habitat protection in the northern Gulf of Alaska. These funds will be used for the acquisition of lands or interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem. No Grant Funds may be used for land management or stewardship fees.

Background:

The March 24, 1989 *Exxon Valdez* oil spill in Alaska's Prince William Sound was the largest oil spill in U.S. history, contaminating about 1,500 miles of Alaska's coastline. Under the consent decree approved by the U.S. District Court for the District of Alaska in October 1991, Exxon Corporation agreed to pay civil claims totaling \$900 million to the federal government and the State of Alaska by September 1, 2001. Administration of the civil settlement is carried out under agreements between the federal government and the State of Alaska. These agreements establish a six-member federal/state trusteeship, whose duties are carried out by the *Exxon Valdez* Oil Spill Trustee Council or its successor in function (hereinafter the "Trustee Council"), including a representative of the Secretary of the Interior. Decisions about the types of activities to fund with civil payments are governed by the consent decree and a Restoration Plan approved by the Trustee Council. One of the major activities identified in the Restoration Plan is habitat acquisition, and to date interests in land totaling over 640,000 acres have been acquired.

The Nature Conservancy and The Conservation Fund (hereinafter the "Recipients") are private, non-profit organizations which have substantial experience in negotiating land acquisition packages in Alaska as well as nationwide. The Recipients have the ability to respond quickly to opportunities for acquisition of priority lands from willing sellers, leverage resources by attracting matching funds, and in many cases achieve below-appraised-value purchases through use of tax incentives and estate planning strategies.

Grant Funds:

Funds available for this Grant Agreement are funds set aside by the Trustee Council from the 1991 civil settlement between Exxon Corporation, the State of Alaska, and the United States of America for long-term habitat protection. The funds will reside in the Alaska Department of Revenue's *Exxon Valdez* Oil Spill Investment Fund and will be disbursed as follows:

- a) \$25,000 to each of the Recipients to cover costs related to acquisition other than those costs specified in section (b) below (the \$25,000 shall

cover such costs as personnel time and indirect expenses such as telephone, duplication, and postage); the \$25,000 shall be disbursed in equal monthly installments over the life of the Grant Agreement; no other charges for indirect costs, including application of the Recipients' indirect cost rates, are allowed under this Grant Agreement;

b) reimbursement to the Recipients of the following direct expenses incurred in pursuit of parcels agreed to by the Trustee Council (see Process section 1(c)); the expenses must be reasonable and those which the acquiring agency or government (i.e., state or federal) would have incurred itself in acquiring the concerned parcel; reimbursement is expected to occur monthly upon receipt of invoices;

- i) appraisal
- ii) title reports
- iii) title insurance
- iv) escrow and closing fees
- v) real property taxes
- vi) penalty costs for prepayment of pre-existing recorded mortgages
- vii) travel related to project acquisition
- vii) preliminary title commitment or title policy
- ix) such other expenses as may be contained in a list approved by the Assistant Secretary, Policy, Management and Budget, Department of Interior and approved by the Trustee Council;

c) payment to the Recipients for the actual purchase price of each parcel, upon Trustee Council approval of the Acquisition Package described below (see Process section 4);

d) payment to Trustee agencies (Alaska Department of Fish and Game, Alaska Department of Natural Resources, U.S. Department of Interior, and U.S Forest Service) for direct costs of receiving title to land acquired under the Grant Agreement, in accordance with Attachment B; and

e) \$32,500 to Interior for administration of the Grant Agreement, in accordance with the *Exxon Valdez Oil Spill Trustee Council Procedures*, August 3, 2000.

Term:

1. Duration. The Recipients may not obligate funds under this Grant Agreement after September 30, 2002, unless the parties to the Grant Agreement agree, by mutual consent, to extend the grant.

2. Termination.

a) This Grant Agreement may be terminated prior to September 30, 2002 by unanimous decision of the Trustee Council, with 30 days advance written notice to the Recipients.

b) This Grant Agreement may be terminated prior to September 30, 2002 by the Recipients, with 30 days advance written notice to the Trustee Council.

c) Should only one of the Recipients, either The Nature Conservancy or The Conservation Fund, desire to terminate the Grant Agreement, the other Recipient may implement the Grant Agreement as a sole Recipient.

d) In the event of termination of the Grant Agreement, the Recipients shall be entitled to receive or retain only a pro rata portion of the \$25,000 payments identified above (see Grant Funds section (a)), based on the number of days remaining in the term of the grant. The Recipients shall refund to the Trustee Council no later than 30 days after the effective date of the termination any such portion of the \$25,000 payments.

