

HABITAT PROTECTION ACQUISITION FOR SEAL BAY AND TONKI BAY

EASTERN AFOGNAK ISLAND, ALASKA



Prepared by:
Alaska Department of Natural Resources
Land Records Information Section

LEGEND

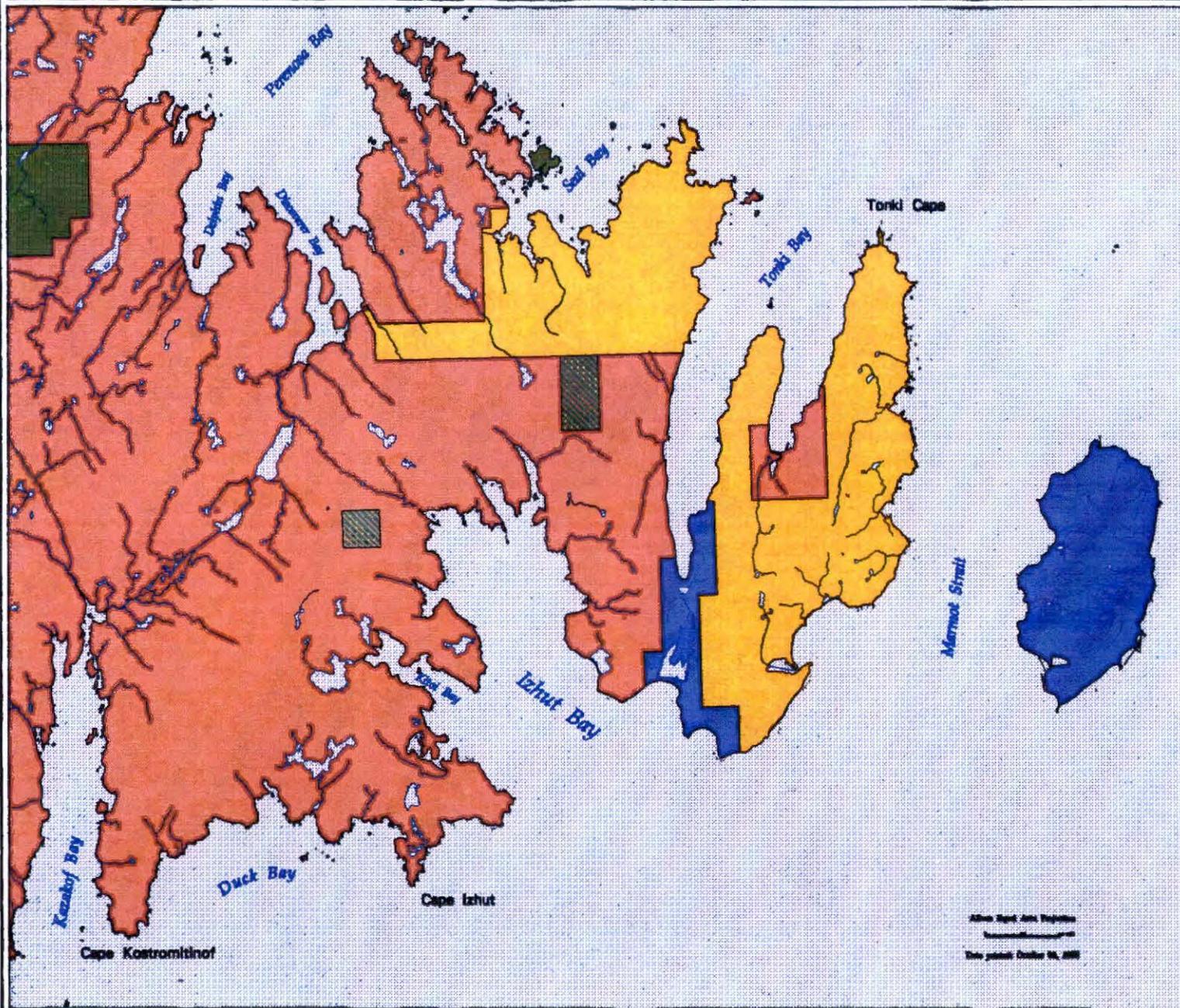
 Acquisition Area

LAND STATUS

-  National Forest
-  National Wildlife Refuges
-  State and Borough Lands
-  Native or Private Lands
-  Native Selected

OTHER

-  Streams
-  Anadromous Streams



SOURCES:
Land status provided by ADNR,
Land Records Information
Section, 1993.

Eagle information collected
and provided by US Fish and
Wildlife Service.

Streams were automated by
ADNR-LRIS from the USGS
topographic maps (1:63,360).
Anadromous streams classification
was determined by the ADF&G, 1991.

ADNR Land Use Program
1993
Date printed: October 24, 1993

MEMORANDUM

State of Alaska

Department of Law

TO: Sen. Randy Phillips,
Chairman
Legislative Budget
and Audit Committee

DATE: October 12, 1993

FILE NO.:

TEL. NO.: 269-5275

SUBJECT: Seal Bay Acquisition

RECEIVED
MAY 05 1995

FROM: *Charles E. Cole*
Charles E. Cole
Attorney General

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

CONFIDENTIAL:
ATTORNEY-CLIENT PRIVILEGE

On August 23, 1993, the Exxon Valdez Settlement Trustee Council adopted a resolution approving, for restoration purposes, acquisition of approximately 42,000 acres of land on the northeast corner of Afognak Island, including Seal Bay and Tonki Cape. Although the federal government initially expressed a desire to include this land within the Kodiak National Wildlife Refuge, portions of which are located nearby, the State Trustees persuaded them that this land has a more logical connection with Shuyak State Park, located on an island immediately to the north. Thus, the resolution adopted by the Trustee Council provided the State the first opportunity to acquire title to this invaluable property. The resolution further provided that, to fulfill its restoration purposes, the Seal Bay land was to be included in a state park and commercial timber harvest was not to be permitted. The resolution specifically allowed limited commercial use as well as sport, personal use, and subsistence hunting, fishing, trapping and recreational uses insofar as they are permitted under law or regulation of the Board of Fisheries or Board of Game. Only if the State was unwilling or unable, was the United States to take title.

Based on this resolution, the State entered into a purchase agreement with the owners of the property, Seal Bay Timber Company. The agreement provides for title to the property to first go to The Nature Conservancy to hold until the State has had an opportunity to establish a park to accept the property. Using the third party device to hold the land was adopted in order to avoid running afoul of mental health lands trust issues. While The Nature Conservancy has not yet formally signed the agreement, its Board of Directors has approved its involvement. The Administration will introduce legislation this session to create the legislatively designated area needed to accept this land. In the interim, although title will reside with The Nature Conservancy, management will be by the State.

Based on the purchase agreement, the Trustee Council has authorized

the State Department of Law and the United States Department of Justice to petition the federal District Court for release of the funds to the State to undertake the purchase. The EXXON VALDEZ oil spill trust bill, at AS 37.14.405, provides that such expenditures comply with the Legislative Budget and Audit Committee program review provisions of AS 37.07.080(h). Accordingly, on September 17 the revised program was submitted to your committee for review. At that time I was attending an extended session of the Trustee Council and was unable to appear before the committee to explain the revised program. My understanding is that the committee considered the request but determined to defer it until more information could be provided. Accordingly, in this packet I am providing the following additional information to the committee.

- (1) September 13, 1993, amendment to the EXXON VALDEZ Oil spill Projects RPL 18-4-9990 (subsequently renumbered 18-4-9991)
- (2) Map of the general area of the proposed acquisition
- (3) Map of the specific acquisition
- (4) Trustee Council Resolution approving acquisition
- (5) Trustee Council Resolution requesting funds from the Court
- (6) Purchase Agreement
- (7) Habitat analysis
- (8) Photographs of the area
- (9) Letter from the seller expressing its satisfaction with the sale
- (10) Letter from the Kodiak Island Borough expressing its satisfaction with the sale
- (11) Appraisal of the surface estate
- (12) Appraisal of the subsurface estate

I hope that this information will be sufficient to answer the questions that have arisen within the committee with regard to this acquisition. If you have further questions, please contact either my staff or me. Thank you for your attention and I will discuss with you shortly the schedule for further consideration of this proposal.



MEMORANDUM

State of Alaska

Department of Environmental Conservation

TO: Cheryl Frasca
Director
Division of Budget Review
Office of Management and Budget

DATE: September 13, 1993

FILE NO:

THRU: Traci Cramer
Program Budget Analyst
Office of Management and Budget

TELEPHONE NO: 465-5323; FAX 465-5375

SUBJECT: Amendment to the *Exxon Valdez*
Oil Spill Projects RPL 18-4-9990

FROM: Mark Brodersen ^{MB}
Restoration Chief

In accordance with Chapter 1, FSSLA 1992, the Department of Natural Resources requests authority to receive and expend \$39,925,000 from *Exxon Valdez* oil spill settlement funds for a Trustee Council project to acquire surface estate rights to the Seal Bay parcel on the north end of Afognak Island. This addendum is in addition to \$5,305,600 originally requested by the Departments of Environmental Conservation, Fish & Game and Natural Resources for this RPL in the August 29, 1993 memorandum (attached). Also attached is a description of this project (Seal Bay Acquisition) and a resolution by the Trustee Council to purchase the parcel. We anticipate that the Council will pass a final resolution at their September 16 meeting authorizing withdrawal of funds from the *Exxon Valdez* oil spill settlement account in the U.S. District Court in order to complete the acquisition.

We had originally intended to ask for authorization at the LB&A meeting following the September 17 meeting, but the owners of the parcel have been very cooperative which has shortened the time needed to reach closure. We anticipate being able to close the sale in October.

Authorization is requested for authority for the life of the project. Seller will be paid \$29,950,000 at the time of closing. The remaining \$8,750,000 will be paid in three equal installments plus interest at a rate equal to the fifty-two week United States treasury bill rate adjusted annually. Interest is expected to not exceed \$1,225,000.

Funding for this addendum is:

Environmental Conservation	\$0
Fish and Game	\$0
Natural Resources	<u>\$39,925,000</u>
Total	<u>\$39,925,000</u>

Attachments (3)

Seal Bay Acquisition

This project is intended to aid the restoration of resources and services injured by the *Exxon Valdez* oil spill. The Council intends to acquire the surface estate, including timber rights, of two parcels on Northern Afognak Island near Shuyak State Park. The Seal Bay parcel consists of approximately 17,166 acres and the adjacent Tonki Cape parcel consists of approximately 24,383 acres. The total acreage is approximately 41,549 acres.

The parcels contain important habitat for several species of wildlife for which significant injury resulting from the oil spill has been documented, including marbled murrelets, harlequin ducks, black oystercatchers and river otters. Harbor seal haulouts and intertidal and subtidal biota are all found in substantial numbers along the shoreline in the threatened areas. There are documented concentrations of sea otters in the area as well as anadromous streams and bald eagle nests on the parcels. Seal Bay has historically supported high value wilderness-based recreation such as hunting, boating and fishing. The area has high scenic value. There has been widespread public support for the acquisition of the parcels. Protection of these parcels will aid recovery of all of these injured resources and services. The Trustee Council has resolved that the purchase of the parcels is an appropriate means to help restore the injured resources and services.

A substantial portion of the Seal Bay parcel is scheduled for clearcut logging. Logging operations were ongoing on the acreage until the Trustee Council resolved to purchase the parcels. The majority of the commercial timber in the Seal Bay parcel is slated for harvest by clearcut logging over the next few years.

The seller will be paid \$29,950,000 at the time of closing. The remaining \$8,750,000 will be paid in three annual equal installments of \$2,916,666.67 with interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate. The rate will be adjusted annually and compounded annually. Interest rates are not expected to exceed seven percent during the life of the project with total interest required being \$1,225,000. Authorization is requested to receive and expend funds over the life of the project.

<u>Budget</u>	<u>Ak Dept. of Natural Resources</u>
Personnel	\$0
Travel	\$0
Contractual	\$0
Commodities	\$0
Equipment	\$0
Capital Outlays	<u>\$39,925,000</u>
Project Total	\$39,925,000

MEMORANDUM

State of Alaska

Department of Environmental Conservation

TO: Cheryl Frasca
Director
Division of Budget Review
Office of Management and Budget

DATE: August 29, 1993

FILE NO:

THRU: Traci Cramer
Program Budget Analyst
Office of Management and Budget

TELEPHONE NO: 465-5323; FAX 465-5375

SUBJECT: *Exxon Valdez* Oil Spill Projects
RPL 18-4-9990

FROM: Mark Brodersen *mB*
Restoration Chief

In accordance with Chapter 1, FSSLA 1992, the Departments of Environmental Conservation, Fish and Game, and Natural Resources request authority to receive and expend \$5,305,600 from *Exxon Valdez* oil spill settlement funds for Trustee Council projects. Attached is a listing of all proposed and completed *Exxon Valdez* oil spill restoration projects along with amounts previously authorized. Also attached is a brief project description for each proposed project as it will appear in the Draft 1994 Work Plan.

Authorization is requested for a nine month budget for partial funding of Trustee Council activities for the period from October 1, 1993 to June 30, 1994. This request includes: 1) funding for report preparation following the completion of field work previously authorized in 1993; 2) interim funding through January 31, 1994 for six projects that need to conduct field work in that period; 3) administrative staff support to June 30, 1994; and 4) National Environmental Policy Act (NEPA) compliance costs for nine projects under consideration in the Draft 1994 Work Plan (NEPA compliance must be completed before the Trustee Council can approve a project for implementation). Funding for each of the three state agencies is:

Environmental Conservation	\$1,209,000
Fish and Game	\$2,580,100
Natural Resources	<u>\$1,516,500</u>
Total	\$5,305,600

The Trustee Council will be meeting on September 16, 1993 to make funding decisions on the projects included in this request for authorization. The Council will meet on January 19-20, 1994 to determine whether to continue funding for the six projects requiring interim funding and to determine appropriate funding for other projects proposed in the Draft 1994 Work Plan which are slated to begin in February 1994. The January meeting date was chosen to ensure adequate time for public comment on the Draft Work Plan prior to Trustee Council decisions on the Plan. There will have been two rounds of public comment on the Plan in 1993. We hope that the Legislative Budget and Audit Committee will be able to meet between January 20, 1994 and February 1, 1994 so that we may request authority to receive and expend funds for projects approved at the January 19-20 Trustee Council meeting and beginning in February.

Following is a summary of projects by type of project as mentioned above.

Previously authorized field projects needing reports:

94007	Site Specific Archeological Restoration
94064	Harbor Seal Habitat Use and Monitoring
94066	Harlequin Duck Recovery Monitoring
94086	Herring Bay Experimental & Monitoring Studies
94137	Stock ID of Chum, Sockeye, & Chinook in PWS
94184	Coded Wire Tag Recoveries from Pinks in PWS
94191	Oil Related Egg & Alevin Mortalities
94217	PWS Area Recreation Plan Implementation
94255	Kenai River Sockeye Salmon Restoration
94258	Sockeye Salmon Overescapement
94259	Coghill Lake Sockeye Salmon Restoration
94279	Subsistence Food Safety Testing
94285	Subtidal Sediment Recovery Monitoring
94504	Genetic Stock ID of Kenai River Sockeye
94505	Information Needs for Habitat Protection

Projects requiring interim funding for field work:

94110	Habitat Protection - Data Acquisition and Support
94126	Habitat Protection & Acquisition Fund
94166	Herring Spawn Deposition & Reproductive Impairment
94185	Coded Wire Tagging of Wild Pinks for Stock ID
94191	Oil Related Egg & Alevin Mortalities
94258	Sockeye Salmon Overescapement

Projects for administrative staff support:

940ED	Executive Director's Office
940FC	Finance Committee

94PAG Public Advisory Group
940RT Restoration Team Support

Projects requiring funds to complete NEPA compliance:

94025 Kodiak Fishery Technology Center
94068 Deposit Sand to Promote Clam Recruitment
94070 Restoration of High Intertidal Fucus
94090 Mussel Bed Restoration & Monitoring
94139 Salmon Instream Habitat & Stock Restoration
94199 Seward Sea Life Center
94255 Kenai River Sockeye Salmon Overescapement
94266 Shoreline Assessment & Oil Removal
94273 Port Graham Salmon Hatchery

Attachments (2)

RESOLUTION OF THE
EXXON VALDEZ SETTLEMENT TRUSTEE COUNCIL

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

1. Seal Bay Timber Company ("Seller") owns the surface estate of lands on Afognak Island, including timber rights and consisting of approximately 41,549 acres, more or less, in two parcels, the Seal Bay parcel consisting of approximately 17,166 acres, more or less ("Seal Bay parcel") and the Tonki Cape parcel consisting of approximately 24,383 acres, more or less ("Tonki Cape parcel") (together the "Lands"), more particularly described in Attachment A. These Lands were selected pursuant to the Alaska Native Claims Settlement Act. The subsurface rights are held by Koniag, Inc.
2. The Lands are within the oil spill affected area and the tidelands adjoining the Lands were oiled in 1989.
3. A substantial portion of the Seal Bay parcel is threatened with imminent clearcut logging. Approximately 1158 acres have been logged, logging operations were ongoing on additional acreage until the Trustee Council resolved to purchase the Lands, and permits have been secured or are pending for the logging of additional acreage. The majority of the commercial timber in the Seal Bay parcel is slated for harvest by clearcut logging over the next few years.

4. The Lands include important habitat for several species of wildlife for which significant injury resulting from the oil spill has been documented. There is substantial evidence that the Lands are important marbled murrelet nesting areas. The extent to which marbled murrelets are naturally recovering from the oil spill is unknown. Harlequin ducks, a species that continues to suffer injury, are believed to nest in both parcels and forage on nearshore rocks and beaches adjacent to both parcels. Logging may directly affect these foraging and nesting activities and hence the rehabilitation of these two species. Restoration of black oyster catchers and river otters, which utilize the shore adjacent to uplands slated for logging, may be impacted by logging activities. River otters forage, rest, and may den on uplands. Harbor seal haul outs and intertidal and subtidal biota are all found in substantial quantity along the shore line in the threatened areas and could be impacted. There are known concentrations of sea otters off Tolstoi Point as well as otters that feed in the near shore waters of Seal Bay and Tonki Cape. Sea otters were injured by the oil spill. There are six documented anadromous streams in the Seal Bay parcel and two in the Tonki Cape parcel. There are ten documented bald eagle nests in Seal Bay with feeding and roosting along the shoreline and seven documented nests in the Tonki Cape parcel. Seal Bay has historically supported high value wilderness-based recreation such as hunting, boating and fishing. The area has high scenic value.

5. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other developmental 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 resources, 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 likely have a beneficial affect on recovery of injured resources and lost or diminished services provided by these resources.

6. There has been widespread public support for the acquisition of the Lands.

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

THEREFORE, we resolve to accept the Seller's proposal to sell the Seal Bay parcel consisting of approximately 17,166 acres, more or less, and the Tonki Cape parcel consisting of approximately 24,383 acres, more or less, including timber rights for both parcels, for \$38,700,000 pursuant to the following conditions:

(a) the appraised value of the Seal Bay parcel and the Tonki Cape parcel combined is not less than \$38,700,000. If the appraised value of the Lands is less than \$38,700,000 Seller may exercise an option to sell and the Trustee Council agrees to provide the funds for purchase of the Lands at the appraised value. If the appraised value of the Seal Bay parcel alone is greater than \$38,700,000 but less than \$42,000,000, the sale of the Lands will proceed at \$38,700,000. If the appraised value of the Seal Bay parcel is greater than \$42,000,000, Seller may elect not to proceed with the sale of the Lands, or Seller may exercise an option to sell at \$38,700,000 and the sale of the Lands shall proceed at \$38,700,000. The appraised value will be determined by an appraiser to be selected by the Trustee Council. The appraisal will determine the fair market value of the Lands as of May 14, 1993;

(b) Seller will be paid \$29,950,000 at the time of closing. The balance will be paid in three annual equal installments with interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate, with the rate to be adjusted annually and compounded annually. The final payment will be contingent upon the extinction, including final adjudication, of any claims or potential claims pursuant to sections 14(c) and (g) of the Alaska Native Claims Settlement Act;

(c) a satisfactory hazardous substances survey is completed;

(d) there is satisfactory compliance with the National Environmental Policy Act.

(e) a satisfactory title search is completed and Seller is able to convey fee simple title by warranty deed to the surface estate for the Lands;

(f) no timber harvesting or further road development will be done on these Lands by Seller prior to closing;

(g) the appraisal, National Environmental Policy Act compliance, and title search will be completed within 90 days after May 13, 1993 or as soon thereafter as the parties may agree;

(h) Seller agrees to promptly undertake all measures necessary to comply with the applicable requirements of AS 41.17 concerning reforestation, revegetation, brush, slash, and debris, salvage of trees, and soil erosion and wasting of logged lands and roads. Seller will place water bars, pull culverts and bridges, and hydroseed roads in accordance with a plan to be developed in cooperation with the Trustee Council. This plan will include compliance by Seller with the applicable road closure requirements of 11 AAC 95.320 and the applicable reforestation requirements of 11 AAC 95.375-390.

To facilitate protection of this key habitat and to eliminate the potential for encumbrances on the Lands, title to the Lands shall initially be conveyed to The Nature Conservancy ("TNC") which shall convey title to the State of Alaska at such time as the Lands have been designated by the Alaska legislature as a state park. The State and TNC will enter into an appropriate agreement

for the management of the Lands consistent with the this Resolution. If these Lands have not been so designated within 12 months of the date of conveyance to TNC, TNC shall, upon acceptance by the United States, convey title to the Lands to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution. During the time that title is held by TNC the Lands shall be managed by the State of Alaska consistent with the terms of this Resolution.