Lands to be Acquired:

This Grant Agreement provides funding for the acquisition of lands or interests in lands (e.g., fee title, conservation easements, mineral rights, timber rights) important to the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem.

The Recipients shall acquire parcels only from willing sellers. The Recipients shall specifically seek to acquire:

a) lands with concentrated biological values or high natural lands recreational values;

b) lands which provide access to areas of high biological significance or to areas with high natural lands recreational values;

c) isolated parcels within otherwise protected areas.

The Recipients shall evaluate properties using the following criteria:

a) habitat restoration value;

- b) threat of development or loss;
- c) opportunity to enhance management of protected areas;
- d) willingness of the United States, State of Alaska, or other public agency or non-profit organization approved by the Trustee Council to manage the land or interests in the land;
- e) feasibility of acquiring the property, including willing seller;
- f) leverage, i.e., the amount of matching funds available;
- g) partnership support, i.e., the number of funding partners and the amount of public support.

The purchase price shall not exceed the appraised value of the parcel.

Process:

1. Land Acquisition. The Recipients shall manage all aspects of the land acquisition process, including:

- a) identify potential parcels;
- b) evaluate parcels;
- c) consult with the United States, State of Alaska, or other public agency or non-profit organization approved by the Trustee Council that would own and manage the interests in the parcels and coordinate with that entity throughout the acquisition process;
- d) consult with the Trustee Council as to which parcels should be pursued for acquisition; this consultation shall include providing a summary of the expected costs of acquisition (both purchase price and process costs);
- e) negotiate with willing sellers for the purchase of parcels;
- f) develop purchase or option agreements;
- g) complete, or ensure the completion of, due diligence on each parcel to be acquired, including appraisal (which shall comply with UASFLA (Uniform Appraisal Standards for Federal Land Acquisition) standards and which shall meet the approval of the government that will own and manage the interests in the parcel), title review, and Level I and any other hazardous materials inspection;

h) arrange for closing and acceptance of title by the United States, the State of Alaska, or other public agency or non-profit organization approved by the Trustee Council, including preparing documents and making payments to landowners as agreed to by the Recipients and the landowners; and

i) to the greatest degree practical, secure matching funds from private or public sources in order to minimize acquisition costs to the Trustee Council.

2. Chain of Title. In most cases, title will transfer from the seller directly to the United States, the State of Alaska, or other public agency or non-profit organization approved by the Trustee Council.

3. Support. The Trustee Council, through its member agencies, will provide the Recipients the following support:

a) technical and legal expertise in federal and state land acquisition procedures, including review or completion, as appropriate, by the governments (i.e., state and/or federal) of appraisals, title commitments and policies, hazardous materials reports, and legal documents;

b) technical information regarding existing land ownership, habitat and wildlife value, and agency priorities;

c) where appropriate, acceptance of title to parcels purchased by the Recipients after approval by the Trustee Council.

4. Acquisition Information Package. For each parcel for which the Recipients seek Trustee Council authorization to purchase with Grant Funds, Recipients shall submit to the Trustee Council an acquisition information package (hereinafter the "Acquisition Package"). The Acquisition Package shall include the following:

a) legal description of the parcel;

b) property owner;

c) acreage;

d) map showing location;

e) description of property and restoration value;

f) identification of entity (United States, State of Alaska, or other public agency or non-profit organization approved by the Trustee Council) that will own and manage the parcel;

g) statement of appraised value and statement of government review of appraisal;

h) purchase or option agreement and conveyance documents;

i) Level I and any other required hazardous materials inspections, to be performed by a government;

j) statement of NEPA compliance, to be prepared by a government;

k) summary of costs incurred, including purchase price and the direct expenses outlined under Grant Funds section (b) above; and

l) amount of matching funds, if any.

5. Approval of Acquisition Package. Following the Trustee Council's approval or disapproval of the Acquisition Package, Interior shall promptly notify the Recipients of the Trustee Council's decision.

6. Fund Transfer. Interior shall disburse grant funds to the Recipients via the SMARTLINK Payment System, as follows:

a) regarding the \$25,000 for indirect expenses, as well as the direct expenses incurred in the acquisition of a parcel (see Grant Funds above), disbursements shall occur monthly;

b) regarding the purchase price itself, disbursement shall occur upon Trustee Council approval of the Acquisition Package; the Recipients shall draw down funds from SMARTLINK no more than 3 days prior to the Recipients closing, or, when applicable, closing into escrow, on the approved acquisition.

7. Reporting. Recipients shall submit a report to the Trustee Council by December 31, 2002 describing activities and accomplishments under this Grant Agreement. The report shall include an accounting of all funds spent.