Title to the Lands shall be conveyed to the State of Alaska or the United States subject to the following conditions:

(i) there shall be no commercial timber harvest on these Lands nor any other commercial use of these Lands excepting such limited commercial use as may be consistent with state and federal law and the goals of restoration to its prespill condition of any natural resource injured, lost, or destroyed as a result of the EXXON VALDEZ oil spill 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;

(j) if the Lands are designated as a state park, public use of the Lands shall include sport, personal use, and subsistence hunting, fishing, trapping, and recreational uses insofar as

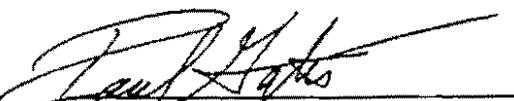
consistent with public safety and permitted under law or under a regulation of the Board of Fisheries or Board of Game.

(k) once the Lands have been conveyed to the State of Alaska or the United States of America, they may not be conveyed to any other entity for any purpose, and in the event that there is an attempt by the State to convey the Lands to any entity, in lieu of that conveyance, title to the Lands shall revert to TNC and as soon thereafter as possible, upon acceptance by the United States, be conveyed to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution.

Dated this 23 day of August, 1993 at Anchorage, Alaska.

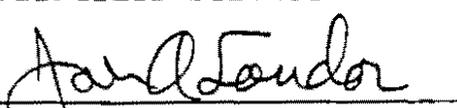

MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service


CHARLES E. COLE
Attorney General
State of Alaska


PAUL D. GATES
Regional Environmental Officer
for Alaska
U.S. Department of the Interior


STEVEN PENNOYER
Director, Alaska Region
National Marine
Fisheries Service


CARL L. ROSIER
Commissioner
Alaska Department of
Fish and Game


JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation

HABITAT PROTECTION ACQUISITION FOR SEAL BAY AND TONKI BAY

Afognak Island, Alaska



Prepared by
Alaska Department of Natural Resources
Land Records Information Section

LEGEND

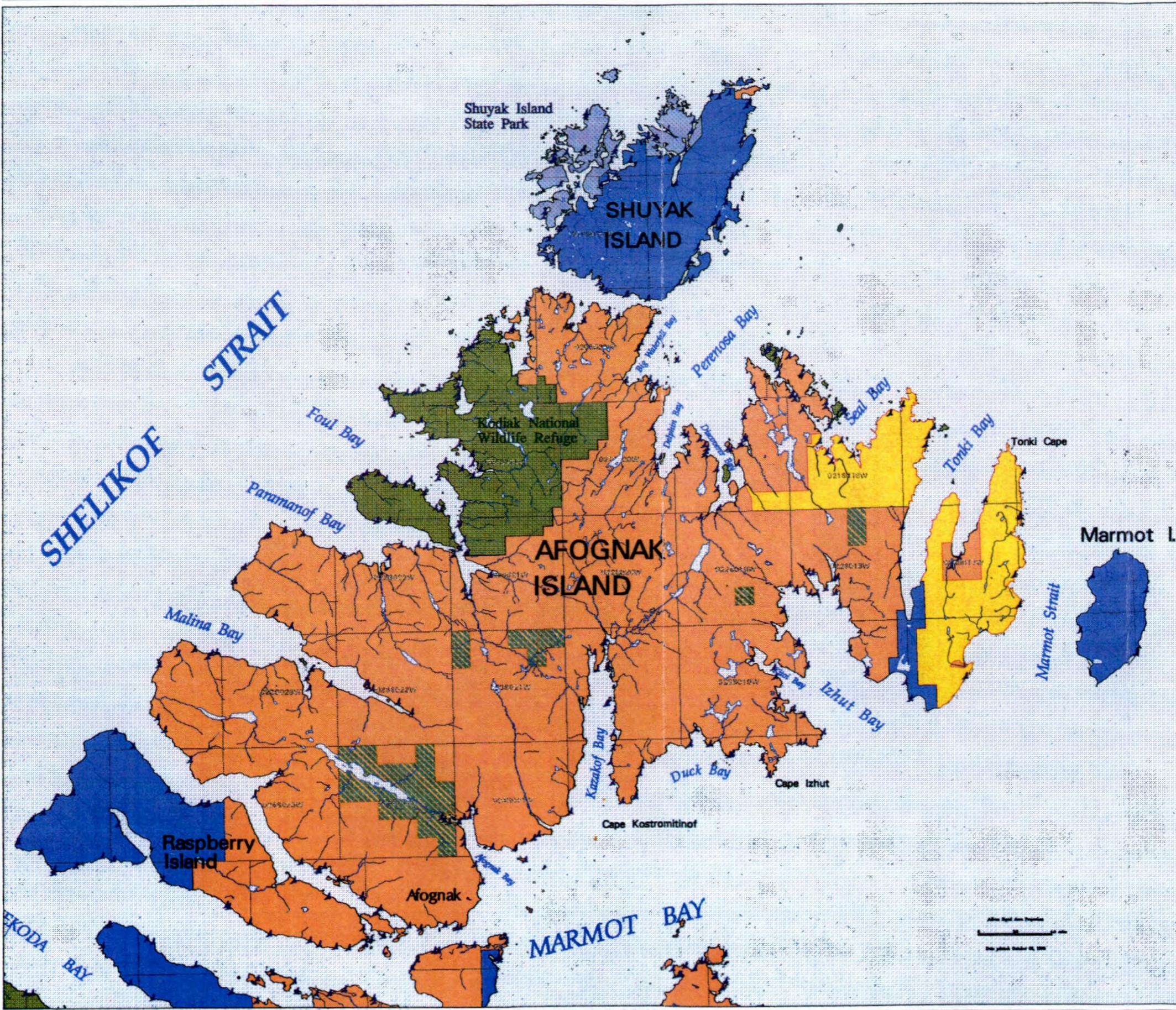
 Acquisition Area

LAND STATUS

-  National Forest
-  National Wildlife Refuges
-  State and Borough Lands
-  State Parks
-  Native or Private Lands
-  Native Selected

OTHER

-  Streams
-  Anadromous Streams
-  Eagle Nests



SOURCES:
Land status provided by ADNR,
Land Records Information
Section, 1993.

Eagle information collected
and provided by US Fish and
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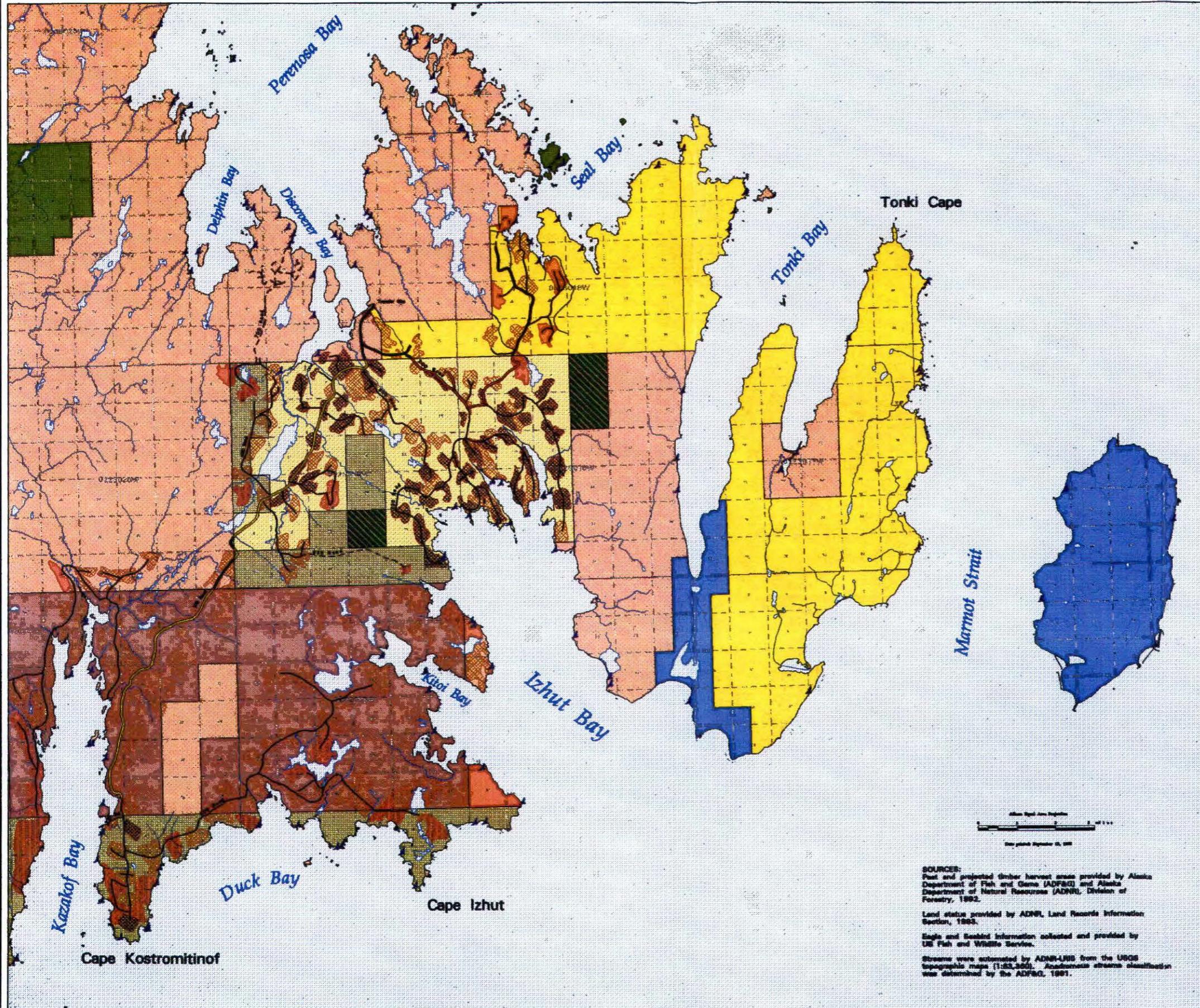
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HABITAT PROTECTION ACQUISITION FOR SEAL BAY AND TONKI BAY

Land Status Including Native Ownership



Produced by
Alaska Department of Natural Resources
Land Status Information Section



LEGEND

Acquisition Area

LAND STATUS

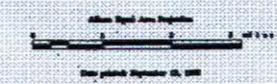
- National Forest
- National Wildlife Refuges
- State and Borough Lands
- Afognak Joint Venture
- Natives of Kodiak, Incorporated
- Natives of Afognak, Incorporated
- Ouzinkie Native Corporation
- Native Selected

TIMBER HARVEST

- Proposed Timber Harvest
- 1983 - 1992
- 1977 - 1982

OTHER

- Streams
- Anadromous Streams
- Eagle Nests
- ANCSA 17B Roads
- ANILCA Roads
- Private Roads
- Roads of Unknown Status
- Proposed Roads



SOURCES:
Past and projected timber harvest areas provided by Alaska Department of Fish and Game (ADF&G) and Alaska Department of Natural Resources (ADNR), Division of Forestry, 1992.
Land status provided by ADNR, Land Records Information Section, 1993.
Eagle and Osprey information collected and provided by US Fish and Wildlife Service.
Streams were automated by ADNR-USIS from the USGS topographic maps (1:50,000). Anadromous streams classification was determined by the ADF&G, 1991.

RESOLUTION OF THE
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2. The Lands are within the oil spill affected area and the tidelands adjoining the Lands were oiled in 1989.

3. A substantial portion of the Seal Bay parcel is threatened with imminent clearcut logging. Approximately 1158 acres have been logged, logging operations were ongoing on additional acreage until the Trustee Council resolved to purchase the Lands, and permits have been secured or are pending for the logging of additional acreage. The majority of the commercial timber in the Seal Bay parcel is slated for harvest by clearcut logging over the next few years.

4. The Lands include important habitat for several species of wildlife for which significant injury resulting from the oil spill has been documented. There is substantial evidence that the Lands are important marbled murrelet nesting areas. The extent to which marbled murrelets are naturally recovering from the oil spill is unknown. Harlequin ducks, a species that continues to suffer injury, are believed to nest in both parcels and forage on nearshore rocks and beaches adjacent to both parcels. Logging may directly affect these foraging and nesting activities and hence the rehabilitation of these two species. Restoration of black oyster catchers and river otters, which utilize the shore adjacent to uplands slated for logging, may be impacted by logging activities. River otters forage, rest, and may den on uplands. Harbor seal haul outs and intertidal and subtidal biota are all found in substantial quantity along the shore line in the threatened areas and could be impacted. There are known concentrations of sea otters off Tolstoi Point as well as otters that feed in the near shore waters of Seal Bay and Tonki Cape. Sea otters were injured by the oil spill. There are six documented anadromous streams in the Seal Bay parcel and two in the Tonki Cape parcel. There are ten documented bald eagle nests in Seal Bay with feeding and roosting along the shoreline and seven documented nests in the Tonki Cape parcel. Seal Bay has historically supported high value wilderness-based recreation such as hunting, boating and fishing. The area has high scenic value.

5. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other developmental 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 resources, 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 likely have a beneficial affect on recovery of injured resources and lost or diminished services provided by these resources.

6. There has been widespread public support for the acquisition of the Lands.

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

THEREFORE, we resolve to accept the Seller's proposal to sell the Seal Bay parcel consisting of approximately 17,166 acres, more or less, and the Tonki Cape parcel consisting of approximately 24,383 acres, more or less, including timber rights for both parcels, for \$38,700,000 pursuant to the following conditions:

(a) the appraised value of the Seal Bay parcel and the Tonki Cape parcel combined is not less than \$38,700,000. If the appraised value of the Lands is less than \$38,700,000 Seller may exercise an option to sell and the Trustee Council agrees to provide the funds for purchase of the Lands at the appraised value. If the appraised value of the Seal Bay parcel alone is greater than \$38,700,000 but less than \$42,000,000, the sale of the Lands will proceed at \$38,700,000. If the appraised value of the Seal Bay parcel is greater than \$42,000,000, Seller may elect not to proceed with the sale of the Lands, or Seller may exercise an option to sell at \$38,700,000 and the sale of the Lands shall proceed at \$38,700,000. The appraised value will be determined by an appraiser to be selected by the Trustee Council. The appraisal will determine the fair market value of the Lands as of May 14, 1993;

(b) Seller will be paid \$29,950,000 at the time of closing. The balance will be paid in three annual equal installments with interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate, with the rate to be adjusted annually and compounded annually. The final payment will be contingent upon the extinction, including final adjudication, of any claims or potential claims pursuant to sections 14(c) and (g) of the Alaska Native Claims Settlement Act;

(c) a satisfactory hazardous substances survey is completed;

(d) there is satisfactory compliance with the National Environmental Policy Act.

(e) a satisfactory title search is completed and Seller is able to convey fee simple title by warranty deed to the surface estate for the Lands;

(f) no timber harvesting or further road development will be done on these Lands by Seller prior to closing;

(g) the appraisal, National Environmental Policy Act compliance, and title search will be completed within 90 days after May 13, 1993 or as soon thereafter as the parties may agree;

(h) Seller agrees to promptly undertake all measures necessary to comply with the applicable requirements of AS 41.17 concerning reforestation, revegetation, brush, slash, and debris, salvage of trees, and soil erosion and wasting of logged lands and roads. Seller will place water bars, pull culverts and bridges, and hydroseed roads in accordance with a plan to be developed in cooperation with the Trustee Council. This plan will include compliance by Seller with the applicable road closure requirements of 11 AAC 95.320 and the applicable reforestation requirements of 11 AAC 95.375-390.

To facilitate protection of this key habitat and to eliminate the potential for encumbrances on the Lands, title to the Lands shall initially be conveyed to The Nature Conservancy ("TNC") which shall convey title to the State of Alaska at such time as the Lands have been designated by the Alaska legislature as a state park. The State and TNC will enter into an appropriate agreement

for the management of the Lands consistent with the this Resolution. If these Lands have not been so designated within 12 months of the date of conveyance to TNC, TNC shall, upon acceptance by the United States, convey title to the Lands to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution. During the time that title is held by TNC the Lands shall be managed by the State of Alaska consistent with the terms of this Resolution.

Title to the Lands shall be conveyed to the State of Alaska or the United States subject to the following conditions:

(i) there shall be no commercial timber harvest on these Lands nor any other commercial use of these Lands excepting such limited commercial use as may be consistent with state and federal law and the goals of restoration to its prespill condition of any natural resource injured, lost, or destroyed as a result of the EXXON VALDEZ oil spill 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;

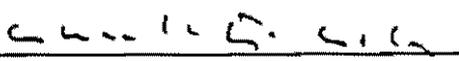
(j) if the Lands are designated as a state park, public use of the Lands shall include sport, personal use, and subsistence hunting, fishing, trapping, and recreational uses insofar as

consistent with public safety and permitted under law or under a regulation of the Board of Fisheries or Board of Game.

(k) once the Lands have been conveyed to the State of Alaska or the United States of America, they may not be conveyed to any other entity for any purpose, and in the event that there is an attempt by the State to convey the Lands to any entity, in lieu of that conveyance, title to the Lands shall revert to TNC and as soon thereafter as possible, upon acceptance by the United States, be conveyed to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution.

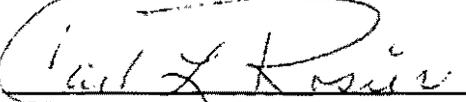
Dated this 23 day of August, 1993 at Anchorage, Alaska.

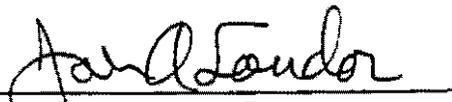

MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service


CHARLES E. COLE
Attorney General
State of Alaska


PAUL D. GATES
Regional Environmental Officer
for Alaska
U.S. Department of the Interior


STEVEN PENNOYER
Director, Alaska Region
National Marine
Fisheries Service


CARL L. ROSIER
Commissioner
Alaska Department of
Fish and Game


JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation

RESOLUTION OF THE
EXXON VALDEZ SETTLEMENT TRUSTEE COUNCIL

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

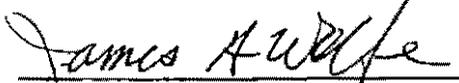
1. The State of Alaska should proceed to acquire the lands held by the Seal Bay Timber Company at Seal Bay and Tonki Bay on Afognak Island, Alaska as set forth in the Resolution of the EXXON VALDEZ Settlement Trustee Council adopted at the May 13, 1993 meeting of the Trustee Council and then executed in writing August 23, 1993.

2. Pursuant to the above referenced Resolution of the Trustee Council and consistent with the appraisal prepared by International Forestry Consultants, Inc., \$38,700,000 will be the purchase price for the lands.

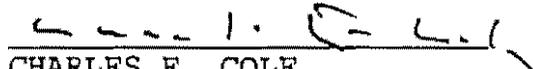
THEREFORE, we request the Attorney General of the State of Alaska and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to petition the United States District Court for the District of Alaska for withdrawal of the sum of \$29,950,000 from the EXXON VALDEZ Oil Spill Settlement Account established in the Court Registry Investment System as a result of the governments' settlement with the Exxon companies. These funds shall be paid into an interest bearing account of the State of Alaska and used to purchase fee simple title to the above described lands in the

manner described in the Resolution of Trustee Council dated August 23, 1993.

Dated this 16th day of September 1993 at Anchorage, Alaska.



for MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service



CHARLES E. COLE
Attorney General
State of Alaska



PAUL D. GATES
Regional Environmental Officer
for Alaska
U.S. Department of the Interior



STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries
Service



CARL L. ROSIER
Commissioner
Alaska Department of
Fish and Game



JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation

**AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS ON
AFOGNAK ISLAND**

THIS AGREEMENT is made by and between the Seal Bay Timber Company ("Seller"), The Nature Conservancy ("TNC"), and the State of Alaska ("State") (collectively, the "Parties").

1. **SALE OF PROPERTY.** Seller hereby agrees to sell all Seller's property rights on Afognak Island, Alaska, consisting of 17,166 acres, more or less, at Seal Bay ("Seal Bay parcel") and 24,383 acres, more or less, at Tonki Bay ("Tonki Cape parcel"), as more particularly described in Exhibit A ("the Property"), such sale to be made in accordance with the terms and conditions of this Agreement.

2. **PAYMENT OF PURCHASE PRICE.** The EXXON VALDEZ Oil Spill Trustee Council ("Trustee Council") has resolved to provide for payment of the purchase price in accordance with the terms and conditions of the resolution attached as Exhibit B.

3. **INTEREST CONVEYED.** The Seller does hereby warrant and represent to the Trustee Council, the State, and the United States as follows: (1) that the Seller is vested with title to the surface estate to the Property, (2) that all rights which may have been created by Section 14 of the Alaska Native Claims Settlement Act will be extinguished prior to final payment, and (3) that no liens, encumbrances, defects or third party interests have been granted by Seller in the Property except for a deed of trust and security interest to Koncor Forest Products Company, which deed of trust and security interest will be released at closing. At closing, Seller shall execute and deliver to TNC warranty deeds to the Property ("the Deeds"), in substantially the form attached hereto as Exhibits C and D, which exhibits are incorporated herein by reference. The Deeds shall convey the Property free and clear of all claims, liens and encumbrances other than the noted exceptions. In addition, Seller shall execute and deliver to TNC at closing such assignment documents as may be necessary to convey Seller's other interests in the Property to TNC.

4. **TERMS OF SALE.** Seller will be paid \$29,950,000 at the time of closing. The balance of the purchase price (\$8,750,000) will be paid in three annual equal installments of \$2,916,666.67, plus interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate compounded and adjusted annually. The final payment will be contingent upon the extinction, including final adjudication, of any claims or potential claims pursuant to Section 14 of the Alaska Native Claims Settlement Act.