Ultimate Use and Management of Lands Acquired:

Lands acquired with funding provided hereunder shall be managed in perpetuity for the conservation and protection of marine and coastal resources, ecosystems, and habitats in order to aid in the overall recovery of, and to

enhance the long-term health and viability of, those resources injured by the *Exxon Valdez* oil spill and the spill area ecosystem.

1. Conservation Easement. Each parcel acquired with Grant Funds shall be subject to a conservation easement. If a parcel is acquired by the United States or the State of Alaska, the conservation easement shall be held by the non-acquiring government. If a parcel is acquired by another public agency or non-profit organization approved by the Trustee Council, the conservation easement shall be held by both the state and federal governments.

2. Recorded Deed. The recorded deed for each parcel acquired with grant funds shall be subject to the conservation easement described above.

Standard Provisions: TO BE ADDED BY INTERIOR

1. Notices

2. Entirety of the Agreement

3. Term of the Agreement

DRAFT RESOLUTION
of the Exxon Valdez Oil Spill Trustee Council
concerning a Grant for Habitat Protection

ATTACHMENT B
DRAFT TRUSTEE AGENCY COSTS

In addition to the costs incurred by the Recipients and paid under the grant, Trustee agencies (Alaska Department of Fish and Game, Alaska Department of Natural Resources, U.S. Department of Interior, U.S. Forest Service) may incur expenses in receiving title to acquired parcels. The following list specifies those agency expenses that may be appropriate for Trustee Council funding. In order to ensure cost efficiencies and to avoid duplication of effort and expenses, the list includes only those activities that agencies are required to perform in order to receive title. In some instances, costs will be paid for the government that acquires fee title to land or an interest in land or which has primary management authority for a conservation easement (the acquiring government) which will not be paid for the government which receives a conservation easement but without primary management authority (the non-acquiring government). Agencies are expected to absorb some of the costs related to provision of technical information and document and other legal review.

Activities Eligible for Trustee Council Funding, as Appropriate

- Appraisal review by the acquiring government
- Title review by the acquiring government and the non-acquiring government
- Hazardous material inspection by the acquiring government and the non-acquiring government, if required in order to receive title or conservation easement
- Site inspection by the acquiring government and the non-acquiring government, if required in order to receive title or conservation easement
- NEPA compliance

Activities Not Eligible for Trustee Council Funding

- Negotiators' time and travel
- Legal review
- Appraisals in addition to those conducted by the Recipients
- Appraisal review by the non-acquiring government
- Surveys
- Other items listed in the Grant Agreement as responsibilities of the Recipients
- Activities that serve agency management purposes but are not required to receive title
- Indirect expenses (phone, office supplies, duplication, etc.)

Following Recipients' consultation with the Trustee Council as to which parcels should be pursued for acquisition under the Grant Agreement, the Council will be asked to give general approval to agency budget requests. All funds requested must be associated with acquisition activities for the specific parcels being pursued. Actual expenditure of the funds will be authorized by the Executive Director on a quarterly basis. All funds authorized must be associated with acquisition activities expected to occur in the upcoming quarter. Any authorized funds not spent by the end of the Grant Agreement will lapse back to the long-term habitat fund. Funds expended for agency activities will reduce the amount available for expenditure by the Recipients under this grant.

STEPS: Draft Grant for Habitat Protection

STEP

1	Recipients identify and evaluate parcels
2	Recipients consult with entities (US, State, other) that would own parcels
3	Recipients consult with TC as to which parcels should be pursued for acquisition; consultation takes place at publicly noticed meeting
4	TC approve agency budget requests for expenses related to parcel acquisition
5	TC inform Recipients of amount of funds available for expenditure under the grant (\$1 million less agency costs)
6	Recipients negotiate with willing seller
7	Recipients enter into acquisition or option agreement; agreements will be contingent on TC approval
8	Recipients complete appraisal and title work
9	Acquiring entity (US, State, other approved by TC) review appraisal, title, and other documents prepared by Recipients and conduct NEPA compliance; non-acquiring government review title and other documents but not appraisal; both acquiring and non-acquiring governments conduct site inspections and hazardous materials inspections
10	Recipients submit acquisition package to TC, seeking authorization to acquire parcel with grant funds
11	Within 90 days of Step 10, TC approve or disapprove proposed acquisition; approval takes place at publicly noticed meeting
12	Recipients arrange for closing and acceptance of title by US, State, other, including making payments to landowners (in most cases, title will transfer from seller directly to US, state, etc.)
13	By December 31, 2002, Recipients submit report of activities and expenditures under the grant