5. **CONDITIONS OF SALE.** Prior to closing the following conditions must be satisfied: (a) a completed hazardous substance survey must establish that there are no hazardous substances on the Property, and (b) there must be satisfactory compliance with the National Environmental Policy Act. Seller agrees to promptly undertake all measures necessary to comply with the applicable requirements of AS 41.17 concerning reforestation, revegetation, brush, slash, and debris, salvage of trees, and soil erosion and wasting of logged lands and roads. Seller will place water bars, pull culverts and bridges, and hydroseed roads in accordance with a plan to be developed in cooperation with the Trustee Council. This plan will include compliance by Seller with the applicable road closure requirements of 11 AAC 95.320 and the applicable reforestation requirements of 11 AAC 95.375-390.

6. FURTHER CONVEYANCE. TNC shall convey title to the Property to the State at such time as the Property has been designated by the Alaska legislature as a state park. If the Property has not been so designated within 12 months of the date of conveyance to TNC, TNC shall, upon acceptance by the United States, convey title to the Property to the United States for inclusion in an appropriate federal conservation system unit as defined at Section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraph 6(a). Title to the Property shall be conveyed to the State or the United States subject to the following conditions:

(a) there shall be no commercial timber harvest on the Property nor any other commercial use of the Property excepting such limited commercial use as may be consistent with state law and the goals of restoration to its prespill condition of any natural resource injured, lost, or destroyed as a result of the EXXON VALDEZ oil spill 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 entered August 28, 1991;

(b) once the Property has been conveyed to the State or the United States, the Property may not be conveyed to any other entity for any purpose, and in the event that there is an attempt by the State to convey the Property to any entity, in lieu of that conveyance, title to the Property shall revert to TNC and as soon thereafter as possible, be conveyed to the United States for inclusion in a federal Conservation System Unit, and shall be subject to the conditions of subparagraph (a).

7. RIGHT TO ENTER PROPERTY. Seller agrees that from the date this Agreement is fully executed by the Parties, the Trustee Council, the State and the United States and their agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement, including environmental audit purposes.

8. CLOSING PLACE AND DATE. The Parties agree to endeavor in good faith to close on or before 10 days after \$29,950,000, the funds for the initial payment to Seller, have been provided by the Trustee Council and are available for lawful expenditure by the State, and all documents that are required to be provided or completed and executed by the Parties have been tendered. The date, time and location of closing shall be set by the State in concurrence with Seller and TNC.

9. OTHER AGREEMENTS AND ACTIONS. The Parties agree to take other action or enter into other agreements reasonably necessary to the exercise and closing of this Agreement.

10. SIGNATURE AUTHORITY. Each signatory to this Agreement represents that he has the authority to bind his principal to this Agreement.

11. NOTICE. Written notices shall be provided to the parties at the following addresses:

State of Alaska
Department of Natural Resources
Director, Division of Land
P.O. Box 107005
Anchorage, AK 99510-7005

Seal Bay Timber Company
P.O. Box 71
Old Harbor, AK 99643

State of Alaska
Craig Tillery
Attorney General's Office
1031 West 4th Avenue, Suite 200
Anchorage, AK 99501

James K. Wilkens, Esq.
Bliss, Riordan
431 W. 7th Avenue, Suite 201
Anchorage, AK 99501

The Nature Conservancy
Attn: Steve Planchon
601 West 5th Avenue, Suite 500
Anchorage, AK 99501

C. Walter Ebell, Esq.
Jamin, Ebell, Bolger & Gentry
300 Mutual Life Building
605 First Avenue
Seattle, WA 98104

STATE OF ALASKA

SEAL BAY TIMBER COMPANY

By: Charles S. Clark

By: Gerrit Christensen

Its: Attorney General

Its: PRESIDENT

Date: 9/17/93

Date: 9-17-93

THE NATURE CONSERVANCY

By: _____

Its: _____

Date: _____

SEAL BAY TIMBER COMPANY

PARCEL ONE: Property situated in the Kodiak Recording District, Third Judicial District, State of Alaska, more fully described as follows:

Seward Meridian

T.20 S., R. 17 W
Sec. 32

T.21 S., R. 16 W
Sec. 19
Sec. 30 and 31

T.21 S., R. 17 W.
Sec. 6, 7 and 8
Sec. 13
Sec. 17 to 20
Sec. 23 to 26
Sec. 29, 30 and 31
Sec. 33 and 34
Sec. 35 and 36

T.21 S., R. 18 W.
Sec. 1
Sec. 11 to 16
Sec. 17 S 1/2; NE 1/4; NW 1/4, E 1/2
Sec. 20 to 29
Sec. 31 to 36

T. 21 S., R. 19 W.
Sec. 35 and 36

T. 22 S., R. 16 W.
Sec. 6 and 7
Sec. 18 and 19
Sec. 31

T.22 S., R. 17 W.
Sec. 1 to 5
Sec. 8 and 9
Sec. 11 to 14
Sec. 17
Sec. 19 and 20
Sec. 23 to 29

EXHIBIT A

Sec. 32 to 35
Sec. 36

T.23 S., R. 17 W.

Sec. 1
Sec. 2 to 5
Sec. 6, SE 1/4
Sec. 7, E 1/2
Sec. 8 to 10
Sec. 15 to 17
Sec. 18, E 1/2
Sec. 19, NE 1/4
Sec. 20, E 1/2; NW 1/4
Sec. 21 to 22
Sec. 28
Sec. 29, E 1/2

PARCEL TWO: Property situated in Sections 26, 27 and 34, Township 21 South, Range 19 West, Seward Meridian, situated Southwest of Mallard Creek on Afognak Island, in the Kodiak Recording District, Third Judicial District, State of Alaska, more fully described as follows:

Commencing at the intersection of the easterly boundary of the Ouzinkie log storage site and the southerly edge of the 1100 Road, this point being the true point of beginning and being Cor. No. 1 for this description, bears S. 36°00' E. a dist. of 219.36 ft. from the mean high water line of Discoverer Bay. (This distance is a portion of the easterly boundary of the Ouzinkie log storage site.)

THENCE along the southerly edge of the 1100 Road on the following courses:

N. 63°00' E. a dist. of 127.38 ft.
N. 55°00' E. a dist. of 175.00 ft.
N. 46°30' E. a dist. of 404.00 ft.
N. 29°00' E. a dist. of 117.00 ft.
N. 07°45' E. a dist. of 83.00 ft.
N. 01°15' E. a dist. of 265.00 ft. to Cor. No. 2,

THENCE S. 28°45' E. a dist. of 2892.99 ft. to Cor. No. 3, this line traversing westerly near Mallard Creek,

EXHIBIT A

THENCE West along the section line between Secs. 26 and 35, a dist. of 374.00 ft. to Cor. No. 4, which is the section corner common to Secs. 26, 27, 34, and 35 of said township and range,

THENCE S. 00°02'48" E. along the section line between Secs. 34 and 35, a dist. of 1316.70 ft. to Cor. No. 5,

THENCE N. 28°45' W. a dist. of 2204.16 ft. to Cor. No. 6, marking a point on the southerly boundary of Ouzinkie log storage yard,

THENCE N. 54°00' E. along the southerly boundary of the Ouzinkie log storage yard, a dist. of 137.41 ft. to Cor. No. 7,

THENCE N. 36°00' W. along the easterly boundary of the Ouzinkie log storage yard, an approx. dist. of 1179.25 ft. to Cor. No. 1, the true point of beginning.

This parcel contains approximately 58.96 acres.

RESOLUTION OF THE
EKKON VALDEZ SETTLEMENT TRUSTEE COUNCIL

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

1. Seal Bay Timber Company ("Seller") owns the surface estate of lands on Afognak Island, including timber rights and consisting of approximately 41,549 acres, more or less, in two parcels, the Seal Bay parcel consisting of approximately 17,166 acres, more or less ("Seal Bay parcel") and the Tonki Cape parcel consisting of approximately 24,383 acres, more or less ("Tonki Cape parcel") (together the "Lands"), more particularly described in Attachment A. These Lands were selected pursuant to the Alaska Native Claims Settlement Act. The subsurface rights are held by Koniag, Inc.

2. The Lands are within the oil spill affected area and the tidelands adjoining the Lands were oiled in 1989.

3. A substantial portion of the Seal Bay parcel is threatened with imminent clearcut logging. Approximately 1158 acres have been logged, logging operations were ongoing on additional acreage until the Trustee Council resolved to purchase the Lands, and permits have been secured or are pending for the logging of additional acreage. The majority of the commercial timber in the Seal Bay parcel is slated for harvest by clearcut logging over the next few years.

4. The Lands include important habitat for several species of wildlife for which significant injury resulting from the oil spill has been documented. There is substantial evidence that the Lands are important marbled murrelet nesting areas. The extent to which marbled murrelets are naturally recovering from the oil spill is unknown. Harlequin ducks, a species that continues to suffer injury, are believed to nest in both parcels and forage on nearshore rocks and beaches adjacent to both parcels. Logging may directly affect these foraging and nesting activities and hence the rehabilitation of these two species. Restoration of black oyster catchers and river otters, which utilize the shore adjacent to uplands slated for logging, may be impacted by logging activities. River otters forage, rest, and may den on uplands. Harbor seal haul outs and intertidal and subtidal biota are all found in substantial quantity along the shore line in the threatened areas and could be impacted. There are known concentrations of sea otters off Tolstoi Point as well as otters that feed in the near shore waters of Seal Bay and Tonki Cape. Sea otters were injured by the oil spill. There are six documented anadromous streams in the Seal Bay parcel and two in the Tonki Cape parcel. There are ten documented bald eagle nests in Seal Bay with feeding and roosting along the shoreline and seven documented nests in the Tonki Cape parcel. Seal Bay has historically supported high value wilderness-based recreation such as hunting, boating and fishing. The area has high scenic value.

5. Existing laws and regulations, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act and the Marine Mammals Protection Act, are intended, under normal circumstances, to protect resources from serious adverse affects from logging and other developmental 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 resources, 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 likely have a beneficial affect on recovery of injured resources and lost or diminished services provided by these resources.

6. There has been widespread public support for the acquisition of the Lands.

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

THEREFORE, we resolve to accept the Seller's proposal to sell the Seal Bay parcel consisting of approximately 17,166 acres, more or less, and the Tonki Cape parcel consisting of approximately 24,383 acres, more or less, including timber rights for both parcels, for \$38,700,000 pursuant to the following conditions:

(a) the appraised value of the Seal Bay parcel and the Tonki Cape parcel combined is not less than \$38,700,000. If the appraised value of the Lands is less than \$38,700,000 Seller may exercise an option to sell and the Trustee Council agrees to provide the funds for purchase of the Lands at the appraised value. If the appraised value of the Seal Bay parcel alone is greater than \$38,700,000 but less than \$42,000,000, the sale of the Lands will proceed at \$38,700,000. If the appraised value of the Seal Bay parcel is greater than \$42,000,000, Seller may elect not to proceed with the sale of the Lands, or Seller may exercise an option to sell at \$38,700,000 and the sale of the Lands shall proceed at \$38,700,000. The appraised value will be determined by an appraiser to be selected by the Trustee Council. The appraisal will determine the fair market value of the Lands as of May 14, 1993;

(b) Seller will be paid \$29,950,000 at the time of closing. The balance will be paid in three annual equal installments with interest accruing on the unpaid balance at a rate equal to the fifty-two week United States treasury bill rate, with the rate to be adjusted annually and compounded annually. The final payment will be contingent upon the extinction, including final adjudication, of any claims or potential claims pursuant to sections 14(c) and (g) of the Alaska Native Claims Settlement Act;

(c) a satisfactory hazardous substances survey is completed;

(d) there is satisfactory compliance with the National Environmental Policy Act.

(e) a satisfactory title search is completed and Seller is able to convey fee simple title by warranty deed to the surface estate for the Lands;

(f) no timber harvesting or further road development will be done on these Lands by Seller prior to closing;

(g) the appraisal, National Environmental Policy Act compliance, and title search will be completed within 90 days after May 13, 1993 or as soon thereafter as the parties may agree;

(h) Seller agrees to promptly undertake all measures necessary to comply with the applicable requirements of AS 41.17 concerning reforestation, revegetation, brush, slash, and debris, salvage of trees, and soil erosion and wasting of logged lands and roads. Seller will place water bars, pull culverts and bridges, and hydroseed roads in accordance with a plan to be developed in cooperation with the Trustee Council. This plan will include compliance by Seller with the applicable road closure requirements of 11 AAC 95.320 and the applicable reforestation requirements of 11 AAC 95.375-390.

To facilitate protection of this key habitat and to eliminate the potential for encumbrances on the Lands, title to the Lands shall initially be conveyed to The Nature Conservancy ("TNC") which shall convey title to the State of Alaska at such time as the Lands have been designated by the Alaska legislature as a state park. The State and TNC will enter into an appropriate agreement

for the management of the Lands consistent with the this Resolution. If these Lands have not been so designated within 12 months of the date of conveyance to TNC, TNC shall, upon acceptance by the United States, convey title to the Lands to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution. During the time that title is held by TNC the Lands shall be managed by the State of Alaska consistent with the terms of this Resolution.

Title to the Lands shall be conveyed to the State of Alaska or the United States subject to the following conditions:

(i) there shall be no commercial timber harvest on these Lands nor any other commercial use of these Lands excepting such limited commercial use as may be consistent with state and federal law and the goals of restoration to its prespill condition of any natural resource injured, lost, or destroyed as a result of the EXXON VALDEZ oil spill 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 25, 1991;

(j) if the Lands are designated as a state park, public use of the Lands shall include sport, personal use, and subsistence hunting, fishing, trapping, and recreational uses insofar as

consistent with public safety and permitted under law or under a regulation of the Board of Fisheries or Board of Game.

(k) once the Lands have been conveyed to the State of Alaska or the United States of America, they may not be conveyed to any other entity for any purpose, and in the event that there is an attempt by the State to convey the Lands to any entity, in lieu of that conveyance, title to the Lands shall revert to TNC and as soon thereafter as possible, upon acceptance by the United States, be conveyed to the United States of America for inclusion in an appropriate federal conservation system unit as defined at section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 ("Conservation System Unit") and having restrictions consistent with Paragraphs (i) through (k) of this Resolution.

Dated this 23 day of August, 1993 at Anchorage, Alaska.

Mike Barton
MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service

Charles E. Cole
CHARLES E. COLE
Attorney General
State of Alaska

Paul D. Gates
PAUL D. GATES
Regional Environmental Officer
for Alaska
U.S. Department of the Interior

Steven Pennoyer
STEVEN PENNOYER
Director, Alaska Region
National Marine
Fisheries Service

Carl L. Rosier
CARL L. ROSIER
Commissioner
Alaska Department of
Fish and Game

John A. Sandor
JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation

WARRANTY DEED

GRANTOR Seal Bay Timber Company, whose address is P.O. Box 71, Old Harbor, Alaska 99643, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, grants, conveys and sells to GRANTEE The Nature Conservancy, whose address is 601 West 5th Avenue, Suite 500, Anchorage, Alaska 99501, the following described property situated in the Kodiak Recording District, Third Judicial District, State of Alaska, more fully described as follows:

Seward Meridian

T.20 S., R. 17 W
Sec. 32

T.21 S., R. 16 W
Sec. 19
Sec. 30 and 31

T.21 S., R. 17 W.
Sec. 6, 7 and 8
Sec. 13
Sec. 17 to 20
Sec. 23 to 26
Sec. 29, 30 and 31
Sec. 33 and 34
Sec. 35 and 36

T.21 S., R. 18 W.
Sec. 1
Sec. 11 to 16
Sec. 17 S 1/2; NE 1/4; NW 1/4, E 1/2
Sec. 20 to 29
Sec. 31 to 36

T. 21 S., R. 19 W.
Sec. 35 and 36

T. 22 S., R. 16 W.
Sec. 6 and 7
Sec. 18 and 19
Sec. 31

T.22 S., R. 17 W.

- Sec. 1 to 5
- Sec. 8 and 9
- Sec. 11 to 14
- Sec. 17
- Sec. 19 and 20
- Sec. 23 to 29
- Sec. 32 to 35
- Sec. 36

T.23 S., R. 17 W.

- Sec. 1
- Sec. 2 to 5
- Sec. 6, SE 1/4
- Sec. 7, E 1/2
- Sec. 8 to 10
- Sec. 15 to 17
- Sec. 18, E 1/2
- Sec. 19, NE 1/4
- Sec. 20, E 1/2; NW 1/4
- Sec. 21 to 22
- Sec. 28
- Sec. 29, E 1/2

Together with any and all of the easements and appurtenances thereto, and improvements located thereon ("Property"); and

Subject to any and all easements, restrictions, covenants and encumbrances of record or imposed by law, including but not limited to those contained in Patent No. 50-90-0647 dated September 26, 1990, from the United States of America to Afognak Joint Venture.

Also subject to Afognak Island Road Use Agreement, including the terms and provisions thereof, as disclosed by Memorandum recorded August 6, 1991 in Book 108 at Page 323 in the Kodiak Recording District, Third Judicial District, State of Alaska; and Discoverer Bay Log Transfer Facilities Agreement, including the terms and provisions thereof, as disclosed by Memorandum recorded August 6, 1991 in Book 108 at Page 364 in the Kodiak Recording District, Third Judicial District, State of Alaska.

Grantor warrants that the Property is free and clear of any encumbrances created since the conveyance of the Property to Grantor, except for those encumbrances created by the exercise of federal, state, and local police powers, including building and zoning regulations, and agrees to forever defend the Property as to Grantee, its successors and assigns.

DATED this ____ day of _____, 1993, at _____, Alaska.

GRANTOR:

SEAL BAY TIMBER COMPANY

By: _____
Its: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 1993, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, of SEAL BAY TIMBER COMPANY, a joint venture organized and existing under the laws of the State of Alaska, to me known and known to me to be the _____ of said joint venture and acknowledged to me that he signed the foregoing Warranty Deed freely and voluntarily for and on behalf of said joint venture by authority of its Board of Directors for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

SORT YARD WARRANTY DEED

Grantor Seal Bay Timber Company, whose address is P.O. Box 71, Old Harbor, Alaska 99643 ("Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, grants, conveys and sells to Grantee The Nature Conservancy, whose address is 601 West 5th Avenue, Suite 500, Anchorage, Alaska 99501, the following described property situated in Sections 26, 27 and 34, Township 21 South, Range 19 West, Seward Meridian, situated Southwest of Mallard Creek on Afognak Island, in the Kodiak Recording District, Third Judicial District, State of Alaska, more fully described as follows:

Commencing at the intersection of the easterly boundary of the Ouzinkie log storage site and the southerly edge of the 1100 Road, this point being the true point of beginning and being Cor. No. 1 for this description, bears S. 36°00' E. a dist. of 219.36 ft. from the mean high water line of Discoverer Bay. (This distance is a portion of the easterly boundary of the Ouzinkie log storage site.)

THENCE along the southerly edge of the 1100 Road on the following courses:

N. 63°00' E. a dist. of 127.38 ft.
N. 55°00' E. a dist. of 175.00 ft.
N. 46°30' E. a dist. of 404.00 ft.
N. 29°00' E. a dist. of 117.00 ft.
N. 07°45' E. a dist. of 83.00 ft.
N. 01°15' E. a dist. of 265.00 ft. to Cor. No. 2,

THENCE S. 28°45' E. a dist. of 2892.99 ft. to Cor. No. 3, this line traversing westerly near Mallard Creek,

THENCE West along the section line between Secs. 26 and 35, a dist. of 374.00 ft. to Cor. No. 4, which is the section corner common to Secs. 26, 27, 34, and 35 of said township and range,

THENCE S. 00°02'48" E. along the section line between Secs. 34 and 35, a dist. of 1316.70 ft. to Cor. No. 5,

THENCE N. 28°45' W. a dist. of 2204.16 ft. to Cor. No. 6, marking a point on the southerly boundary of Ouzinkie log storage yard,

THENCE N. 54°00' E. along the southerly boundary of the Ouzinkie log storage yard, a dist. of 137.41 ft. to Cor. No. 7,

THENCE N. 36°00' W. along the easterly boundary of the Ouzinkie log storage yard, an approx. dist. of 1179.25 ft. to Cor. No. 1, the true point of beginning.

This parcel contains approximately 58.96 acres.

Together with any and all of the easements and appurtenances thereto ("Property");
and

Subject to any and all easements, restrictions, covenants and encumbrances of record or imposed by law, including but not limited to those contained in Patent No. 50-90-0647 dated September 26, 1990, from the United States of America to Afognak Joint Venture.

Also subject to Afognak Island Road Use Agreement, including the terms and provisions thereof, as disclosed by Memorandum recorded August 6, 1991 in Book 108 at Page 323 in the Kodiak Recording District, Third Judicial District, State of Alaska; and Discoverer Bay Log Transfer Facilities Agreement, including the terms and provisions thereof, as disclosed by Memorandum recorded August 6, 1991 in Book 108 at Page 364 in the Kodiak Recording District, Third Judicial District, State of Alaska.

Grantor warrants that the Property is free and clear of any encumbrances created since the conveyance of the Property to Grantor, except for those encumbrances created by the exercise of federal, state, and local police powers, including building and zoning regulations, and agrees to forever defend the Property as to Grantee, its successors and assigns.

DATED this ____ day of _____, 1993, at _____, Alaska.

GRANTOR:

SEAL BAY TIMBER COMPANY

By: _____
Its: _____

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on this ___ day of _____, 1993, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, of SEAL BAY TIMBER COMPANY, a joint venture organized and existing under the laws of the State of Alaska, to me known and known to me to be the _____ of said company and acknowledged to me that he signed the foregoing Warranty Deed freely and voluntarily for and on behalf of said joint venture by authority of its Board of Directors for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public for _____
My commission expires:

Interim Protection Process

Seal Bay was selected by the Trustee Council for possible protection and acquisition as a result of an Interim Protection Process developed by the Council in response to widespread public comment about the ongoing destruction of habitat in the oil spill area. Its purpose was to identify those high value habitat areas in the oil spill area that were threatened with imminent habitat degradation.¹ Nineteen parcels, including Seal Bay, were identified as imminently threatened and ranked as to their value for restoration purposes (See **Parcel Ranking and Acreage Summary**, page 14). The Trustee Council decided to pursue protection measures for the top five parcels. The Kachemak Bay State Park inholdings were ranked number one and Seal Bay number two.

The steps in the Interim Protection Process are summarized on page 2. As part of the Interim Protection Process, the Council determined that Seal Bay met the **Interim Threshold Criteria** which are described on page 3.

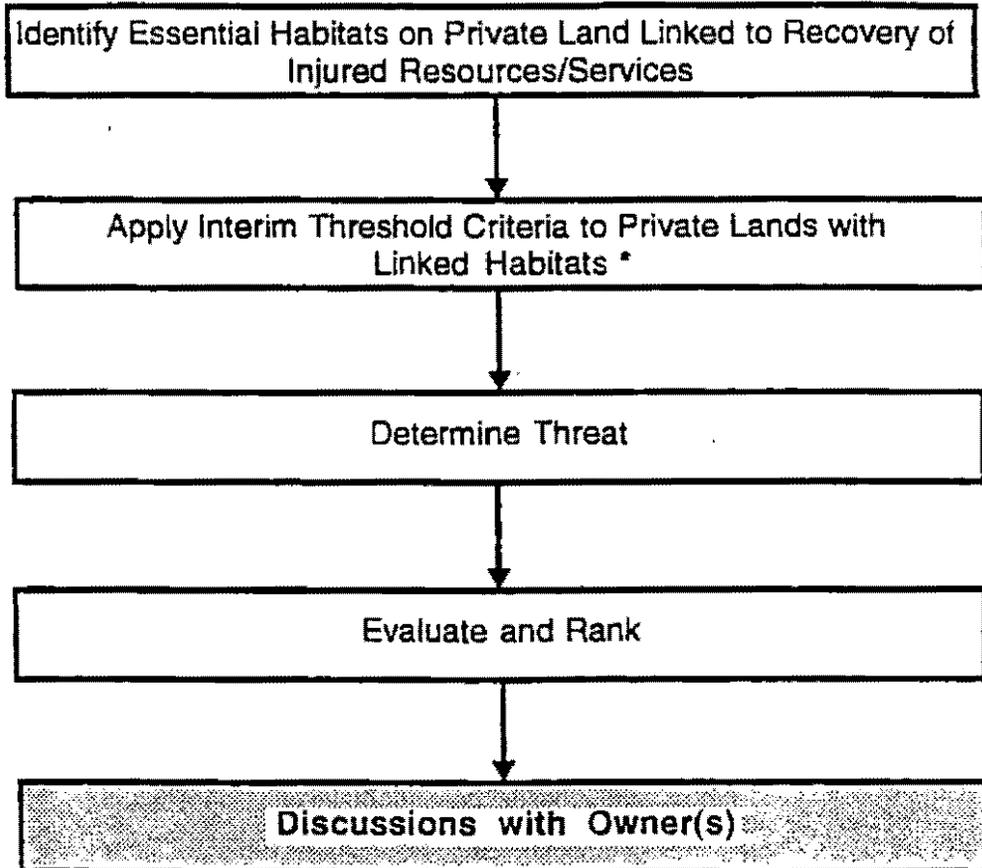
Parcels which satisfied the Interim Threshold criteria were evaluated using the **Interim Evaluation/Ranking Criteria** (page 4) and **Criteria for Rating Benefit of Parcel to injured Resources/Services** (pages 5-7). These criteria detail to what degree specific resources and services would benefit from acquisition of a particular parcel. The application of these criteria to the Seal Bay parcel is found on pages 8-10. This analysis details the potential benefit Seal Bay is expected to provide for each of the resources and services identified, as well as consideration of the parcel's ecological significance, adjacent land management, imminent threat status, protection objectives, available protection tools and recommended protection actions.

Following negotiations with the landowner, the Tonki Cape parcel was added to the acquisition and evaluation process. The analysis of the Tonki Cape parcel is found on pages 11 and 12.

A numerical scoring and ranking system was applied to the evaluation process. This ranking, the **Seal Bay Option Ranking Analysis**, is included on page 13.

¹ A comprehensive evaluation of private lands in the spill area for purposes of restoration is also being developed. It should be ready for public comment in December.

SUMMARY OF INTERIM PROTECTION PROCESS



Abstracted from Figures 1 & 2 of the Framework Supplement.

- * Criteria #1 and #3 cannot be applied until approval is received from the Trustee Council to obtain this information from landowners.

Interim Threshold Criteria *

1. There is a willing seller of the parcel or property right.
2. The parcel contains key habitats that are linked to, replace, provide the equivalent of, or substitute for injured resources or services based on scientific data or other relevant information.
3. The seller acknowledges that the government cannot purchase the parcel or property rights in excess of fair market value.
4. Recovery of the injured resource or service would benefit from protection in addition to that provided by the owner and applicable laws and regulations.
5. The acquired property rights can reasonably be incorporated into public land management systems.

*Approved by the Trustee Council at their January 19, 1993 meeting.

Interim Evaluation/Ranking Criteria *

1. The parcel contains essential habitat(s)/sites for injured species or services. Essential habitats include feeding, reproductive, molting, roosting, and migration concentrations; essential sites include known or presumed high public use areas. Key factors for determining essential habitat/sites are:
 - a. population or number of animals or number of public users.
 - b. number of essential habitats/sites on parcel, and
 - c. quality of essential habitats/sites.
2. The parcel can function as an intact ecological unit or essential habitats on the parcel are linked to other elements/habitats in the greater ecosystem.
3. Adjacent land uses will not significantly degrade the ecological function of the essential habitat(s) intended for protection.
4. Protection of the habitats on parcel would benefit more than one injured species/service (unless protection of a single species/service would provide a high recovery benefit).
5. The parcel contains critical habitat for a depleted, rare, threatened, or endangered species.
6. Essential habitat/sites on parcel are vulnerable or potentially threatened by human activity.
7. Management of adjacent lands is, or could easily be made compatible with protection of essential habitats on parcel.
8. The parcel is located within the oil spill affected area.

*Approved by the Trustee Council at their January 19, 1993 meeting.

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE / SERVICE	HIGH	MODERATE	LOW
Anadromous Fish	High density of anadromous streams per parcel; multiple injured species; and/or system known to have exceptional productivity.	Average density of anadromous streams for area; two or more injured species present.	Few or no streams on parcel; one or less injured species.
Bald Eagle	High density of nests on parcel; and/or known critical feeding area.	Average density of nests on or immediately adjacent to parcel (at least one); important feeding area.	Few or no nests on parcel; may be used for perching and/or feeding.
Black Oystercatcher	Area known to support nesting or concentration area for feeding.	Possible nesting; known feeding area.	Probable feeding.
Common Murre	Known nesting on or immediately adjacent to parcel.	Nesting in vicinity of parcel; known feeding concentration adjacent to parcel.	Possible feeding in area adjacent to parcel.
Harbor Seal	Known haul out on or immediately adjacent to parcel.	Probable haul outs in vicinity of parcel; probable feeding in nearshore waters adjacent to parcel.	Probable feeding in nearshore waters.
Harlequin Duck	Known nesting or molting on parcel; feeding concentration area.	Probable nesting on or adjacent to parcel; probable feeding in stream, estuary, or intertidal adjacent to parcel.	Probable feeding and loafing in area adjacent to parcel.

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE / SERVICE	HIGH	MODERATE	LOW
Intertidal/subtidal Biota	Known high productivity/species richness. Oiled or adjacent to oiled area where recruitment may be important.	High productivity/species richness; not oiled or near oiled area.	Average productivity/species richness; no documented shoreline oiling.
Marbled Murrelet	Known nesting or high confidence that nesting occurs; concentrated feeding in nearshore waters.	Good nesting habitat characteristics; known feeding in nearshore waters adjacent to parcel.	Low likelihood of nesting; possible feeding in nearshore waters.
Pigeon Guillemot	Known nesting on or immediately adjacent to parcel; feeding concentrations in nearshore waters.	Good nesting habitat characteristic; known feeding in nearshore waters adjacent to parcel.	Low likelihood of nesting; possible feeding in nearshore waters.
River Otter	Known high use of parcel for denning/latrine sites.	Known or probable latrine and/or denning sites; known feeding in adjacent intertidal/streams/nearshore area.	Probable feeding in adjacent intertidal/streams.
Sea Otter	Known haulout or pupping concentrations.	Concentration area for feeding and/or shelter; potential pupping.	Feeding in adjacent waters.

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE / SERVICE	HIGH	MODERATE	LOW
Recreation/Tourism	Receives high public use; highly visible to a large number of recreationists/tourists; area nominated for special recreational designation.	Accessible by road, boat, or plane; adjacent area used for recreational boating; adjacent area receives high public use.	Occasional recreational use; access may be difficult.
Wilderness	Area remote; little or no evidence of human development.	Area remote; evidence of human development.	Area accessible; high/moderate evidence of human development (roads, clearcuts, cabins).
Cultural Resources	Documented concentration or significant cultural resources/sites on parcel.	Evidence of cultural resources/sites on or adjacent to parcel.	Possible cultural resources/sites on parcel.
Subsistence	Known resource harvest area; multiple resource use.	Known harvest area for at least one resource.	Possible harvest area.

7

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01		PARCEL NAME: Seal Bay	
¹ LANDOWNER: Akhiok Kaguyak/ Old Harbor		² PARCEL ACREAGE: 15,000	³ TOTAL ACREAGE: 253,000
			⁴ AFFECTED ACREAGE: 1,600
INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT	
Anadromous Fish	Moderate	Six documented anadromous streams; pink, sockeye, coho, Dolly Varden, steelhead.	
Bald Eagle	High	Fourty two documented nest sites; feeding and roosting along shoreline.	
Black Oystercatcher	Moderate	Feeding in intertidal; probable nesting along shoreline and nearshore islets.	
Common Murre	None		
Harbor Seal	Moderate	Area historically supported large numbers of seals. Feeding in nearshore waters and haul-outs on nearshore rocks.	
Harlequin Duck	Moderate	Up to 64 birds observed in Seal Bay. Nearshore habitat appears good for feeding and molting. Potential for nesting appears low.	
Intertidal/subtidal biota	Moderate	Productive sheltered rocky intertidal and shallow subtidal habitat. Steep slopes adjacent to intertidal may become source of erosion sedimentation. No documented oiling of shoreline.	
Marbled Murrelet	High	High confidence that nesting occurs on parcel; good nesting habitat characteristics; high use of adjacent marine waters for feeding.	

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01	PARCEL NAME: Seal Bay	
Pigeon Guillemot	Moderate	Documented nesting of up to 36 birds on or immediately adjacent to parcel; feeding in nearshore waters.
River Otter	Moderate	Probable feeding and latrine sites along shoreline. Possible denning. Habitat characteristics appear very favorable for river otters.
Sea Otter	Moderate	Known concentration area off Tolstoi Point. Feeding in nearshore waters.
Recreation/Tourism	Moderate	Area has historically supported high value wilderness-based recreation for boats and lodge. Access was previously difficult but is now road accessible.
Wilderness	Moderate	Wilderness characteristics are declining. Recent clearcuts and road are visible.
Cultural Resources	Moderate	Six archeological sites documented on parcel.
Subsistence	Low	Marine invertebrates, deer, elk, possibly marine mammals.
<p>ECOLOGICAL SIGNIFICANCE: This parcel contains old growth forest habitat adjacent to highly productive marine waters. Streams within the parcel support a diversity of anadromous fish. Forests on this parcel are suspected of providing high value marbled murrelet nesting habitat. Wilderness recreation values, particularly for fishing and hunting are high. Parcel supports non-injured species including deer, elk, and brown bear.</p>		
<p>ADJACENT LAND MANAGEMENT: Afognak Joint Venture; primarily for timber harvest and tree farming.</p>		

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01	PARCEL NAME: Seal Bay
IMMINENT THREAT/OPPORTUNITY: A portion of this parcel is proposed for logging in 1993 as an extension of an ongoing timber management operation by Koncor Forest Products. Akhiok-Kaguyak has expressed an interest in discussing habitat protection for remainder of parcel.	
PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitat for anadromous fish; 2) maintain marbled murrelet and bald eagle nesting habitat; 3) maintain and enhance wilderness-based recreational opportunities.	
USEFUL PROTECTION TOOL(S): Timber acquisition; fee title acquisition; cooperative management agreement; conservation easement.	
RECOMMENDED ACTION: This is one of highest priority imminent threat parcels; request Akhiok/Kaguyak/Old Harbor joint venture to provide interim protection; discuss options for long-term protection.	

1. Parties other than landowner may own partial rights (e.g., timber, minerals).
2. Area evaluated.
3. Estimated acreage held by the owner in the spill area.
4. Estimated area to be affected by imminent development activity.

HABITAT PROTECTION / ACQUISITION PARCEL SUMMARY

PARCEL #: KAP 01A	PARCEL NAME: Tonki Cape	
LANDOWNER: Akhiok/Kaguyak dba Seal Bay Timber Company	PARCEL ACREAGE: 24,384	² TOTAL ACREAGE: 253,000
INJURED SPECIES / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
Anadromous Fish	Low	One documented anadromous stream/lake #10010-0010; sockeye, Dolly Varden; probable rearing habitat along shoreline in little Tonki Bay.
Bald Eagle	Moderate	Seven documented nest sites; feeding and perching along shoreline.
Black Oystercatcher	Moderate	Feeding and loafing along shoreline; potential nesting on gravel beaches.
Common Murre	Low	Potential feeding in nearshore waters.
Harbor Seal	Low	Potential feeding in nearshore waters.
Harlequin Duck	Low	Potential feeding and loafing on nearshore rocks.
Intertidal/subtidal biota	Moderate	Predominantly exposed rocky habitat; scattered kelp beds.
Marbled Murrelet	Moderate	Forested slopes; potential feeding areas nearshore.
Pigeon Guillemot	Moderate	Suitable nesting habitat in places; probable feeding in nearshore waters.
River Otter	Low	Generally steep shorelines with no anadromous streams.

Habitat Protection Working Group 07/13/93

HABITAT PROTECTION / ACQUISITION PARCEL SUMMARY

Sea Otter	Moderate	Feeding and shelter concentrations near kelp beds and heads of bays.
Recreation/Tourism	Low	Remote; difficult access; area receives low levels of use for bear, deer and elk hunting.
Wilderness	High	Minimal evidence of human activity.
Cultural Resources		
Subsistence	Low	Potential deer and elk hunting, marine mammals, marine invertebrates.
<p>ECOLOGICAL SIGNIFICANCE: This includes predominantly steep forested slopes with high bench meadows. Tonki Peninsula is major denning area for brown bears on Afognak Island and has historically supported high elk and deer populations. Portion of the watershed of anadromous stream/lake #10020-2009 in little Tonki Bay are within parcel.</p>		
<p>ADJACENT LAND MANAGEMENT: Afognak Joint Venture has four section inholding at head of little Tonki Bay; State of Alaska owns lands at isthmus between peninsula and Afognak Island.</p>		
<p>IMMINENT THREAT/OPPORTUNITY: Area contains potential commercial forest.</p>		
<p>PROTECTION OBJECTIVE: Maintain wilderness characteristics; maintain access for recreational use including hunting and fishing.</p>		
<p>USEFUL PROTECTION TOOL(S): Fee title</p>		

Habitat Protection Working Group 07/13/93

SEAL BAY OPTION RANKING ANALYSIS

PARCEL		RANKING CRITERIA								
PARCEL #	NAME	1	2	3	4	5	6	7	8	SCORE
KAP 01	Seal Bay	2-H, 11-M	Y	N	Y	N	Y	N	Y	80
KAP 01A	Tonki Cape	1-H, 6-M	Y	N	Y	N	Y	N	Y	76

1. Parties other than landowner may own partial rights (e.g., timber, minerals).
2. Estimated acreage held by the owner in the spill area.
3. Refer to Interim Evaluation and Ranking Criteria.

Criteria 2 - 8

N = No (does not meet criteria)

Y = Yes (does meet criteria)

Criteria 1 from table: "Criteria for Rating Benefit of Parcel to Injured Resources/Services"

H = High Benefit

M = Moderate Benefit

L = Low Benefit (not included in this analysis)

4. Scoring Formula: Parcel Score = (Sum of H + (0.5 x Sum of M)) x Sum of Y
 Example: KAP 08 Score = (3 + (0.5 x 10)) x 6 = (3 + 5) x 6 = 48
 Note: Formula emphasizes degree of linkage to injured resource/service.

PARCEL RANKING AND ACREAGE SUMMARY

RANK	PARCEL #	NAME	ACREAGE	SCORE
<i>Imminent Threat Parcels</i>				
1	CIK 01	China Poot, Kachemak Bay	7,500	45
2	KAP 01	Seal Bay, Afognak I.	15,000	30
3	PWS 04	Fish Bay, Port Fidalgo	1,700	27
4	PWS 02	Power Creek, Cordova	1,300	24
5	CIK 05	Lower Kenai Peninsula	3,000	22.5
6	PWS 06	Patton Bay, Montague I.	3,300	18
7	PWS 03	Two Moon Bay, Port Fidalgo	2,100	14
8	PWS 01	Orca Narrows / Nelson Bay	3,500	12
9	KAP 03	Izhut Bay, Afognak I.	1,000	10
9	KAP 04	Kazakof Bay, Afognak I.	1,500	10
10	CIK 04	Port Graham Allotments	200	8
11	CIK 02	Sadie Cove, Kachemak Bay	400	7.5
12	CIK 03	Jakalof Bay, Kachemak Bay	600	6
12	KAP 02	Pauls Lake, Afognak I.	500	6
13	PWS 05	Eyak River, Cordova	100	5
14	CIK 07	Rocky Bay	100	3
15	KAP 05	Danger Creek, Afognak I.	120	1
15	KAP 06	Paramanof Cr., Afognak I.	500	1
16	CIK 06	Windy Bay	400	0
TOTAL IMMINENT THREAT ACRES			42,320	
<i>Opportunity Parcels</i>				
1	PWS 07	Chenega I./Eshamy/Jackpot	57,000	60
2	KAP 08	Shuyak Strait, Afognak I.	51,000	48
3	KAP 07	Alitak Bay, Kodiak I.	230,000	30
TOTAL OPPORTUNITY ACRES			338,000	
TOTAL ACRES ANALYZED			380,320	



Seal Bay, Unalakleet, Alaska



Seal Bay, Unalakleet, Alaska



Seal Bay, Afognak, Alaska



SEAL BAY TIMBER COMPANY
P.O. Box 71
Old Harbor, Alaska 99643

September 28, 1993

Mr. John C. Sawhill
President
The Nature Conservancy
1815 North Lynn Street
Arlington, Virginia 22209

Dear Mr. Sawhill:

On behalf of the Seal Bay Timber Company, a joint venture between subsidiaries of Old Harbor Native Corporation (OHNC) and Akhiok-Kaguyak, Inc. (AKI), we wish to thank The Nature Conservancy for facilitating the protection of over 40,000 acres of ecologically significant land on Afognak Island.

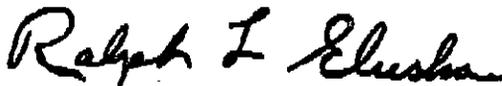
The Alaska Native village corporations of OHNC and AKI authorized under the Alaska Native Claims Settlement Act (ANCSA) have a long history of trying to protect the ecological integrity of Kodiak Archipelago lands and are very pleased that an agreement could be reached with the Exxon Valdez Trustee Council to protect these lands and wildlife habitats.

The Exxon Valdez oil spill settlement provided an avenue whereby the corporations could successfully address economic needs and habitat protection concerns. The acquisition approved by the federal and state trustees overseeing restoration activities represents a "win-win" transaction for the public and for our Alaska Native shareholders.

The Conservancy is playing a critical role in this transaction for which we are greatly appreciative. We are especially pleased to have the opportunity to work with your organization which is highly regarded in Alaska for its constructive approach to conservation.

If there is any information we can provide to you to be of assistance in connection with your consideration of this matter, please let us know.

Sincerely,



Ralph Eluska
Vice President



Emil Christiansen
President



Kodiak Island Borough

710 MILL BAY ROAD
KODIAK, ALASKA 99615-6340
PHONE (907) 486-5736

October 1, 1993

Charles S. Cole, Esq.
Attorney General
State of Alaska
Department of Law
Office of the Attorney General
Environmental Section
1031 West 4th Ave., Suite 200
Anchorage, AK 99501

Dear Charlie:

The Kodiak Island Borough supports the efforts of the Exxon Valdez Oil Spill Trustee Council to acquire the Seal Bay and Tonki Cape land located on Afognak Island. We are very pleased that an agreement could be reached which stopped the logging of these lands and provided a fair economic return to the owners of the property.

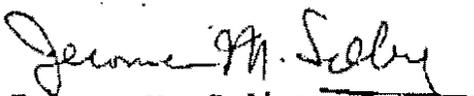
The opportunity to protect and preserve pristine wilderness habitat does not present itself often. The Trustee Council is to be commended for moving decisively and swiftly in negotiating the purchase.

Congratulations on a job well done.

Of course, if we may be of any assistance to you in consummating this transaction, please do not hesitate to call me.

Sincerely,

KODIAK ISLAND BOROUGH


Jerome M. Selby
Borough Mayor

APPRAISAL
SEAL BAY UNIT
AKHIOK-KAGUYAK AND OLD
HARBOR JOINT VENTURE

May 14, 1993

PREPARED FOR
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
Under Personal Services Contract L&WM 93-1

August 6, 1993

RECEIVED

AUG 09 1993



INTERNATIONAL FORESTRY CONSULTANTS, INC.