Grant may be terminated at any time by TC or Recipients with 30-day advance written notice

COMPARISON: Draft Grant for Habitat Protection Program vs. Current Process

(NOTE: underlines indicate major differences)

	CURRENT PROCESS	DRAFT GRANT
<i>Parcel Identification</i>	Agencies identify parcels; some public nominations still received though no formal solicitation since 1995	Recipients identify parcels
<i>Parcel Evaluation</i>	Multi-agency Habitat Working Group evaluates parcels <u>using numeric formula</u> outlined in <i>Comprehensive Habitat Protection Process: Small Parcel Evaluation & Ranking</i> , 1995	Recipients evaluate parcels <u>based on general criteria outlined in draft grant</u> (e.g., restoration value, threat of loss, management enhancement opportunity, etc.)
<i>Agency Consultation</i>		<u>Recipients consult with entity that would own parcel prior to consulting with TC about which parcels to pursue</u>
<i>TC Authorization of Appraisal/Negotiations</i>	<u>TC authorizes</u> appraisal/negotiations on parcel-by-parcel basis	Recipients <u>consult with TC</u> as to which parcels should be pursued for acquisition
<i>Public Comment</i>	Appraisals/negotiations are authorized at publicly noticed TC meetings that include a public comment period; purchase offers are authorized at publicly noticed TC meetings that include a public comment period	Consultation takes place at publicly noticed TC meeting that includes a public comment period; purchase offers are authorized at publicly noticed TC meetings that include a public comment period
<i>Purchase Negotiations</i>	Conducted by acquiring agency and attorneys; negotiate with willing sellers only	Conducted by Recipients; negotiate with willing sellers only
<i>Purchase Agreement</i>	Developed by acquiring agency and attorneys	Developed by Recipients
<i>Appraisal</i>	UASFLA-compliant appraisal conducted by acquiring agency; <u>reviewed by both acquiring and non-acquiring governments</u>	UASFLA-compliant appraisal conducted by Recipients; <u>reviewed by acquiring government only</u>
<i>HazMat Inspections & NEPA</i>	Conducted by acquiring agency	Conducted by acquiring agency
<i>Agency Review</i>	Non-acquiring government reviews title and other documents prepared by acquiring agency	<u>Acquiring and non-acquiring governments</u> review title and other documents prepared by Recipients
<i>Purchase Offer</i>	TC must authorize	TC must authorize
<i>Conservation Easement</i>	Reciprocal conservation easement, to be held by non-acquiring government, required on all parcels	Reciprocal conservation easement, to be held by non-acquiring government, required on all parcels
<i>Budget</i>	Agencies submit annual budget for TC approval-- <u>direct costs of ongoing/anticipated acquisitions and general staff support</u>	Agencies submit annual budget for TC approval-- <u>direct costs of ongoing/anticipated acquisitions only</u> ; <u>Recipients receive \$25,000 each plus reimbursement for direct costs</u>
<i>Matching Funds</i>	<u>Not required</u>	<u>Matching funds from non-EVOS sources are to be sought</u>
<i>Annual Report</i>	<u>Not required</u>	<u>Required</u>

DRAFT

**RESOLUTION OF THE
EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
REGARDING THREE 10-ACRE PARCELS**

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

1.a. In its resolution of December 11, 1995, the Trustee Council agreed to provide funding of up to \$1,000,000 for the acquisition of lands held by the Kodiak Island Borough at key waterfront locations along Uyak Bay within the Kodiak National Wildlife Refuge as a result of forfeitures for tax delinquency. On June 8, 1998, the Trustee Council by motion designated these inholdings as parcels meriting special consideration by virtue of their location within the boundaries of a large parcel of land purchased from Koniag Inc. with Trustee Council funding.

b. In its motion of June 8, 1998, the Trustee Council also agreed to authorize funding of up to \$645,000 from the previously dedicated \$1,000,000 for the purchase of privately owned approximately 10-acre parcels conveyed by the Larsen Bay Tribal Council ("Tribal Council") to tribal members. This motion designated these inholdings as parcels meriting special consideration by virtue of their location within and adjacent to the boundaries of a large parcel acquisition of land purchased from Koniag, Inc. with Trustee Council funding.

c. Subject to funding by the Trustee Council, the present owners of the surface estate of certain parcels formerly conveyed by the Tribal Council to various of its members, and the U.S. Fish and Wildlife Service are negotiating agreements to sell and purchase, respectively, 3 such parcels. These parcels and their respective approved appraised values are identified as follows:

EVOS Parcel KAP# Owner	Legal Description Twp, Rng, Sec-Lot	Size	Appraised Value
2061 Danelski, Peter	31S, 29W, 10-01	~10 acres	\$13,000
2067 Wick, Jacob	30S, 28W, 20-02	~10 acres	\$18,000
2068 Wick, Jacob	30S, 28W, 20-03	~10 acres	\$18,000

d. Appraisals totaling \$49,000.00 for these three parcels covering about 30 acres have been approved by the federal review appraiser.

e. Tract KAP-2061 was earlier approved by the Trustee Council for acquisition. However, prior to making the offer, it was discovered that the wrong land had been appraised. A new appraisal has been completed, reviewed, and approved, revising the value of the tract from \$22,000 to \$13,000.

f. As set forth in Attachment A, if acquired, these parcels have attributes which will restore, replace, enhance and rehabilitate injured natural resources and the services provided by those natural resources, including providing habitat for bird species for which significant injury resulting from the spill has been documented, providing key marine access for subsistence and recreational uses on the surrounding public lands.

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

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

4. The purchase of small parcels is an appropriate means to restore a portion of the injured resources and services in the oil spill area.

THEREFORE, we resolve to provide funds for the United States Fish and Wildlife Service to offer to purchase and, if the offer is accepted, to purchase all of each seller's rights and interest in the 3 parcels; and to provide funds necessary for closing costs recommended by the Executive Director of the Trustee Council ("Executive Director") and approved by the Trustee Council and pursuant to the following conditions:

(a) the amount of funds (hereinafter referred to as the "Purchase Price") to be provided by the Trustee Council to the United States shall be the final approved appraised value of the

respective parcels, as identified above, totaling \$49,000.00;

(b) authorization for funding for any of the foregoing acquisitions shall terminate if the respective purchase agreements are not executed by December 31, 2001;

(c) 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;

(d) a title search satisfactory to the United States and the State of Alaska is completed by the acquiring government and the Seller is willing and able to convey fee simple title by warranty deed, or by limited warranty deed acceptable to the U.S. Department of Justice and the Alaska Department of Law;

(e) no timber harvesting, road development or any alteration of the land is to be initiated on the land without the express agreement of the acquiring government prior to purchase;

(f) a hazardous materials survey satisfactory to the United States and the State of Alaska is completed;

(g) compliance with the National Environmental Policy Act; and

(h) a conservation easement satisfactory to the U.S. Departments of Justice and the Interior and the Alaska Department of Law shall be conveyed by the seller to the State of Alaska.

It is the intent of the Trustee Council that any facilities or other development on the foregoing small parcels after acquisition shall be of limited impact and in keeping with the goals of restoration and that there shall be no commercial timber harvest nor any other commercial use of the small parcels excepting such limited commercial use as may be consistent with applicable state or federal law and the goals of restoration to prespill conditions of any natural resource injured, lost, or destroyed as a result of the EVOS and the services provided by that resource or replacement or substitution for the injured, lost or destroyed resources and affected services as described in the Memorandum of Agreement and Consent Decree between the United States and the State of Alaska entered August 28, 1991 ("MOA") and the Restoration Plan as approved by the Trustee Council ("Restoration Plan").

By unanimous consent and upon execution of various of the purchase agreements between the sellers and the United States and written notice from the Executive Director that the terms and conditions set forth herein and in the purchase agreements have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the U.S. Department of Justice to take such steps as may be necessary for withdrawal of the Purchase Prices for the above-referenced parcels from the appropriate account designated by the Executive Director.

Dated this 16th day in January, 2001, in Anchorage, Alaska.

DAVE GIBBONS

Trustee Representative
Alaska Region
USDA Forest Service

CRAIG TILLERY

Assistant Attorney General
State of Alaska

MARILYN HEIMAN

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

JAMES W. BALSIGER

Director, Alaska Region
National Marine Fisheries Service

FRANK RUE

Commissioner
Alaska Department of
Fish and Game

MICHELE BROWN

Commissioner
Alaska Department of
Environmental Conservation

Parcel ID: Pete and Janet Danelski
EVOS Parcel Number KAP-2061
USFWS Parcel Number KO-90

Rank: N/A **Acreage: 7.00** **Agency Sponsor: USFWS**

Estimated Value:

Location: Uyak Bay
N½ SE¼ SW¼ Sec 10, T. 31 S., R. 29 W., Seward Meridian

Landowner: Pete and Janet Danelski

Address: P.O. Box 2333
Kodiak, AK 99615

Pursuant to the Alaska Native Claims Settlement Act, certain regional and village Native corporations were organized under Alaska law, including the village corporation for Larsen Bay, Nu-Nachk-Pit, Inc., and the regional corporation, Koniag, Inc. In October 1980, these corporations, among others signed a plan of merger which provided that the corporations would merge into Koniag, Inc., and Koniag would receive all the village corporation real estate selection rights and conveyances. Pursuant to the Plan of Merger, Koniag quitclaimed its interest in certain lands to Larsen Bay Tribal Council for the benefit of Tribal members. Subsequently, LBTC deeded lands in small parcels of about 10 acres each to individual tribal members. This conveyance removed the lands from the tax protected status of Tribal or Native corporate lands. A number of these private owners have now indicated their interest in selling their land at appraised fair market value.