101 Eastwood Building / 1020-108th Ave. N.E. / Bellevue, WA 98004 U.S.A. / (206) 455-8353

MEMORANDUM

State of Alaska
Department of Natural Resources - Division of Land and Water

TO: Marty Rutherford
Deputy Commissioner

DATE: September 16, 1993

TELEPHONE NO: 762-2680

SUBJECT: Appraisal Review
Seal Bay

FROM:  Judy A. Robinson, SR/WA
Review Appraiser

This is a review of revisions received on September 14. The original appraisal was reviewed on August 18 by Dennis Lattery, Chief Review Appraiser. The purpose of the appraisal is to estimate market value of the surface estate.

I recommend the revised appraisal be used as the basis for purchase. It meets division criteria for being an acceptable report. It should also withstand federal review.

It is the appraiser's determination that market value as of May 14, 1993 was \$41,000,000 for the Seal Bay Unit. Most of the value is attributable to stands of commercial timber. I analyze the appraised values on the attached page.

Because DNR appraisers lack experience, an expert was hired to review the timber valuation portions of the original report. His written review is attached to and made part of this review. Based on his advice and my independent research of timber valuation methods, I believe I am competent to do this review.

This was a desk review. I did not personally inspect the property. The reports were reviewed for completeness, relevance of the data and appraisal methodologies, technical accuracy, and logic. The appraiser was phoned several times to clarify technical questions.

The appraiser was asked to revise the report for two reasons. First, the original report was based on a highest and best use of public ownership. Second, agency transactions were used as primary indicators of value, even though they failed the test of being arm's length transactions in an open, competitive market. These appraisal premises are clearly prohibited by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). They are also discouraged by DNR's General Appraisal Instructions.

The RFP and contract required that UASFLA be followed. The UASFLA requirement was deliberate for purposes of satisfying a majority of the Trustee Council who are bound by its standards.

Ethically, the appraiser has had a difficult time accepting the UASFLA premises. This is clear from reading the revised report

and from discussions during the review. UASFLA has existed for decades and is well grounded in case law. I suspect the appraiser's ethical struggle is due to a lack of experience in completing assignments under UASFLA.

The revised report uses private transactions as primary indicators of value. Agency transactions are used as secondary indicators to corroborate the final conclusion. While there are still a number of technical aspects about the report that trouble me, I am satisfied that the report now meets the standards required by DNR, UASFLA, and the Uniform Standards of Professional Appraisal Practice (USPAP).

My main source of discomfort with the report is highest and best use and the whole property approach to value. While it is entirely correct to value the whole property rather than sum the parts (timber value, plus mineral value, plus surface value), the technique used in this report was unexpected and seems to be a sum of the parts approach.

The approach is based on the premise that the highest and best use of the property is for management of natural resources and that the amenity value of the timber is equal to the commercial value of the timber. Therefore, there must be potential buyers willing to pay the present value of commercial timber plus the present surface value, who would then preserve the trees for their amenity, habitat, and recreational values.

In my opinion, lands with commercial timber are typically purchased solely for that reason, then harvested, then put to another surface use. Most of the private transactions in the report support my opinion. A notable exception is the Aleneva Joint Ventures/Russian Old Believers transaction on Afognak Island (Comparable 10). The appraiser has placed heavy reliance on this sale. While it may have been arm's length, with the buyers perfectly happy, I do not believe it is typical of the market. If it were, there would be other examples of buyers motivated by the desire to establish a remote residential enclave.

A more orthodox method for arriving at the residual land value would be to discount its present value for 9 years. The underlying logic is that the parcel is unavailable for any other use until the timber harvest is complete. Variations on this method would be acceptable appraisal practice. Another method would be to assign a nominal value. For example, the Internal Revenue Service usually requires buyers to assign \$100 to \$200 per acre to the land, with the remainder of the purchase price allocated to the timber. A third method would be to look for

market comparisons. That is what the valuation panel did with the SNC lands. The panel concluded that a discount of 50% was reasonable for cut over lands.

Another source of discomfort for me is the lack of a detailed comparison between each sale and the appraised property. In comparing the sales with the Seal Bay Unit, the appraiser has adjusted for known differences in the commercial value of the timber. In the case of wooded comparables with no commercial value, there has been no adjustment for amenity value. The appraiser placed most weight on two private sales (6 and 10). Those sales included the subsurface estate, which was not part of the appraisal.

Typically, a report will compare each sale with the subject, discussing such features as time, title interest, conditions of sale, location, and various physical features such as size and water frontage. Some reports will do this with a narrative. Others will use a comparison table noting which features are similar, inferior, and superior. Such a qualitative comparison approach helps bracket the subject value between sales that are superior overall and inferior overall.

This report uses many weighted averages, which is generally frowned on if it is the primary support for a conclusion of value. Fortunately, the reconciliation on page 46 makes it clear that there were other, more appropriate considerations besides averages in the final conclusion of value.

Finally, except for the agency transactions, it appears the appraiser was unable to verify many of the sales with the principals involved. It also appears that he did not personally inspect the sales, but used sale verifications and photos from other appraisers.

There are two sides to every coin. We need to remember that the appraiser was given a limited amount of time to complete a complex assignment. We have asked him for his opinion, and he has given it. His report complies with all the standards required.

In my opinion, even if other techniques were used and other fee appraisers consulted, the value of the Seal Bay Unit and the Tonki Cape Unit would still exceed \$38.7 million. The estimated timber values are \$36.5 and \$3.7 million, respectively.

It should be noted that the revised Tonki report has not been reviewed by anyone. I assume the revised report will pass review. It should also be noted that the timber expert has not

Seal Bay Appraisal Review

September 16, 1993

Page 4

reviewed the revised timber values. However, based on his original comments, I believe the revised values are reasonable. Timber values changed slightly because the future values of the annual timber harvests have been discounted at a lower rate. The lower rate is based on a theoretical discount rate. The original discount rate was based on an agency transaction. Thus, the revision is consistent with instructions to the appraiser to place only secondary weight on agency transactions.

The timber reviewer had some reservation about the value of the Tonki unit being high due to its scattered distribution and poor quality. On the other hand, I believe most appraisers would develop a residual land value of at least \$100 per acre or \$4.1 million for both units. Some appraisers might develop a zero land value, and some appraisers might develop a land value in excess of \$250.

In conclusion, while I am not entirely comfortable with the methods and reasoning used in this report, I am comfortable with the value. That is why I recommend this report be used as the basis for purchase.

ANALYSIS OF APPRAISED VALUE

	SEAL BAY UNIT
PROPERTY VALUE	\$41,000,000
TIMBER VALUE	\$36,500,000
LAND VALUE	\$ 4,500,000
TOTAL ACRES	17,167 AC
TIMBERED ACRES	8,009 AC
MBF	139,209 MBF
VALUE/ACRE (PROPERTY VALUE ÷ TOTAL ACRES)	\$ 2,388
VALUE/ACRE (TIMBER VALUE ÷ TOTAL ACRES)	\$ 2,126
VALUE/ACRE (LAND VALUE ÷ TOTAL ACRES)	\$ 262
VALUE/ACRE (TIMBER VALUE ÷ TIMBERED ACRES)	\$ 4,557
VALUE/MBF	\$ 262

cc: Carol Shobe
 Alex Swiderski
 Dennis Lattery
 Rich Goossens

Appraisal Review
Division of Land
Dennis L. Lattery, Review Appraiser

Appraisal No. Seal Bay

Date of Review 9-15-93

Legal Description Plots T2DS, R17W; 21S, 17W; 21S, 18W; & 21S, 19W, S.

Interest Being Appraised Surface Estate

Effective Date of Appraisal 5-14-93

ADL No. N/A

Narrative or Form Appraisal? Narrative

Fair Market Value Or Fair annual rental? FMV

The above indicated appraisal has been reviewed. This review has been conducted considering correct mathematics, use of currently acceptable appraisal practices and techniques, adequate market support and sound appraisal logic leading to a convincing conclusion.

Value is predicated on a "market value" basis (reference the Dictionary or Real Estate Appraisal, 2nd Edition, American Institute of Real Estate Appraisers).

It is required that all reports be made in conformity with requirements of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The report under review is subject to adequately addressing and discussing each of the following items:

- A) Certification Page? ✓
- B) Letter of Transmittal? ✓
- C) Date of Appraisal/Date of Inspection? ✓
- D) Purpose of Appraisal? ✓
- E) Rights Appraised? Fee? Leased Fee? Fee less mineral rights? Unless otherwise instructed, all appraisals involving state land will consider valuation on a fee simple less mineral rights basis. ✓
- F) Highest and Best Use? Provide a discussion of Highest and best use of the subject or subject sub-

Page 3

Appraisal Review

Appraisal No. Seal Bay

Review Appraiser Certification

I certify that, to the best of my knowledge and belief,

- the facts and data reported by the review appraiser and used in the review process are true and correct.
- The analysis, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or use of, this review report.
- my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I did not (did) personally inspect the subject property of the report under review.
- the assistance of John Galea & Dennis L. Lattery, in the preparation of this report is recognized.
- the value determination resulting from this review is \$41,000,000, as of (date) May 14, 1993

Dated the September 15, 1993

Judy A. Robinson
~~Dennis L. Lattery~~ Judy A. Robinson
Review Appraiser

United States
Department of
Agriculture

Forest
Service

Alaska Region

P.O. Box 21628
Juneau, AK 99802-1628

Reply to: 5410

Date: September 14, 1993

To: Alex Swiderski, Alaska Attorney General's Office

Subject: Seal Bay Appraisal

Approximately 47 pages of analysis and conclusions from an appraisal report prepared by International Forestry Consultants was telefaxed to our office in Juneau on September 13th. It was part of an appraisal prepared for the Seal Bay property proposed for acquisition by the Trustee Council.

In the original submission of the report which was reviewed by Dennis Lattery and Judy Robinson of the Department of Natural Resources staff, there were some significant problems associated with the highest and best use conclusion and the inclusion of other government sales as principle indications of value. This methodology clearly does not meet federal acquisition standards and in fact may arguably be in violation of the Uniform Standards of Professional Appraisal Practice. The appraiser was contacted by the reviewers and asked to submit a reanalysis. The faxed information referred to above is that reanalysis where the appraiser concludes a highest and best use as management for natural resources. The more recent work also places the previous government purchases as more secondary and supportive of the private transactions. This latter interpretation of the sales and highest and best use allows the report to be marginally acceptable as meeting federal standards.

I have not had the opportunity to review the finalized report in total and assume that the technical review and approval is being facilitated by the DNR reviewers. I have also not conducted a personal inspection of the subject property or the all of the comparables used in the analysis. I do have copies of the original reports and will incorporate the modifications into them to have a complete set. I would also appreciate a copy of DNR's review statements if possible.

RICHARD M. GOOSSENS
Regional Review Appraiser

Judy Robinson
Appraiser
State of Alaska
Department of Natural Resources
Division of Land and Water Mgmt.
3601 " C " Street - P.O. Box 107005
Anchorage, Alaska 99510-7005

RE: Seal Bay / Tonki Cape Appraisals
ASPS 10-94 0008
CC 10005690

August 13, 1993

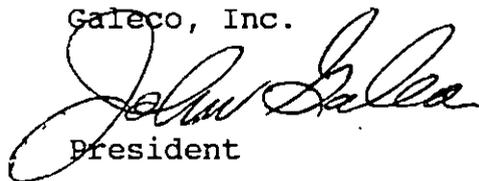
Dear Judy

Attached is my desk review report of the Seal Bay and Tonki
Cape Appraisals submitted by International Forestry
Consultants, Inc.

Included also are other documents that you requested in your
FAX of 8/11/93.

Sincerely

Galeco, Inc.

A handwritten signature in cursive script, appearing to read "John Gale", is written over the typed name "John Gale".

President

Seal Bay and Tonki Cape Appraisal Review

A. Appraisal Review

This report encompasses a desk review of the timber valuation portion (Sections A and B) of the Seal Bay and Tonki Cape Appraisals as submitted by International Forestry Consultants, Inc. The effective date of the Appraisal is May 14, 1993 and the date of the review is the period August 11-13, 1993. My certification statement follows at the end of this review.

B. Review Process

The extent of this review process is limited by the information contained in the Seal Bay and Tonki Cape appraisal reports submitted by INFO, Inc., conversations with INFO, Inc. Appraiser, Mr. William B. Wallace, and my personal experience and knowledge of the timber resource on Afognak Island.

My review is limited to timber valuation portions of Sections A and B of each Appraisal report. My opinions and comments, unless directed at either appraisal unit, pertain to both the Seal Bay and Tonki Cape reports

C. Reports Completeness

The reports, as presented are complete. I did not have access to back-up or work papers that may have been developed by INFO, Inc. in the preparation of their appraisals. In my discussions with Mr. Wallace, I was informed that background appraisal information, (i.e. log values and logging costs obtained from existing operations) was obtained on the basis of confidentiality. However, I have personal knowledge of these costs, and am in general agreement with that information gathered by INFO, Inc. from existing operations on Afognak Island.

1. Seal Bay Unit

Values for the Seal Bay unit were based as of May 14, 1993. Since that time, log values have been slowly but steadily dropping due to oversupply of round logs

in the Japan, Korea, Taiwan & China markets. It is my opinion that Afognak log prices will continue to drop and not recover for at least a 1-3 year period.

2. Tonki Cape Unit

The report, as presented, is complete, but I find it difficult to believe that there is significant, if any, value to the widely scattered and low grade timber found in the private land portion of the Tonki Cape Unit. I personally visited each timbered parcel during the summer of 1990 and found the bulk of the volume in the extremely lower end of #2, #3, and #4 log grades, according to the Puget Sound log grading rules. I feel that a detailed and intensive logging engineered harvest plan would result in a negative timber stumpage value. Lacking such effort and based on my discussions with Mr. Wallace, the appraisal estimates of INFO, Inc. for this unit are within reason.

D. Relevance of Data

1. Appraisal Methods

It appears that INFO, Inc. used a timber sale Whipple Creek #2, located at Ketchikan, Alaska as an indicator of timber value for both the Seal Bay and Tonki Cape Unit.

In my conversation with Mr. Wallace, INFO, Inc. had considered values and costs obtained from existing operations on Afognak Island in calculating their Income Capitalization Approach method (Conversion Return) and sales information gathered from the Whipple Creek #2 sale near Ketchikan, Alaska and the sale of the Kachemak Bay property in 1993. The results of the two appraisal methods were combined and adjustments were made to the final results by INFO, Inc. based on other data gathered and personal judgements experience of the appraisers. A greater weight was placed on cost and values obtained from comparable operations on Afognak Island.

2. Methodology

I concur with the appraisal methodology used by INFO, Inc. from the standpoint of consistency.

3. Section A. Timber Land Value

INFO, Inc. used the Faustmann formula to determine the value of the land supporting the timber. This method of expressing land values considers all the costs of timber management on an acre of timberland including planting of seedlings, thinning young stands, administrative and management costs, and final harvest costs at the end of a rotation. INFO, Inc. chose a 90 year rotation as a model and expressed all those costs that would incur over a 90 year rotation period. Against these costs, including the cost of money over time, was the total expected return from the sale of the harvested timber at the end of the 90 year period. I agree with the end results which is \$0 per acre.

The data citing long term rates of return inflation rates, log price appreciation over time and custodial expenditures appear to be accurate.

The combined volume of the two appraised units total about 171 million board feet. A large logging operation could conceivably harvest the entire volume in a 5 year period. This being the case, the use of 30 year bonds rates of return would not be applicable as would 3-5 year corporate bond yields. However, in my discussions with Mr. Wallace, I was informed that existing road use agreements with adjoining timber owners would limit the amount of volume one could move on an annual basis. This would extend timber harvest operations beyond the 5 year period.

4. Section B. Timber Value

The combining of two appraisal methods, Conversion Return and Sales comparisons and reconciling the end results, is an acceptable practice when complete background information is lacking or not available.

I agree with the market value of logs as well as the

logging costs used to arrive at the final valuation for the Seal Bay and Tonki Cape Units. As mentioned earlier, I do have reservations on providing the same market value average prices used on the Seal Bay Unit, to those found on the Tonki Cape Unit. It is my opinion that a buyer would not realize or recover all of the volume inventoried as merchantable on the Tonki Cape Unit due to its scattered and widely disbursed location and poor quality when compared to the Seal Bay Unit timber.

Regarding the Kachemak Bay sale, INFO, Inc. recognized a 30% discount in determining the market value of the timber. A question is raised when referring to a reduced price by a willing owner, in order to sell property at a discount, in terms of adjusting a sale price to account for market appreciation and the cost of money. It is my opinion that the Kachemak Bay timber was over valued. In my discussions with Mr. Wallace, the information gathered by INFO, Inc. regarding the Kachemak Bay site, indicated to him that it was an arms length transaction and properly used that information in his appraisals.

E. Appropriateness of Appraisal

INFO, Inc. has appropriately followed accepted appraisal methods and techniques.

F. Report Conclusions

In considering the overall data and analysis of INFO, Inc.'s appraisals for the Seal Bay and Tonki Cape Units, it is my opinion that the timber values shown are generally acceptable based on the assumptions outlined in the appraisal reports.

SEAL BAY AND TONKI CAPE APPRAISAL REVIEW

GALECO, INC.

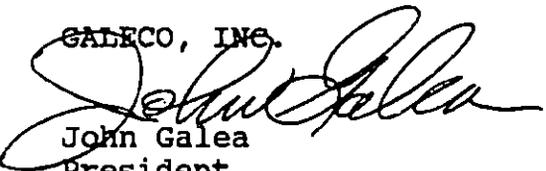
Certification

I certify that, to the best of my knowledge and belief:

- * the statements of fact contained in this report are true and correct.
- * the reported analysis, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
- * I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- * My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- * My analysis, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- * I have earlier made a personal inspection of the property that is the subject of this report.
- * No one provided significant professional assistance in developing my review. I did have phone conversations with Mr. Bill Wallace, INFO, Inc., pertaining to questions on factual data in his original appraisals.

Respectfully submitted,

GALECO, INC.



John Galea
President

RESUME: JOHN GALEA

August 16, 1993

EDUCATION

Bachelor of Science Degree, Forest Management -
University of Montana - 1958. Graduate School of
Administrative Leadership - Univ. of Montana - 1968.

EXPERIENCE

- * U.S. Navy, 1949/50 - 1950/52. Twenty-five years with the U.S. Forest Service, Alaska Region. Included positions as Logging Engineer at Sitka and District Ranger at Seward, Alaska and Moscow, Idaho.
- * Assigned as Assistant to the Regional Forester as a member and subsequently Director of the Alaska Planning Team, 1975 - 1980. Have worked in, visited, and have first hand knowledge of all forest lands throughout the State of Alaska.
- * Resigned from the Forest Service in 1980 and accepted a position with Sealaska Timber Corporation in January 1980 as Government Liaison Forester. Promoted to Vice President in 1982 and occupied that position through December 31, 1984. Galeco, Inc., Consultant practice through December 1985. General Manager, Alaska Loggers Association, January, 1986 through April, 1987.
- * Accepted Governor's appointment as Alaska State Forester, May, 1987. Resumed private consulting practice. Galeco, Inc., on August, 1988 to present.
- * Coordinated the timber cruise program on Afognak Island, including the Seal Bay, Tonki Cape, Laura Lake and Red Fox timber Units. Have visited and am familiar with all timber lands on Afognak.
- * Conducted Appraisal Reviews and due diligence certifications on 21 large timber blocks, encompassing over 270,000 acres in Southeast Alaska, Prince William Sound and South Central Alaska. Appraisals were done by four different Appraisal Firms, located in Washington, Oregon and California.

ORGANIZATIONS

- * Society of American Foresters - American Arbitration Association.

PAST ACCOMPLISHMENTS

- * Councilman, City of Seward - President, Kenai Peninsula School Board - Member, Fed./State Land Use Advisory Committee - Alaska State Forester.



September 13, 1993

Mr. Dennis Lattery
State of Alaska
Department of Natural Resources
P.O. Box 107005
Anchorage, AK 99510-7005

RE: Personal Services Contract No. L&WM 93-1

Dear Mr. Lattery

Attached is our appraisal report for the Seal Bay Unit property on Afognak Island.

In our opinion the market value, as of May 14, 1993, of the property is:

\$41,000,000.

The Certification on page 3 as well as the Assumptions and Limiting Conditions found on page 10 are important elements of any appraisal. The reader is urged to read these pages and be sure the statements made therein are well understood.

If you have any questions or comments please call.

Sincerely,
INTERNATIONAL FORESTRY CONSULTANTS, INC.