This property is located along the western shore of Uyak Bay, about four miles southeast of the village of Larsen Bay on western Kodiak Island. The parcel is bounded on the north, west, and south by lands retained by Koniag, and included in negotiations for Koniag Phase II acquisition. The eastern boundary is comprised of Uyak Bay. It is encompassed within lands purchased from Koniag by the USFWS as part of the Koniag large parcel acquisition funded by the Exxon Valdez Oil Spill Trustee Council, which was classified as "High" value by the EVOS staff. This parcel has good access from the beach, and will provide key marine access to the surrounding lands to become part of the Kodiak National Wildlife Refuge.

The intertidal waters adjacent to this parcel are shallow making ideal habitat for harlequins and other sea ducks such as surf scoters, golden eye and mergansers. Harlequins may nest along estuary shorelines and small streams adjacent to the bay. There are no known bald eagle nest sites in the vicinity of this parcel. Although there is no specific information for other wildlife species using this parcel, the bay as a whole provides some very valuable habitat for many wildlife species.

People continue to develop small land tracts through Uyak Bay, usually constructing new cabins used for recreational and subsistence hunting and fishing. These sites have significant potential for expansion into more intrusive development. Several commercial lodges operate at various locations within the bay, providing their clients with opportunities for hunting, fishing, kayaking, wildlife viewing, and other eco-tourism. Continued development in this area could further adversely impact water quality and fish and wildlife habitat. The acquisition of this parcel will help to preserve the wildlife, habitat, wilderness, recreational, and subsistence restoration benefits of the surrounding Koniag large parcel acquisitions and enhance sound natural resource management.

Parcel ID: Jacob Wick
EVOS Parcel Number KAP-2067
USFWS Parcel Number KO-117

Rank: N/A Acreage: 10 Agency Sponsor: USFWS

Estimated Value:

Location: Zachar Bay
Fractional NW¼ SE¼ SW¼ and N½ SW¼ SE¼ SW¼, Sec. 20 T. 31 S., R. 29 W., S.M.

Landowner: Jacob Wick

Address: 3419 Melnitsa Ln
Kodiak, AK 99615

Pursuant to the Alaska Native Claims Settlement Act, certain regional and village Native corporations were organized under Alaska law, including the village corporation for Larsen Bay, Nu-Nachk-Pit, Inc., and the regional corporation, Koniag, Inc. In October 1980, these corporations, among others signed a plan of merger which provided that the corporations would merge into Koniag, Inc., and Koniag would receive all the village corporation real estate selection rights and conveyances. Pursuant to the Plan of Merger, Koniag quitclaimed its interest in certain lands to Larsen Bay Tribal Council for the benefit of Tribal members. Subsequently, LBTC deeded lands in small parcels of about 10 acres each to individual tribal members. This conveyance removed the lands from the tax protected status of Tribal or Native corporate lands. A number of these private owners have now indicated their interest in selling their land at appraised fair market value.

This property is located along the south shore of Zachar Bay near Carlsen Point, about six miles east of the village of Larsen Bay on western Kodiak Island. The parcel is bounded on the north by Zachar Bay, and on the west and south by lands retained by Koniag which are included in negotiations for Kodiak Phase II. It is bounded on the east by another parcel owned by Jacob Wick. It is encompassed within lands purchased from Koniag by the USFWS in September 1998 as part of the Koniag large parcel acquisition funded by the Exxon Valdez Oil Spill Trustee Council, which was classified as "High" value by the EVOS staff. This parcel has good access from the beach, and will provide key marine access to the surrounding lands to become part of the Kodiak National Wildlife Refuge.

The waters and intertidal habitat along this portion of Zachar Bay are biologically rich and provide very high value habitat for fish and wildlife. The area is heavily used by pigeon guillemots, harlequin ducks, and a variety of other sea ducks throughout the year. The site is also important for marine mammals, with seals using a variety of bars and offshore rocks for haul outs. Black oystercatchers are abundant along the shorelines and offshore rocks. The area and the waters to the north around Carlsen Point support strong populations of sea otters. There is a bald eagle nest located immediately adjacent to this parcel, and another nest within ½ mile of the property.

There are camps and cabins scattered throughout Uyak and Zachar bays used for recreational and subsistence hunting and fishing. These sites have significant potential for expansion into more intrusive development. Several commercial lodges operate throughout Uyak Bay providing their clients opportunities for hunting, fishing, kayaking, wildlife viewing, and other eco-tourism. Continued development in this area could further adversely impact water quality and fish and wildlife habitat. The acquisition of this parcel will help to preserve the wildlife, habitat, wilderness, recreational, and subsistence restoration benefits of the surrounding Koniag large parcel acquisitions and enhance sound natural resource management.

Parcel ID: Jacob Wick
EVOS Parcel Number KAP-2068
USFWS Parcel Number KO-117a

Rank: N/A Acreage: 10 Agency Sponsor: USFWS

Estimated Value:

Location: Zachar Bay
Fractional NE¼ SE¼ SW¼ and N½ SE¼ SE¼ SW¼, Sec. 20 T. 31 S., R. 29 W., S.M.

Landowner: Jacob Wick

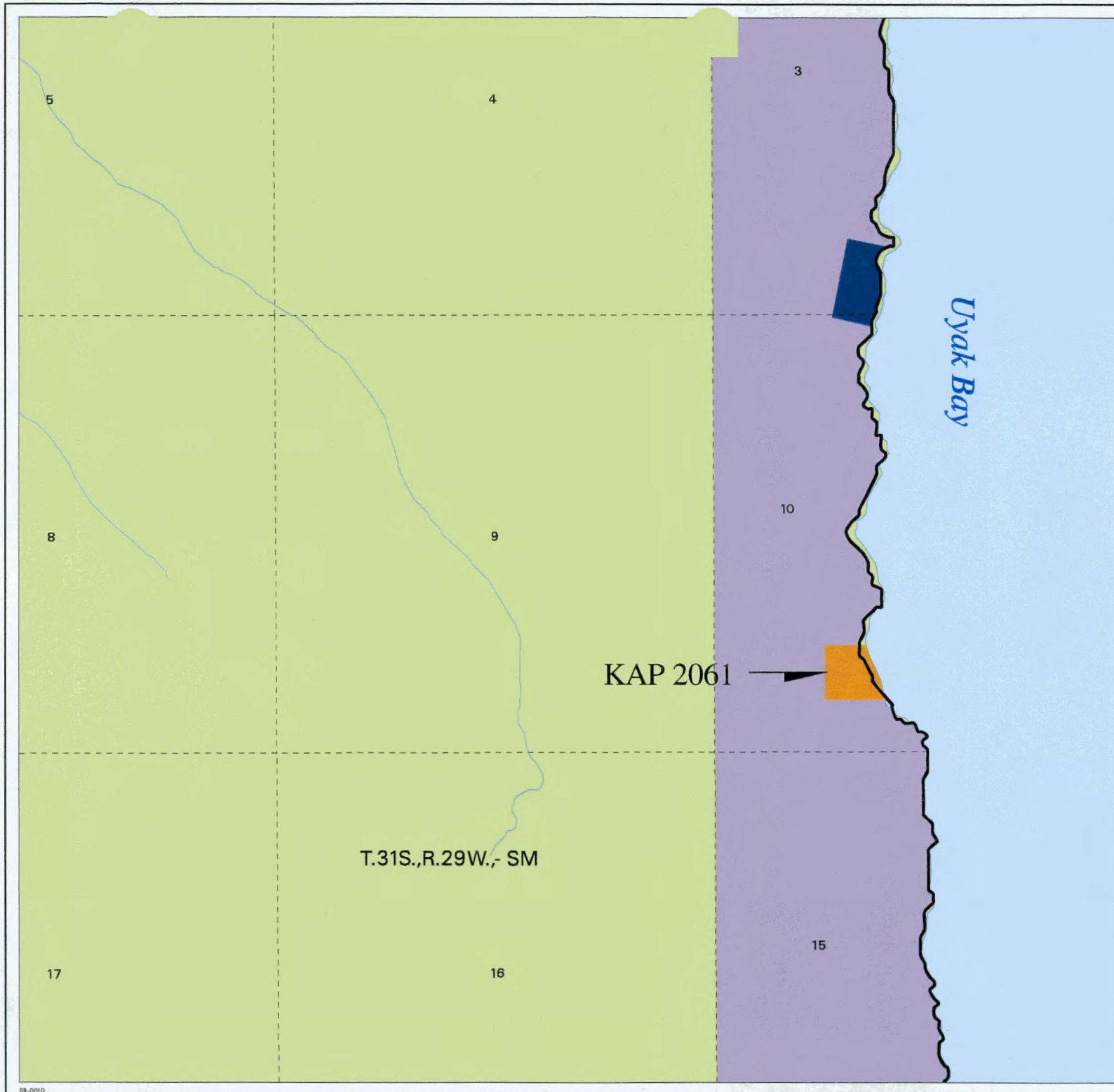
Address: 3419 Melnitsa Ln
Kodiak, AK 99615