William B. Wallace, ACF, RPF
Certified Real Estate Appraiser - General, Washington
#270-11 WA-LL-AW-B670BZ

PART I
INTRODUCTION

TABLE OF CONTENTS

	<u>page</u>
LETTER OF TRANSMITTAL	i
PART I INTRODUCTION	
Table of contents	1
List of Tables	2
Certification	3
Photographs of subject	4
Summary of Salient Facts and Conclusions	8
Assumptions and limiting conditions	10
References	13
Purpose of the appraisal	14
Scope of the appraisal	14
Property Rights appraised	14
Appraisal Process	15
Appraisal problems	16
Function of the appraisal	17
PART II FACTUAL DATA	
Property location and description	18
Legal description	18
Ownership and history	18
Inspection of the subject property	19
Date of opinion of value	19
Regional Analysis	19
Neighborhood analysis	20
Merchantable timber	20
Timber harvest conditions	21
PART III DATA ANALYSES AND CONCLUSIONS	
Highest and best use	22
Value Analysis	26
Income Capitalization Approach	26
Sale Comparison Approach	26
<u>A.</u> Land Value	26
<u>B.</u> Timber Value	28
<u>C.</u> Value of the Property	35
Discussion of Comparable Sales	36
Discussion and reconciliation of values	46
PART IV ADDENDA	
Addendum I	Legal description and maps
Addendum II	Timber Appraisal
Addendum III	Comparable sales
Addendum IV	Qualifications of appraisers

LIST OF TABLES

Table 1	Faustmann Formula	Back of Page 28
Table 2	Whipple Cr. 2 Sale Scenario Summary	Page 32 Page 33
Table 3	Comparison of Timber Value Indicators	Page 34 (Back)
Table 4-A	Comparable Sales - Private Purchases Scenario Summary	Page 43 Back
Table 4-B	Comparable Sales - Public Purchases Scenario Summary	Page 44 Back

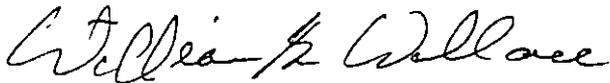
Certification

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct
- the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- Both William B. Wallace and Thomas M. Hanson have made a personal inspection of the property that is the subject of this report.
- Significant professional assistance was provided by Mr. Charles Horan and Mr. James Corak of the firm Horan, Corak and Company; Mr. Larry Shorett of the Firm Shorett and Reily; and Mr. Thomas Dunagan of the firm Affiliated Appraisers of Alaska.

Respectfully submitted,

INTERNATIONAL FORESTRY CONSULTANTS, INC.



William B. Wallace ACF, RPF
Certified Real Estate Appraiser - General
Washington #270-11 WA-LL-AW-BZ670B



Thomas M. Hanson ACF

PHOTOGRAPHS OF SUBJECT



Looking southeast from setting 616



Looking north from setting 616, part of Seal Bay in background



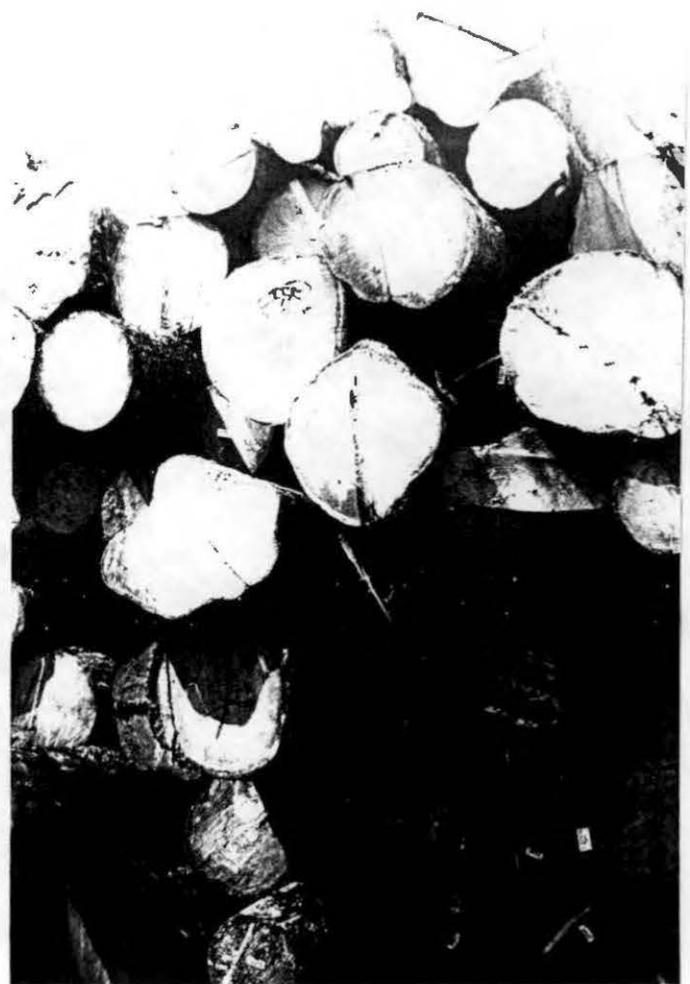
Looking northeast from setting 616, showing Road 631
Seal Bay and setting 624 in background



Typical logs of #3 sort quality



Above "Sort Yard" Looking East



Maximum defect in Sort #3



Typical logs of Sort #4 Quality



Typical logs of Sort #5 quality

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Subject Property: Portions of

Twp. 20 S., Rge. 17 W. S.M.
Section 32

Twp. 21 S. Rge. 17 W.
Sections 6-8, 17-20, (29) 30, 31

Twp. 21 S. Rge. 18 W.
Sections 1, 11-14, 15-17, 20-29, 31-36

Twp. 21 S., Rge 19 W.
Sections 35 & 36
Metes & bounds description of a sort yard in
Sections 26, 27, & 34

Area:

Twp. 20 S., Rge. 17 W. S.M.	25.99 acres
Twp. 21 S. Rge. 17 W.	3,288.29 acres
Twp. 21 S. Rge. 18 W.	12,513.37 acres
Twp. 21 S., Rge 19 W.	1,338.96 acres
Aggregate	17,166.61 acres

Timbered area:

8,009 acres

Timber Volume:

As of 1991	169,773 M b.f.
Depletion to May 14, 1993 (Cruised)	22,209 M b.f.
As of May 14, 1993	147,564 M b.f.
Less Pulp	<u>8,355 M b.f.</u>
Marketable Volume	139,209 M b.f.

Highest-and-Best Use:

Management for Natural Resources.

Date of Valuation: May 14, 1993

Access: Aircraft or Boat, and Private roads subject to cooperative right-of-way agreements.

Indications of Value:

<u>Asset</u>	Unit Values		
	<u>Units</u>	<u>Income Approach</u>	<u>Sales Approach</u>
Timber	M b.f.	\$325	\$375
Total Property	Acres		\$2,400
Sale Agreement	Acres		\$2,255

Value Conclusions:

Timber only		\$36,500,000
Total		\$41,000,000

ASSUMPTIONS AND LIMITING CONDITIONS.

This appraisal is subject to the following assumptions and limiting conditions:

1. The legal description is assumed to be correct.
2. No responsibility for matters legal in character is assumed.
3. All existing liens, encumbrances, and assessments, if any, have been disregarded (unless otherwise noted), and the property is appraised as though free and clear, under responsible ownership and competent management.
4. The exhibits in this report are included to assist the reader in visualizing the property, and are not necessarily shown to scale. The survey of the property is shown in U.S. Bureau of Land Management plat of survey officially filed December 2, 1989.
5. Information, estimates and opinions cited in the report are obtained from sources considered reliable to the extent of the information provided, however no liability for their accuracy can be assumed. Where possible, information has been confirmed with parties involved. If direct confirmation was not possible, earlier confirmations by other parties or confirmation from knowledgeable sources has been relied upon.
6. This report shall be used for its intended purpose only and by the parties to whom it is addressed. Possession of this report does not include the right of disclosure to news media, or its use in material for informational dissemination or publicity, without the consent of INFO.
7. The undersigned is not required to give testimony or appear in court, or at public hearings with reference to the property appraised by reason of preparation of this report unless such services are within the scope of another contract agreement.
8. No opinion is rendered as to the title of the property, or properties subject to appraisal.
9. No soils study was available at the time of the appraisal and no opinion is rendered on subsoil conditions.
10. Indications of possible environmental hazards observed on the surface during inspection of the property have been noted in the report for the information of the reader. No environmental survey has been conducted and no opinion is rendered as to the existence of indications or actual environmental problems beyond those noted. International

Forestry Consultants, Inc. is not qualified nor experienced in the assessment of environmental hazards. The facts of environmental concern that would reasonably be known to potential purchasers of the property have been reported to the best of our ability and analyzed as they would influence purchase and sale decisions. No responsibility is assumed for any conditions not generally known to the public.

11. No survey has been made of endangered plant and animal species. Except as noted in the report, the appraisal assumes management of the property without restraints for the protection of any such species.

12. Considerable financial data concerning timber harvest operations on the subject property have been provided by Koncor Forest Products, Company International Forestry Consultants, Inc. has agreed to keep that data confidential. Therefore, it is not shown in this report. The data will be made available only to review appraisers employed by the State of Alaska, upon their agreement to protect its confidentiality, and to any court having jurisdiction.

13. Contact has been made with one of the appraisers by an Assistant Attorney General of the State of Alaska. The Assistant Attorney General had seen preliminary analyses submitted to the client for review as to methodology and approach. He was specifically concerned that the appraisal would be inconsistent with the conditional purchase and sale agreement reached with the owners of the property. He was assured that a necessary part of professional appraisal practice is to recognize and analyze recent and pending sales of the subject property. On further discussion, information about the history, terms and conditions of the agreement was provided to the appraisers. This information was incorporated into the appraisal analysis and the final conclusion of value. Although the contact impressed upon the appraiser the sensitivity of the valuation, it has not altered the fully professional approach taken to the appraisal problem. This contact does not compromise the certification statement:

- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

14. The contract under which the appraisal is made requires adherence to "Part II - Individual Parcel Reports" within the "Uniform Appraisal Standards For Federal Land Acquisitions" circa 1992. These standards prohibit a conclusion of highest-and-best use as the use to which the government will put the property. They also preclude the use as primary evidence of value, of transactions in which the purchaser is an agency with power of condemnation. There are several such transactions. They have been reported in the appraisal report, but were considered only as secondary information in reaching the conclusion of value. A different conclusion might have been reached by considering these sales as primary indications of value. Therefore the Jurisdictional Exception of Uniform Standards of Professional Appraisal Practice is invoked by the appraisers.

REFERENCES

The legal description of the subject property was provided by Alaska Department of Natural Resources in the form of a copy of the PARTITION PARCEL WARRANTY DEED from The Afognak Joint Venture to Old Harbor Native Corporation and Akhiok-Kaguyak, Inc. A preliminary title report was also provided. The title report and its legal description is reproduced in ADDENDUM I.

Maps and aerial photographs were provided by Alaska D.N.R. and representatives of Seal Bay Timber Company, and were obtained from commercial sources. Maps are also reproduced in ADDENDUM I.

Information about zoning was provided by the Planning Department of the Kodiak Island Borough. Forest Practice regulations, shoreline management requirements, and environmental regulations were provided by the Alaska Department of Natural Resources.

Data for possible comparable sales transactions were provided by the Kodiak Island Borough Assessor; the Assessor's office of the Kenai Borough; Horan, Corak and Company; Shorett and Reily; and Affiliated Appraisers of Alaska. The latter 3 appraisal firms supplied confirmed information, analyses of the data and photographs. Additional reconfirmations were made where possible and analyses were redone with additional information when appropriate.

PURPOSE OF THE APPRAISAL

The purpose of the appraisal is to estimate the market value of the fee simple interest in the surface estate of the property. Market value is defined as

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special creative financing or sales concessions granted by anyone associated with the sale.¹

SCOPE OF THE APPRAISAL

Property Rights Appraised

The property rights appraised are the surface estate. The subsurface estate is owned by Koniag Corporation.

The subject is appraised as a fee simple absolute estate which is defined as follows:

"An absolute ownership unencumbered by any other interest or estate; subject only to the limitations of eminent domain, escheat, police power, and taxations."²

The appraisal assumes that title to the timber is vested in the owner of the underlying land.

¹ Uniform Standards of Professional Appraisal Practice, The Appraisal Foundation, 1990.

² The Dictionary of Real Estate Appraisal, The Appraisal Institute, Chicago, 1984, p 123.

The Appraisal Process

The appraisal process is an analysis of the forces of supply and demand, and the balance reached between those forces in the market place. An orderly process is applied to the appraisal assignment to provide a logical method for considering all the factors which influence property value. The problem is defined. The pertinent data is gathered and analyzed. The overall environment surrounding the subject property is studied to understand the specific factors which influence its value.

Appraisal methodology employs three approaches for determining value: the Cost Approach; the Income Capitalization Approach; and the Sales Comparison Approach. The applicability of each approach varies depending on the nature of the particular appraisal problem. Only the Income Capitalization and Sales Comparison Approaches were considered in forming an opinion of value of the subject property. The Cost Approach was not considered appropriate for the valuation of timber and land.

The value indications from these approaches are then reconciled into a single estimate of Market Value.

The property was inspected and sample cruise plots were taken to validate the timber inventory that was provided. Operating conditions for timber management were evaluated and the extent of development for harvest was assessed. The proximity of other timber operations was determined. A general opinion of the marketability of the property was formulated.

Data were gathered from the present owners of the property. These consisted of a record of ownership, financial records of timber harvest operations, depletion of the timber inventory, investments in roads and other operating facilities, and other information.

Data were gathered from public sources and the files of other appraisers. This information was verified and inspected to determine comparability to the subject property. Sources of other information, and experts in Alaska properties and timber operations were interviewed.

The body of information was analyzed by the two applicable approaches to valuation in conformity with USPAP. An estimate was made of the value of the timber to a buyer or seller contemplating recovery of the value plus a return on investment through timber harvest. That value estimate was reported and also used as a unit of comparison to adjust comparable sale evidence to an estimate of the value of the property.

Appraisal Problems

"Uniform Appraisal Standards For Federal Land Acquisitions" circa 1992. contains prohibitions against concluding that highest-and-best use is the intended use for which a government agency will acquire the property. These standards also generally prohibit the use of purchases by condemning authorities as sales evidence. The DNR contract for this appraisal strongly discourages the use of State purchases and infers that the use of such sales evidence in the absence of any private sales is prohibited.

The federal Appraisal Standards include language which permits departure from the standards. The statement is made, "Therefore, these standards should not be considered as rigid rules which must be applied, without modification, in every instance."³ A further statement is made, "Appraisers should feel free to deviate from these standards in those unique cases in which deviation is required to properly solve the appraisal problem, and such deviation can be adequately justified."

The selection of sales for consideration as comparable sales has purposely included as many transactions as possible over a time spanning nearly a decade in order to consider the complete spectrum of sales and purchases in the market for lands similar to the subject property. State and other government purchases make up a large share of this body of information, in terms of acres. Government purchases, however, are a minority of the purchases in terms of the number of sales. When adjustment is made for timber value the spread in adjusted price from lowest to highest is 60% of the lowest. This is not uncommon and both private and government purchases are found in both the low and high ends of the range. When one private purchase is adjusted for size relative to the subject, the spread is reduced to 40% of the lowest adjusted price. Limitation of the comparable sales to private transactions would not appear to be a distortion.

In all the sales reported, sellers enjoyed the alternative of continued ownership, with attendant benefits; or sale of partial interests such as timber, and speculation on the future value of the land. The supply forces at work in this market include expectation for future use of their properties by the current owners. These expectations are as much a part of the supply/demand equation as alternatives for purchase or sale. In the negotiating process sellers

³Uniform Appraisal Standards for Federal Land Acquisitions, Interagency Land Acquisition Conference, Washington D.C., 1992.

have established values below which such properties are not for sale.

A recent development is the creation of the Exxon Valdez Oil Spill Settlement Trustee Council. As of the valuation date of the appraisal the subject had been identified by the Restoration Trust as one of the most desirable properties for acquisition. Transcripts of the minutes of that organization's meetings give clear indication that it will act as a participant in the market for natural resource lands.⁴ A strong element of market demand from that activity must be considered in order to reach the correct solution of the appraisal problem. Historic data of private market activity do not adequately reflect how the infusion of Restoration Trust money may affect the private market. Even the purchases by government agencies are not necessarily a good reflection of this relatively new force in the market.

FUNCTION OF THE APPRAISAL

The appraisal will be used in negotiation for acquisition of the property by the State of Alaska. The appraisal is a contingent condition of a purchase and sale agreement that has been reached.

⁴Exxon Valdez Oil Spill Settlement Trustee Council, Transcript of meeting, May 13, 1993.

PART II
FACTUAL DATA

DESCRIPTION OF THE PROPERTY

Property Location and Description

The property consists of approximately 17,167 acres on Afognak Island in southwest Alaska. More specifically, the property includes Tolstoi Point, an area on the south side of Seal Bay and a strip of land between Tonki Bay and Discoverer Bay. A sort yard property adjoins Discoverer Bay. Access to the parcel is by air or water transportation. A network of gravel surfaced roads has been constructed for timber harvest operations. These roads connect to a system that has its terminus at the sort yard on Kazakof Bay. The present owners enjoy access to this network through their being parties to the Afognak Island Road Use Agreement and the Discoverer Bay Log Transfer Facility Agreements.

The terrain on the property is generally quite gentle. Elevation ranges from sea level to 1,209 feet at the Seal VABM on the east side of the property. Slopes are mostly under 50% except for some steep banks on Tonki Bay.

There is a logging camp at Danger Bay on Kazakof Bay, where the sort yard is equipped to prepare log rafts for loading logs on ships. There are no improvements on the subject property.

Legal Description

The parcel contains portions of Townships 20 South through 21 South, and Range 17 west through 19 West, Seward Meridian. A complete legal description is provided in Addendum I. Maps are included in Addendum I.

Statement of Ownership and History of the Subject Property

The property is owned by a joint venture consisting of the Akhiok-Kaguyak Native Corporation and the Old Harbor Native Corporation. The joint venture acquired title by partition from the Afognak Joint Venture, which was the original recipient of patent for the ANILCA selections on Afognak Island. The joint venture plans to transfer title to the land to a subsidiary corporation called Seal Bay Timber Company. Seal Bay Timber Co. already owns the cutting rights to the timber. A preliminary commitment for title insurance has been issued by Western Alaska Land Title Company. A title report has also been prepared by the Title and Contracts Section, Alaska Department of Natural Resources.

The DNR title report makes note of 2 sections included in the original patent that were omitted from the deed to Akhiok-Kaguyak/Old Harbor joint venture. This omission is

not significant to the appraisal because both sections are off shore in Tonki Bay.

Inspection of the Subject Property

The subject property was personally inspected by William B. Wallace, ACF, RPF and Thomas M. Hanson, ACF on June 15 through 18, 1993.

An inventory of the merchantable timber was made by Wes Rickard Associates in 1991. Thomas M. Hanson and William B. Wallace of International Forestry Consultants, Inc. examined plots taken by a Rickard subcontractor, measured additional plots of their own and compared actual volume cut with calculations of unit volumes from the Rickard inventory. The calculated unit volumes are compared to volume removed in a timber cruise summary found in ADDENDUM II. The inventory was found to be about 85% to 90% of the true volume, based on the cutout and INFO plots with current utilization standards.

There were no indications on any of the areas visited by the appraisers of any environmental hazards, toxic waste or spills of hazardous materials. Logging operations usually produce some spillage of oil and hydraulic fluids from equipment. On the operations on the subject property such spills appear to be very well contained and have been cleaned up to an unusually high standard on completed logging units. Information from the owners of the property indicates that beaches on the west side of Tolstoi Point were affected by oiling from the Exxon Valdez oil spill. There is no indication visible from the air at the present time of damage done by this oiling.

Date of Opinion of Value

The value of the property is appraised as of May 14, 1993.

Regional Analysis

For this appraisal, the region is defined as Southwest Alaska, which generally consists of the Alaska Peninsula, the Kodiak Island Borough and the Aleutian Islands.

The principal centers of population and economic activity are located in the Kodiak Island Borough and in the City of Kodiak. Transportation is provided exclusively by air and water carriers. There are limited public roads around the Kodiak vicinity and private logging roads on Afognak Island. There is a regional airport at Kodiak. Numerous lakes inlets, bays and coves provide landing opportunities for aircraft equipped with floats.

The primary sources of employment in the area are fishing, forest products harvest and tourism. The largest employers are businesses related to fishing and logging. Trade includes fish and fish products, and a significant volume of logs.

Neighborhood Analysis

The neighborhood is defined as Afognak Island.

The island is characterized by forests with a few homes, small farms and sites for recreational hunting and fishing. Electric power and telephone are provided by on-site facilities at each camp or home. Extensive timber harvest is supported by a network of private roads and logging camps.

A large proportion of the property on the island is owned by Alaska Native corporations.

Urban services and amenities are available in Kodiak which can be reached only by boat or by aircraft.

Merchantable Timber

Timber that is the subject of this appraisal is located over the entire property. See the attached map, in Addendum I, for location and timber type.

The timber was cruised by Wes Rickard Associates in 1990 and 1991. An extensive inventory was designed to provide reliable estimates of timber volume on reasonable subdivisions of the Seal Bay and Tonki Cape areas. The analysis of cut volume versus cruised volume does not show an unusual condition or indicate a serious flaw in the inventory data. It is a fairly common matter for prospective purchasers of large tracts of timber to find that timber inventories overstate or understate true volume as measured by the volumes actually cut from selected areas. A prudent buyer will usually test an inventory in much the same way as INFO did and then make appropriate recalculations in the process of formulating a bid for the property.

The total timber cruise is summarized in Table 1, of Addendum II. It was necessary to recalculate the inventory summary to conform to the boundaries of the Seal Bay and Tonki Cape Units as used in this appraisal.

Merchantable timber consists of 8 major types, identified in terms of stocking and elevation. Significant amounts of volume identified in the inventory are unavailable for harvest due to requirements for buffers on streams and around lakes, and because of operating considerations where

timber type islands are isolated from normal harvest unit design. The expectation of cutting 10% to 15% more than the inventory is believed to be adequate to offset these timber reservations. The volume in the timber inventory is considered to be the volume a prudent owner and prospective purchaser would recognize as available for harvest in their evaluations of the timber. Allowance for losses from the inventory in this way also would tend to lessen the risk perceived by the owner or a purchaser. The original inventory is reduced for this appraisal by the amount cut in operations through May of 1993. This allowance for timber depletion is not simply a deduction of the scaled volume. An estimate of volume based on calculations from the cruise plots located in the units cut has been deducted from the original cruise. This avoids the confusion of mixing estimated volume with actual measured volumes.

Timber Harvest Conditions

Logging conditions are reasonably good. The terrain is gentle over much of the timbered area. Generally, logging can be accomplished with a combination of highlead and shovel logging methods.

Construction of new road would be required to access the entire property. Existing road serves the logging units that have been harvested and intervening areas. The existing road system will need to be extended and spurs constructed into units already developed. Access to the property is available through existing right-of-way agreements between all the timberland owners in the vicinity. Provisions for cooperative access between owners are binding and transferable.

No unusual road construction and logging methods are anticipated.

PART III

DATA ANALYSIS AND CONCLUSIONS

HIGHEST AND BEST USE ANALYSIS

Legal considerations: The Seal Bay Unit is zoned C - Conservation District by the Kodiak Island Borough. The stated purpose of this zone is:

- A. To encourage the use of the land for large lot single-family residential and agricultural purposes;
- B. to encourage the continued use of land for open space areas; and
- C. To encourage the discontinuance of existing uses that are not permitted under provisions of this chapter.

Permitted uses in this zone include forestry activities and accessory buildings. Single family dwellings are permitted on large lots. The minimum lot is 5 acres. Actual uses of land on Afognak Island are almost exclusively limited to forestry activities and the ancillary residential facilities in logging camps. Log transfer facilities and camps have been constructed on Kazakof Bay. There are a very small number of single-family residences - mostly recreation cabins - and 2 commercial lodges, 1 on Seal Bay. A multi-family development is under construction by the Aleneva Joint Venture, overlooking Raspberry Strait. Under existing zoning, recreation uses such as hunting and fishing are encouraged as passive activities.

There are several very attractive sites for development of lodges on the island. The present owners of the property have identified a number of potential lodge sites and undertaken some preliminary investigation of the feasibility of lodge development. Such development would require rezoning to RD - Rural Development District. As of June, 1993 there was a backlog of 21 applications for rural development rezoning with the Borough. News articles in the local paper indicated a reluctance on the part of the Borough Assembly to approve any more such rezones. The Borough Assembly has subsequently adopted a de facto moratorium on Rural Development rezoning. Rezoning to permit lodge development or other use more intensive than the Conservation zone permits remains a possibility. It appears, however, to be very difficult and time-consuming. Rezoning could affect only a portion of the subject property, at significant cost, with lengthy delays. Rezoning and development could reasonably enter into long-range considerations for the use of the property.

Feasibility considerations: Most of the property is forested and suitable for the commercial production of forest crops. Forest site quality is somewhat low, producing a monoculture of Sitka spruce that is inferior in quality to the spruce grown in Southeast Alaska. The timber is attractive in the markets for log export. Conditions for

logging and logging road development are favorable. The topography is mostly level to rolling. Soils are gravelly and fairly well drained, even though there are numerous lakes and wetlands.

Non-forested areas support plentiful populations of native game species. A population of Roosevelt elk has been introduced on the island and it appears to be thriving. Streams on the property are used by anadromous fish runs. The waters around the island and adjoining the subject property support an active fishery resource. There are numerous beaches, small inlets and coves from which this resource could be utilized as a passive recreation activity. Along with a great deal of Alaska, the scenic beauty of the area and the property is impressive and is becoming well known to the world.

Market considerations: In Alaska during the 1980's and prior to the Exxon Valdez oil spill settlement, the market for the subject property would have been for continued forest management or speculation on residential and recreational development, with natural resources as an amenity base. Over most of the state the demand for the latter was fairly small and the supply of suitable land was very great. As a result the only cases where development potential was fully reflected in land value were limited to very specific properties where a particular development proposal had reached a stage where land acquisition was justified. A large surplus of land relative to a small demand kept land values for either forest land or other undeveloped property relatively low. Private purchases used in this appraisal do show a number of instances in which some value was specifically attributed to the speculative use of the property for recreation and/or development.

Local appraisers and others with knowledge of the markets feel that the supply of land in the Kodiak Island Borough has always been more limited than in many other areas of the state. There is a vast physical supply of undeveloped land, but very little of it is for sale in this market. Analysis of the sales transactions for this appraisal shows that prices for properties in the Kodiak Island Borough have been somewhat higher than prices in other areas. This is particularly true of one significant sale on Afognak Island.

The Exxon Valdez oil spill settlement and the creation of the so-called Restoration Trust has infused into the market a large amount of money that may be spent for the acquisition of properties with natural resources for preservation of natural ecosystem, wildlife, habitat and scenic values in public ownership. A reading by a legal lay person of the actions setting up the Restoration Trust finds no indication that its activity is supported by condemnation authority. The Trust is now another participant in the

market for natural resource and wild lands in Alaska.⁵ The acquisition of park and wildlife properties has been identified as a priority by the national administration. That use for much of the Restoration Trust funds is also strongly supported by a number of interest groups. The time for such acquisitions is limited and there are only a few very attractive properties that have been identified. The market effect of the Restoration Trust funds will depend on the quality of available properties for the objectives of the Trust. The subject property has been identified by the Trust as number 2 in ranking of desirability for acquisition based on habitat values. A conditional purchase and sale agreement has been reached between the Trust and the owners of the Seal Bay Unit. The existence of this agreement imposes a very strong presumption that the property is one of those natural resource properties with quality characteristics making it attractive for acquisition through the Trust.

The point of this discussion is that the Restoration Trust has introduced a demand force that must have a competing effect in the private market. That effect will likely be greatest for properties that are suitable for the wide range of uses based on natural resources in fairly pristine condition. It is clear that the subject property fits that description.

⁵Exxon Valdez Oil Spill Settlement Trustee Council, Transcript of meeting, May 13, 1993.

Conclusion: The subject property can legally be used for timber production, commercial recreation development, passive recreation, protection of natural resource amenities, and remote residential uses. Residential use is not supported by an infrastructure of public services. The property is physically best suited for timber production, recreation and other natural resource uses. Several similar properties have been purchased by private entities for market exploitation of the natural resource values and by public agencies for enhancement of public enjoyment of natural resources. The private market competition appears to have been timber buyers, developers, speculators, and the long-range objectives and plans of the sellers of such properties. Whether for private or public ownership, the primary supply and demand forces at work in the market for this kind of property all appear to be driven by anticipation of benefits from management of the property for its natural resources. The highest value of the property in the private market will be realized for its potential to satisfy the needs of those uses that are supported by the natural resources, as commodities for extraction or as amenity to non-extractive use. Taking the above factors into consideration, the highest and best use of the property is concluded to be: management for natural resources.

VALUE ANALYSIS

Income Capitalization Approach

The Income Capitalization Approach is based on the principle of anticipation and assumes that value is determined by the net income derived from exploitation of the property, after paying all factors of production at their market values. The indication of land value by the Income Capitalization Approach is a capitalization of the income to be expected from a continuous series of forest crops. The indication of timber value by the Income Capitalization Approach is calculated as a residual after harvest and sale of the timber in the best available market for logs, deducting logging costs, a margin for profit and risk on the logging operation, and a return on the money required to purchase the timber. This calculation is often referred to as the conversion return method. The Income Capitalization Approach is generally appropriate where transaction data involving comparable properties are not available.

Sales Comparison Approach

The Sales Comparison Approach is based on the principle of substitution. The value of the property is estimated as the price necessary to purchase a substitute property of equivalent utility. The approach is dependent on the availability of comparable sales data. Sales of similar properties provide direct evidence of market activity.

The characteristics of the sale properties are analyzed for differences when compared to the subject. The sales prices may then be adjusted for differences in physical characteristics, geography, market, income or terms of sale. This approach is most reliable when there are sufficient comparable sales data.

A search was made for verifiable sales of timber and/or land in the region, going back as far as 1984. Sales of timber stumpage have been considered for valuation of the standing timber, and sales of land or land and timber have been considered for the value of the total property.

A. Land Value

The value of the land supporting merchantable timber by the Income Capitalization Approach is the present worth of all future crops of timber less the present worth of all future costs of growing, harvesting and selling the timber. The best formula for calculation of this figure is a soil-rent capitalization called the Faustmann formula. This formula calculates the present worth of a perpetual series of forest crops on one acre of land.

The Faustmann formula can be expressed as:

$$S.E. = \frac{I_r - C_0(1+p)^{r-1} - C_a/p((1+p)^r - 1)}{(1+p)^{r-1}}$$

where S.E. = Soil Expectation value

I_r = Income from final harvest in r years

C_0 = Stand establishment costs

C_i = Intermediate management cost at year i

C_a = Annual management cost

p = Market rate of return for investments of comparable risk.

A calculation which involves discounting for 80 to 100 years is very sensitive to the discount rate. It is also sensitive to expectations for future revenues and costs. The projection of prices and costs in the future introduces a very large element of uncertainty. It is possible, however, to reduce that uncertainty by projecting future revenue and cost at current levels. The markets for capital show reliable indications of rate of return net of inflation. Thus, inflation-free projections can be discounted at an inflation-free or "real" discount rate.

Long-term rates of return at the beginning of 1993 are listed below:

U.S. 30-year bonds	7-8% ⁶
BBA Corporate bond yields (3-5 yrs)	9% ⁷
Common stocks (S&P 500)	10% ⁸

Rates near the upper end of these ranges would be appropriate for forest management investments, say 10%.

Inflation of the Consumer Price Index was running at about 3% in 1992. A perceived inflation rate of 3% would indicate a "real" discount rate of 7%. A long-term investor could expect that opportunity cost on investments when considering forest management alternatives in this period of time. Washington DNR has also made studies of long-term real rates of return in the forest industry of Washington state which show a fairly constant rate of 7%.

⁶Source - Appraisal News, March, 1993, The Appraisal Institute.

⁷Source - Appraisal News, March, 1993, The Appraisal Institute.

⁸Source - Morningstar Mutual Fund Newsletter.

Other studies by DNR and the U.S. Forest Service have also shown that the value of timber stumpage has been increasing over the long run at a real rate of 1% to 2%. Over the previous 8 to 10 years the prices reported for logs exported from Alaska have increased at a rate approximately 1% greater than the rate of inflation. The current situation with respect to supply and demand of timber in Alaska fully supports the conclusion that stumpage value can be expected to increase at a real rate of 1%. The net real discount rate for income capitalization is, therefore, 6%.

Volume yield was assumed to be the same as the volume found on the property at the present time.

A stand of timber similar to the present forest in volume would likely take 80 to 100 years to grow. For the subject property the volume at rotation age is estimated to be 20 M b.f. per acre with values equal to the conversion returns based on Table 2 of Addendum II.

Annual management costs are estimated to be quite low due to the remote nature of the property. About \$5 per acre per year should cover minimal custodial expenditures. Restocking is estimated to cost an average of \$10 per acre. The current owners have expended between \$5 and \$10 per acre for reseeded of the areas cut to date. Observed restocking is adequate to meet Forest Practice standards and to reproduce the present forest. The Faustmann formula calculations are tabulated in Table 1, on the back of this page. It can be seen that the land has no value based on reasonable expectations of income from future crops of timber.

Timber land value by the Income Capitalization Approach is estimated to be:

\$0 per acre

This value applies only to the land suitable for timber growth and does not consider the effect of competing uses on the market expression of value.

B. Timber Value

The value of timber can be estimated by a variant of the Income Capitalization Approach called conversion return, and by the Sales Comparison Approach. Both methods have been used and reconciled. The details of the conversion return method are found in Table 2 of ADDENDUM II

The market value of logs was estimated from sales contracts with the present owners, prices paid to the owners in 1992 and 1993 operations, Prices reported to Customs for logs exported from the Port of Anchorage, and prices reported in

TABLE 1

SOIL EXPECTATION VALUES
 Based on Expected Future Harvest Revenue
 Afognak Island, Alaska
 Per Acre

SITE	HARVEST		HARVEST VALUE		SOIL
	AGE (Yrs)	VOLUME (M/acre)	\$/M	\$/ACRE	EXPECT. VALUE (\$/acre)
	90	20	350	7,000	-22
	90	20	325	6,500	-29
	90	20	375	7,500	-16
	90	20	450	9,000	3
	90	20	200	4,000	-60

Establishment cost = \$10 per acre

Annual management cost = \$5 per acre

Volume harvested = present volume per acre

Base stumpage = \$350 per M b.f.

"Real" interest rate = 6%

industry media⁹. Greatest weight was given to the prices contracted with the property owners and actually paid to them. Some adjustments were made to remove anomalies in the progression from one grade to another and to maintain consistency between the various sources of data. The timber is assumed to be free of any restrictions on its sale for export in log form.

Logging costs were estimated from actual experience of the current owners of the property, from USDA Forest Service data, and from the appraisers' personal experience. The experience data has been adjusted to exclude elements of cost not directly associated with ownership and harvest of timber. The estimate of logging cost includes profit and risk to the operator. The estimates of logging cost elements are summarized in Table 2 of Addendum II.

A value indication by the Income Capitalization Approach for the volume estimated to be available for harvest is summarized in Table 2 of ADDENDUM II. Two scenario Summary Reports follow that table and list market log price scenarios with the resulting stumpage indications. The market stumpage prices indicated represent the influence of the export market but without the competition likely to be encountered for a sale of marketable timber. The values indicated by the Income Capitalization Approach are shown on the last line of Table 2 and the Scenario Summary Reports as conversion return. The indicated conversion return for the subject timber ranges from \$166 per M to \$569 per M. The most reasonable indication is that based on log prices in March 1993. Log prices at that time, after a depressed period in late 1992, were back to the mid-range of 1992 and the trend seemed to be up.

In addition, timber harvest operations on the property generated conversion returns of \$470 per M b.f. in 1993 and \$188 per M in the combined 1992 and 1993. Prospective buyers, and the owners themselves, would probably discount the 1993 results as an indication of returns to be expected over the liquidation of the timber. On the other hand, the 92-93 results seem to be unusually depressed relative to calculations based on log prices realized in 1992. This may be due to marketing and costs that deviate from ideal management because of conditions encountered in the start-up of the operation. These operating results, however, must be given weight as factual data.

The appropriate value of timber to be estimated at this point in the appraisal process is the stumpage value that

⁹ Gruenfeld, Jay Associates, Inc., Pacific Rim Wood Market Report, No. 69, May, 1993, p. 9.

would be expected by a prospective buyer, or the seller of the property, during the period of time necessary to harvest the timber in an orderly manner with the constraints applied by Forest Practices law and operating conditions. Since harvest of nearly 150,000 M b.f. of timber should be expected to take several years, a prudent investor would probably not anticipate values like those seen in the market escalation of 1993, nor would he realistically expect to buy at a price reflecting the lowest returns. A conservative approach would be expected, anticipating returns in the middle of the range of estimates having the most credence. Table 3, on the back of page 33, shows the range of timber value indications generated by this conversion return calculation. Greatest weight is given to the indications of value from conversion return based on March 1993 log prices, conversion return from log prices reported in export trade for a 3-year period of 1990-1992, and the combined 92-93 operating returns.

The unit value of the subject timber by the Income Capitalization Approach is estimated to be:

\$325 per M b.f.

There have been no known private sales of similar timber, or of comparable timber volume, made recently for which information is available. Private sales are difficult to use for this purpose because reliable information about the properties or terms of sale is generally not available. Sales made by U.S.F.S. and other federal agencies in Alaska are restricted from export of logs, and are too infrequent to be considered a reliable supply in the market.

One University of Alaska sale in the Southeast region was considered to be comparable to the subject timber in volume and operating conditions. Details of the Whipple Creek 2 sale are found in ADDENDUM III. This sale was of a volume equivalent to a year's production on the subject property and contained a significant volume of spruce. There were no quality hazards from salvage conditions and the harvest methods were conventional for the region.

The subject timber is pure spruce while the Whipple Creek 2 sale contained other species. Bidding for the sale was limited to spruce. Therefore it was necessary to allocate the bid to species. Allocation was done by computing the ratio of the total bid to the total conversion return of the sale. In the systems for selling public stumpage, conversion return is represented by the minimum bid at which the timber was advertised for sale. In this calculation the volume and price of utility was excluded. The conversion return of each species was then multiplied by the bid/conversion return ratio to obtain an allocated bid for each species.

It is further necessary to adjust the bid for spruce to indicate the value of the subject. Adjustments are needed for differences between the sale and the subject in quality, operating cost and market period. These factors are quantified, through estimates of log value and logging costs, in the conversion returns estimated for the subject timber and the timber in the sale.

Table 2 and its associated Scenario Summary Report, on the following pages, lists the details of the bid price allocation and adjustments of the spruce bid to the subject timber for the Whipple Creek 2 sale. This sale indicates a range of stumpage values of \$237 per M to \$618 per M b.f. to be expected for the subject timber in sales of volume equivalent to a reasonable annual harvest rate.

Table 2

University of Alaska
Whipple 2 Sale
Related to Seal Bay Unit

Species	Volume M b.f.	Conversion Return \$/M	Bid \$/M	Allocatd Bid \$/M	Subject S.N.W. \$/M	Bid re Subject \$/M
Spruce	8,257	510	575	559	410	459
Hemlock	6,523	175	175	192		
Cedar	60	50	50	55		
Yellow-cedar	540	400	400	439		
Utility	1,708	10	10	10		
	17,088	326	357	358		

Whipple Cr. 2 Adjusted to Seal Bay Unit

Scenario Summary Report

Basis of Conv. Ret.	Mar-93	Cust 92	Op 93	1\93	5\93	Cust 90-92	Op 92-93
Changing Cells:							
Conversion							
Return	410	395	470	166	569	374	188
Result Cells:							
Adjusted							
Bid-Subject	459	444	519	215	618	423	237

These indications of timber value from the Sales Comparison Approach are also summarized in Table 3, on the back of this page. As in the Income Capitalization Approach, greatest weight is given to the values indicated by adjustment based on conversion return from March 1993 log prices, 90-93 export log prices and the combined 92-93 operating results. A prudent buyer or the seller would conservatively anticipate conversion returns from harvesting this timber in the mid range of these indicators. The indication of timber value by the Sales Comparison Approach is:

\$375 per M b.f.

The estimates of timber value by the conversion return method and the Sales Comparison Approach are reasonable estimates of the high and low anticipations on the part of prudent buyers and the sellers. The best estimate of an expected timber value is midway between the high and low or:

\$350 per M b.f.

These estimates of stumpage value for timber apply to the expectations of buyers and sellers for income in the future. As such they are not cash values. To determine the cash price that would be paid for the timber, it is necessary to account for the return on that price as an investment over the time required to realize the income stream from timber harvest. The appropriate calculation is to compute the net present value of expected income over a reasonably expected harvest period using a discount rate equal to the opportunity cost of money in investments of comparable risk.

A reasonable harvest period is most likely dictated by the limitations of the operating infrastructure on Afognak Island. The current owners have been cutting their timber over parts of the last 3 years at an annual rate of about 15,000 M b.f. The harvest period can be calculated as

139 MM b.f. @ 15 MM per year = 9.26 years - SAY 9 years.

The discount rate used above in the Faustmann Formula might be reasonable for this calculation. The value of \$1.00/9 per year for 9 years discounted at 6% per year equals a 24% discount of \$1.00. There is, however, a market indication of the discount to cash value for expected future income. That indication is found in the Seldovia Native Association sale to the State of Alaska of the Kachemak Bay property in 1993. In that transaction the owner of certain merchantable timber on the property agreed to accept a cash price equal to a 30% discount of the appraised value, which is an estimate of the total realization possible from its harvest.

Table 3
Seal Bay Unit
Comparison of Value Indicators

<u>TIMBER</u>			
Indicator	Weight	Value \$/M	Conclusion \$/M
<u>Subject</u>			350
<u>Conversion Return</u>			325
Con. Ret 3/93	High	410	
Con. Ret 1/93		166	
Con. Ret 5/93		569	
Con. Ret - 92 Cust		395	
Con. Ret - 90-92 Cust	High	374	
93 Operations		470	
92-93 Operations	High	188	
<u>Whipple 2 Sale</u>			375
Con. Ret 3/93	High	459	
Con. Ret 1/93		215	
Con. Ret 5/93		618	
Con. Ret - 92 Cust		444	
Con. Ret - 90-92 Cust	High	423	
93 Operations		519	
92-93 Operations	High	237	

The market indication of discount for future harvest of timber tends to support the theoretical calculation, but at a slightly higher figure. It is, however, affected by additional uncertainty and difficulties faced by the owner of timber without the operating infrastructure and permits already in place for the subject property. A discount of 25% is judged appropriate. The Market Value of the timber only is estimated to be:

High - 139,209 M @ \$375/M = \$52,203,375 less 25% or
\$39,100,000

Low - 139,209 M @ \$325/M = \$45,242,925 less 25% or
\$33,900,000

Expected - 139,209 M @ \$350/M = \$48,723,150 less 25% or
\$36,500,000

C. Value of the Property.

A search was made of data sources throughout Alaska for sales of real estate comparable to the subject property. Details of the selected sales are found in ADDENDUM III. They are listed and numbered in order of the date of the transaction, the most recent first. The assigned numbers of the transactions have been retained in tabulations made for analysis purposes. All of these sales have been confirmed by qualified appraisers, and reconfirmed by INFO if possible. Uses of the sales, whether by private or public owners, all involve management for various types of natural resources. This is true even for properties with development potential because the appropriate development will rely on natural resources being protected as amenity to the development. Some of the properties contained significant volumes of timber while others contained no timber value at all. All of the sales contained other non-commodity values, or amenities, such as mountains, views, populations of wildlife, beaches and ocean access, fresh water streams, proximity to population centers or transportation, etc. Except in the case of sale number 10, the only variable for which there is adequate information to make adjustments between the sales and the subject is timber. Differences in other units of comparison must be recognized subjectively in the analysis and final reconciliation. Sale number 10 has been adjusted for a difference in size compared to the subject.