Pursuant to the Alaska Native Claims Settlement Act, certain regional and village Native corporations were organized under Alaska law, including the village corporation for Larsen Bay, Nu-Nachk-Pit, Inc., and the regional corporation, Koniag, Inc. In October 1980, these corporations, among others signed a plan of merger which provided that the corporations would merge into Koniag, Inc., and Koniag would receive all the village corporation real estate selection rights and conveyances. Pursuant to the Plan of Merger, Koniag quitclaimed its interest in certain lands to Larsen Bay Tribal Council for the benefit of Tribal members. Subsequently, LBTC deeded lands in small parcels of about 10 acres each to individual tribal members. This conveyance removed the lands from the tax protected status of Tribal or Native corporate lands. A number of these private owners have now indicated their interest in selling their land at appraised fair market value.

This property is located along the south shore of Zachar Bay near Carlsen Point, about six miles east of the village of Larsen Bay on western Kodiak Island. The parcel is bounded on the north by Zachar Bay, and on the east and south by lands retained by Koniag which are included in negotiations for Kodiak Phase II. It is bounded on the west by another parcel owned by Jacob Wick. It is encompassed within lands purchased from Koniag by the USFWS in September 1998 as part of the Koniag large parcel acquisition funded by the Exxon Valdez Oil Spill Trustee Council, which was classified as "High" value by the EVOS staff. This parcel has good access from the beach, and will provide key marine access to the surrounding lands to become part of the Kodiak National Wildlife Refuge.

The waters and intertidal habitat along this portion of Zachar Bay are biologically rich and provide very high value habitat for fish and wildlife. The area is heavily used by pigeon guillemots, harlequin ducks, and a variety of other sea ducks throughout the year. The site is also important for marine mammals, with seals using a variety of bars and offshore rocks for haul outs. Black oystercatchers are abundant along the shorelines and offshore rocks. The area and the waters to the north around Carlsen Point support strong populations of sea otters. There is a bald eagle nest located immediately adjacent to this parcel, and another nest within ½ mile of the property.

There are camps and cabins scattered throughout Uyak and Zachar bays used for recreational and subsistence hunting and fishing. These sites have significant potential for expansion into more intrusive development. Several commercial lodges operate throughout Uyak Bay providing their clients opportunities for hunting, fishing, kayaking, wildlife viewing, and other eco-tourism. Continued development in this area could further adversely impact water quality and fish and wildlife habitat. The acquisition of this parcel will help to preserve the wildlife, habitat, wilderness, recreational, and subsistence restoration benefits of the surrounding Koniag large parcel acquisitions and enhance sound natural resource management.



Habitat Protection

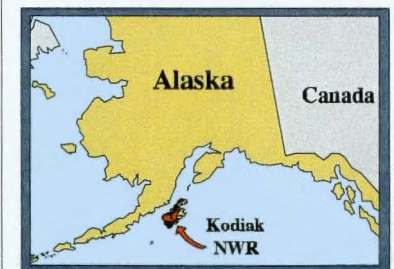
Small Parcels

Kodiak Island,
Alaska

Parcels : KAP 2061

- 10-Acre Parcel
- Koniag Inc. Land
- Other Private
- Kodiak NWR

- Land status represents USFWS interpretation of BLM records.
- Projected in Albers.



0 Miles .3
0 Kilometers .51



Habitat Protection

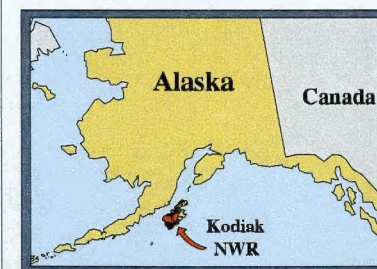
Small Parcels

Kodiak Island,
Alaska

Parcels : KAP 2067 and
KAP 2068

- 10-Acre Parcels
- Koniag Inc. Land
- Kodiak NWR

- Land status represents USFWS
interpretation of BLM records.
- Projected in Albers.



0 Miles .2
0 Kilometers .34