The expected cash value of the subject timber has been converted to a value per acre, over the total area of the subject property. The same is done for timber values found in the comparable sales. In this way the unit of comparison expresses the relative importance of timber value in the overall sale. An adjustment is made in the price per acre of the comparable sale equal to the subject timber value per

acre minus the sale timber value per acre. The indicated value for the subject property from sales that contained no timber value is the sale price per acre plus the subject timber value per acre.

Discussion of sales.

Sale number 1 is the purchase by the parks department of the State of Alaska from Seldovia Native Association of lands within the Kachemak Bay State Park. The purchase price includes a sum to be paid to the owner of the subsurface estate. That price has been deducted for purposes of this appraisal. This is the only sale found of a size equivalent to the subject property. Its highest-and-best use is management for natural resources, the same as the subject. The transaction has been confirmed with both buyer and seller by INFO. The appraisers are also familiar with the property by virtue of having made other appraisals of SNA property in the vicinity. The sale was scheduled to close in July 1993. All conditions required for closing have been met. The only reasons for delay are details of records. The purchase and sale agreement was made before the effective valuation date of this appraisal so the sale is considered to be timely.

Sale number 1 is inferior to the subject in terms of the timber volume and quality. An adjustment has been made for that factor. It is also superior to the subject in that it contains land in areas where development for residential and recreational uses has taken place and would influence value in the future. This element is not found in the subject property to any appreciable degree. The acres affected and appraised value estimates from the Follette appraisal of the property were deducted from the sale size and price to adjust for this factor. This sale is somewhat superior to the subject because of its very visible location in a popular state park near an urbanizing area. That factor can only be taken into consideration in a subjective way through the appraisers' judgment in the final opinion of value.

Sale number 1 is given only secondary consideration for this appraisal because it is a purchase by the State of Alaska. Under other circumstances this would be considered a primary indication of value because of its timing, size, and close comparability in physical characteristics and potential for competing use.

Sale number 1 cannot be excluded under the federal Standards because the Alaska parks department does not have authority to condemn. This sale has been the subject of intense negotiation and appraisal over a period of several years. During that time it must be considered to have been on the market since the progress of negotiations was general public knowledge. Another competing purchaser could have stepped

in at any time the price level in discussions fell below the price that would attract a competitor. There can be no doubt that it is a valid arms-length transaction indicating the value of real estate in market purchases where full competition exists between both private parties and public agencies. Early in the negotiations, the seller set lower limits below which the property would not be for sale.

This sale was ranked number 1 for desirability of acquisition by the Restoration Trust. The subject property was ranked number 2. It is only reasonable to conclude that they are very comparable in quality in the current market where demand is affected by actions of the Restoration Trust.

At the expected level of timber value this sale supports a value of \$2,674 per acre for the subject.

Sale number 2 is a tract of 160 acres in the Chilkoot River Valley near Haines. The sale was confirmed by Horan, Corak and Company. A copy of the Statutory Warranty Deed has subsequently been obtained by INFO.

The property is best suited to private use for remote recreational/residential purposes. The sale apparently includes sub-surface rights, but they do not appear to have had a significant impact on the price paid.

Based on the expected level of timber value this sale supports a value of \$2,691 per acre for the subject.

Sale number 3 is a tract of 660 acres on Kodiak Island purchased by the Kodiak Island Borough for public use. There is no indication that any threat of condemnation entered into the negotiations. The sale was confirmed with the buyer and the seller through the Kodiak Borough Assessor's office.

This sale is considered important to the appraisal because of its location within the Kodiak Island Borough market. The sale is superior to the subject in location and potential for use. It is also superior in that it includes the subsurface estate. It is inferior in timber value.

At expected level of timber value sale number 3 supports a value of the subject of \$2,943 per acre.

Sale number 4 is the surface estate to a 229 acre parcel in the Johnson Creek area, north of Juneau. The sale was confirmed by Horan, Corak and Company. Circumstances of sale seem to have evolved around the operation of a subsurface mine by the purchaser. The property was purchased to provide surface support for the mine.

There were no known timber values involved in the sale, although a low-quality stand of timber is present on the property. It is inferior to the subject and supports a value of \$2,532 per acre after adjusting for timber value at the expected level.

Sale number 5 is a timberland transaction on Copper Harbor, Prince of Wales Island. The sale was confirmed by Horan, Corak and Company. The purchase was made with some speculation on future development, but the buyer expected timber harvest income to pay the entire purchase price.

The sale is superior to the subject in that it includes the sub-surface estate.

After adjusting for timber value at the expected level this sale indicates a value of the subject of \$2,129 per acre.

Sale number 6 was a transaction for more than 2,000 acres in 6 remote tracts near Anchor Point on the Kenai Peninsula. The sale was confirmed with the buyer.

The property appears to have been purchased for private speculation on remote recreation development. It is inferior to the subject in location and timber value. The transaction is more comparable to the subject in size than the sales of less than 2,000 acres. It is inferior to the subject in overall quality for natural resource management. It does not appear that inclusion of the subsurface estate made any difference in the sale price

After adjustment for timber value at expected levels sale number 6 indicates \$2,354 per acre for the subject.

Sale number 7 is a 160 acre parcel, including sub-surface estate, north of Chilkoot Lake near Haines. The sale was confirmed by Horan, Corak and Company.

Use of the property is expected to be remote recreation. The sale is inferior to the subject in timber value and location.

Sale number 7 indicates a value of \$2,597 per acre for the subject after adjusting for timber value at expected level.

Sale number 8 is a parcel of 512 acres on Kosciuko Island. The sale was confirmed and analyzed by Horan, Corak and Company. On inspection, INFO agreed with an estimate obtained in confirmation that the timber volume was approximately 2,000 M b.f. Sales number 5 and number 9 give good indication of timber value at about \$150 per M for similar quality and location, at about the same period of time. This translates into a timber value of \$586 per acre over the whole parcel.

This sale involves some speculation on future development for remote recreation home sites. Income from harvest of the timber was expected to recoup the purchase price. The sale is inferior to the subject in timber value and expected use. It apparently included the sub-surface estate, which may have contributed to the sale price since a quarry has been operated on the property.

After adjustment for timber value at expected level, sale number 8 indicates a value for the subject of \$2,324 per acre.

Sale number 9 is a sale of 623 acres on Wadleigh Island, west of Klawock. The sale was confirmed by Horan, Corak and Company. It includes the subsurface estate which appears to have had some value, at least to the seller.

The value of the timber involved in the transaction is firmly fixed by resale of the timber for \$1,000,000 within 2 months. The sale is quite comparable to the subject in timber value. It is superior in the inclusion of subsurface estate.

Sale number 9 indicates a value of the subject of \$2,129 per acre after adjusting for timber value at expected level.

Sale number 10 was a purchase of 2 Alaska native allotments for development of a remote group home. It is located on Afognak Island southwest of the subject property. This sale represents an indication of market activity unique to the Kodiak Island Borough market and specifically Afognak Island. The sale has been confirmed with the Bureau of Indian Affairs, who represented the sellers. The sale did not include sub-surface estate.

The sale included a cabin estimated to be worth \$30,000, which has been excluded from the price for this analysis. Timber on the property had an appraised value, according to work done by Affiliated Appraisers of Alaska, of \$717,312, or \$2,630 per acre. The sale is very comparable to the subject in location, and potential use. The buyers intend to maintain the natural habitats and timber stands for their enjoyment as amenity.

The sale size would indicate a need for some consideration of adjustment to reflect sale of a property as large as the subject. A potential buyer of the subject might consider a period of time as long as 10 years to subdivide the subject property into parcels with a market appeal equivalent to that of sale number 10. Discounting an even annual sale of parcels with market appeal equivalent to sale number 10, at a price per acre equal to the price of sale number 10, for ten years, at a "real" discount rate of 7%, results in a present value of \$2,691 per acre. Thus sale number 10

indicates a value of the subject property of \$2,691 per acre after adjusting for the difference in size. The value of timber as an amenity to the use of sale number 10 is included in the purchase price and is considered to be the equivalent of the liquidation value of timber on the subject. Timber value as an amenity must equal at least the alternative value generated by harvest or the seller would harvest the timber and sell the bare land. An additional adjustment for the difference in liquidation value of timber would be redundant and is not considered appropriate.

There has been some discussion that this sale is not representative of market activity - that the purchase was made with a special use in mind by a buyer with unusual financial resources who made no effort to negotiate a better price. There is no evidence from any source of reliable information that the buyer was anything other than a willing buyer. They would clearly have been in competition with timber operators on Afognak Island for the liquidation value of the timber. The price that is somewhat higher than prices of similar size tracts in other locations seems only to confirm the local appraisers' comments about tight supply conditions in the Kodiak market, and the recognition of pristine natural conditions on Afognak Island as logical factors contributing to Market Value.

This sale indicates a value for the subject of \$3,188 per acre after adjusting only for timber value at expected level and \$2,691 per acre after adjusting for size relative to the subject. The latter indication is used in analyses.

Sale number 11 consisted of 4 parcels totaling 139 acres located on Thorne Arm on Revillagegado Island. The sale was confirmed with the buyer by Horan, Corak and Company and with the Seller by INFO. The seller is very knowledgeable of timber and timberland values.

The sale was purchased as a source of timber supply by a major forest products company in Alaska. The entire price was justified by the value of timber. Only the minimum land value required by IRS regulations was allocated on its books by the buyer. The sale appears to have included the sub-surface estate which apparently did not add to the value.

Sale number 11 indicates a value of \$2,129 per acre for the subject after adjusting for timber value at expected level.

Sale number 12 was a market purchase by USDA Forest Service of the Haida Corporation lands on Goat Island and the surrounding small islands. This agency has condemnation authority, but it was not exercised. The sale was confirmed by Shorett and Reily and by INFO. INFO appraisers are quite familiar with the property, having appraised it as of the acquisition date in 1979. The sale did not include the sub-surface estate.

This sale was the subject of extensive and somewhat public negotiation. The seller obviously had financially significant alternatives to this sale if the property were retained for management of all its natural resource potential. Market conditions in May of 1988 were arguably quite different from those of May 1993.

Estimates of \$13 million worth of timber in this sale are very consistent with INFO's estimate of \$10 million in timber value in 1979. The sale is very comparable to the subject in timber value. It is also comparable in size and potential uses.

After adjusting for timber value at expected level, sale number 13 indicates \$2,129 per acre for the subject.

Sale number 13 was a purchase of a conservation easement on the surface estate of 9,173 acres on Lower Tazimina Lake, southwest of Anchorage. The subsurface estate was purchased in a parallel transaction. The sale was confirmed and analyzed by Affiliated Appraisers of Alaska. The conservation easement covered only development rights and non-exclusive rights of access. The seller retained various rights to subsistence use of the property. Reconfirmation disclosed that this was an installment sale with the price paid over a period of 4 years with no interest on the unpaid balance. Discounting for the interest-free financing indicates a cash equivalent price of \$246 per acre.

The sale is inferior to the subject in that there was no timber value and only part of the surface estate was transferred. It is very comparable to the subject in size and in potential uses. This was a negotiated transaction in which the purchaser held authority to condemn that was not exercised. The seller was aware of the risk and financial implications of a payment schedule spanning several years and dependent on congressional appropriations. Those factors could logically have been expected to be a basis for a minimum price below which the seller would remove the property from the market.

After adjusting for timber value at expected level, sale number 13 indicates \$2,375 per acre for the subject.

Sale number 14 was the purchase of 8,000 acres by the Interior Department in several parcels on St. George and St. Paul Islands in the Pribiloff Islands. The sale was confirmed by Shorett and Reily and reconfirmed by INFO. INFO appraisers have not inspected this sale. The sale apparently involved only the surface estate. The purchaser had condemnation authority that was not exercised.

This purchase was intended to protect wildlife nesting sites in the cliff areas of the islands. It is comparable to the subject in natural resource use and in size. It is inferior to the subject in timber value and location, there being no particular pressure for recreational use of these parcels through private development. This sale was selected for consideration because it involves the wildlife habitat which is supposed to be a major criterion for evaluation of properties to be acquired with Restoration Trust funds.

After adjusting for timber value at expected level, sale number 14 indicates \$3,029 per acre for the subject.

The vital data for the 14 selected transactions are summarized in Tables 4-A and 4-B on the following pages. Table 4-A is a tabulation of sales between private parties. Table 4-B is a tabulation of sales purchased by government agencies. The Tables and the associated Scenario Summary Reports contain acre weighted averages for all the sales in the Table, for sales of more than 2,000 acres and for sales judged most comparable to the subject. Weighting sales by acres gives heavier weight to the larger sales that are more comparable to the subject in size. The scenarios listed are the range of timber values found in Table 3, on Page 34 above. A conclusion has been drawn for each timber value scenario. In reaching these conclusions greatest weight has been given to the acre-weighted average of indications from sales number 1 and number 13, judged most comparable to the subject. This average best represents prices for properties with quality suitable for the highest-and-best use of the subject. Individual sales, and the subject, contain different mixes of the various elements of natural resource values, but all are potential sites for both exploitive use and protection of the amenities of natural resources. The conclusions are rounded to the nearest \$25 per acre in all three scenarios. Again, prudent buyers and the seller would most likely consider the mid-range expected scenario.

The primary indication of value is taken from Table 4-A and its associated Scenario Summary Report. Indications of value of the subject in this Table range from \$2,129 per acre to \$2,691 per acre. Only one of these sales is of a size comparable to the subject. Sale 10 has been adjusted to indicate a value for a property the size of the subject. The other sales are considered to be basically of different

Table 4-A
 Comparable Sales - Seal Bay Unit
 Private Transactions

No.	Date	Seller	Buyer	Acres	Price \$/acre	Timber \$/acre	Indicated Value \$/acre	Highest & Best Use
			Subject	17,167		2,129		Natural Resources
2	Nov-91	Cox	English et al	160	562	0	2,691	Remote recreation
	Adjustment					2,129		
4	May-91	U. Alaska	Hyak	229	546	0	2,674	Surface support for mine
	Adjustment					2,129		
5	Dec-91	Key Bank	Southcentral	341	2,348	2,348	2,129	Timberland
	Adjustment					-219		
6	Aug-90	Security	Holman	2,220	225	0	2,354	Recreation
	Adjustment					2,129		
7	Jul-90	Reeves	Turner et al	160	469	0	2,597	Lodge site
	Adjustment					2,129		
8	Jul-89	Alcoa	Ritcher	512	781	586	2,324	Timber, remote recreation
	Adjustment					1,543		
9	Jul-89	USX Corp.	B & M Logg	623	1,604	1,604	2,129	Timberland
	Adjustment					525		
10	May-89	BIA	Aleneva J.V.	273	3,831	2,630	3,330	Remote residence
	Adjustment					-501	2,691	(See text p.38) *
11	Jan-89	Syre	Ketchikan	139	4,690	4,690	2,128	Timberland
	Adjustment					-2,561		
				4,656			2,353	All Private Acquisitions
				2,220			2,354	More Than 2,000 acres
				2,493			2,391	Most comparable

Private Sales Adjusted to Seal Bay Unit

Scenario Summary Report

	High	Low	Expected
Changing Cells:			
Stumpage Value	375	325	350
Result Cells:			
Sale 2	2,843	2,539	2,691
Sale 4	2,826	2,522	2,674
Sale 5	2,281	1,977	2,129
Sale 6	2,506	2,202	2,354
Sale 7	2,749	2,445	2,597
Sale 8	2,476	2,172	2,324
Sale 9	2,281	1,977	2,129
Sale 10	3,482	3,178	2,691
Sale 11	2,280	1,976	2,128
Private Average	2,496	2,209	2,353
Large Area Average	2,506	2,202	2,354
Most Comparable	2,526	2,255	2,391
Conclslion	2,525	2,250	2,400

Table 4-B
 Comparable Sales - Seal Bay Unit
 Public Purchases

No.	Date	Seller	Buyer	Acres	Price \$/acre	Timber \$/acre	Indicated Value \$/acre	Highest & Best Use
			Subject	17,167		2,129		Natural Resources
1	Jul-93	SNA	State	22,492	746	201	2,674	Natural Resources, Recreation
	Adjustment					1,928		
3	Oct-91	Lesnoi	Kodiak	660	814	0	2,943	Public Recreation
	Adjustment					2,129		
12	May-88	Haida Corp.	USA	4,749	1,895	1,895	2,129	Timberland
	Adjustment					234		
13	Mar-87	Bristol Bay	Park Service	9,173	246	0	2,375	Natural Resources
	Adjustment					2,129		
14	Nov-84	St George &	Interior	8,000	900	0	3,029	Natural Resources
	Adjustment					2,129		
Acre-weighted Averages				45,074			2,622	Public Acquisitions
				44,414			2,618	More Than 2,000 acres
				31,665			2,587	Most Comparable

Public Purchases Adjusted to Seal Bay Unit

Scenario Summary Report

	High	Low	Expected
Changing Cells:			
Stumpage Value	375	325	350
Result Cells:			
Sale 1	2,826	2,522	2,674
Sale 3	3,095	2,791	2,943
Sale 12	2,527	2,223	2,375
Sale 13	2,281	1,977	2,129
Sale 14	3,181	2,877	3,029
Public Average	2,774	2,470	2,622
Large Area Average	2,770	2,466	2,618
Most Comparable	2,739	2,435	2,587
Conclusion	2,750	2,425	2,575

quality compared to the range and diversity of natural resource potential of the subject.

Table 4-B provides a secondary source of value indications from purchases by government agencies. Of those, sale number 1 was a market purchase by an agency with no power of condemnation. Most of the government purchases involved some element of compulsion for the government in that the private property purchased was a detractant from or even a threat to an area protected for a public purpose. Sales 1 and 13 are considered most comparable to the subject in terms of quality for management of natural resources. The conclusion from this secondary source is weighted heavily to Sales 1 and 13. The secondary sales evidence provides a strong corroboration of the opinion of value drawn from the primary evidence of private transactions. It certainly supports the implication that there is value in property with a variety of natural resources in excess of the liquidation value of commodity resources such as timber.

Using the primary evidence of Table 4-A, property value by the Sales Comparison Approach is estimated to be

between \$2,250 per acre and \$2,525 per acre.

The most probable value of the property is estimated to be

\$2,400 per acre.

DISCUSSION AND RECONCILIATION OF VALUES

The Income Capitalization Approach is developed without the factor of competition and indicates a lower limit of value. The Sales Comparison Approach is developed from reported prices and confirmed sales that reflect the influence of the export timber market as well as competition among timber buyers and investors in land for management of natural resources. The influence of export values and increasing pressures for regulatory protection of natural and habitat values have been adequately taken into account in the analysis of market data.

The Income Capitalization Approach has further weakness for estimating land value in that long periods of time in the capitalization process can exaggerate the influence of relatively minor changes in the discount rate. It also is incapable of generating a value indication for the amenity influence of natural resources in some cases. The Faustmann formula method for valuation of timberland has little credibility and has been ignored.

The Sales Comparison Approach is considered to be the best indication of the value of the subject property. It includes the influence of alternative income expectations from timber harvest through the adjustments made to comparable sale prices. Some of the secondary evidence from public purchases represents price levels necessary to bring properties into the market place that would not be offered for sale at lower prices.

The expected value of \$2,400 per acre from the primary evidence translates to a total value of \$41,200,000. The expected value indicated by all private purchases is \$40,342,450.

Consideration of primary and secondary evidence that is the most comparable to the subject property would concentrate on sale number 1 (SNA to Alaska), Sale number 10 (BIA to Aleneva) and sale number 6 (Security to Holman). Sale 1 is the closest to the subject in time of sale, geographic proximity, market conditions reflecting the most current level of demand, and the range of potential uses. Sale 10 is very close to the subject in terms of geographic and market location and timber values. Its location on Afognak Island, in the same timber type makes it a very useful indication of value. Its size relative to the subject, and the need for a substantial adjustment, clouds the probative value of this indication. Sale number 6 is reasonably nearby, on the Kenai Peninsula, and is of a comparable size at 2,220 acres. The acre-weighted average of these sales is \$2,645 per acre.

The pending sale of the subject is a strong indication of value. Negotiations leading to the agreement were completely open to public scrutiny. They were preceded by careful and objective analyses by the Restoration Trust of the supply of lands and the quality available¹⁰. The agreed price is a compromise from a higher price originally asked by the seller, reached after additional proposals and counters-offers, in consideration of alternative opportunities for purchase, sale and use of the property. This process seems a reasonable assurance that the agreed price reflects all the considerations that go into Market Value. The pending sale must be given even disproportionate weight as long as the price is consistent with the body of data from other transactions in the market. The pending sale is for \$2,254 per acre, if the price is considered to be for just the Seal Bay unit. If the additional acres and volume of timber on the Tonki Cape unit is considered, the price is \$931 per acre. The total value of timber on both units is \$967 per acre. Thus the pending sale, considering both units indicates a timber-adjusted price of \$2,100 per acre. The conclusion of value from the Sales Comparison Approach (\$2,400 per acre) is slightly more than midway between the value indicated by the three most comparable transactions and the pending sale price.

The precision of the figures used in analysis does not justify an estimate closer than the nearest \$1,000,000. Giving strongest weight to the indication of value from the Sales Comparison Approach using primary evidence from private purchases, corroborated by sales number 1, number 6 and number 10, and the pending sale of the subject, it is our opinion that the Market Value of the subject property as of May 14, 1993 is \$41,000,000, rounded.

FORTY ONE MILLION DOLLARS

¹⁰Exxon Valdez Oil Spill Settlement Trustee Council, Transcript of meeting, May 13, 1993.

PART IV

ADDENDA

Addendum I

Legal Description and Maps

JAMIN, EBELL, BOLGER & GENTRY

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ALAN L. SCHMITT
MICHAEL C. SCIACCA*

*ADMITTED TO ALASKA
AND WASHINGTON BARS
ALL OTHERS ADMITTED TO
ALASKA BAR

June 18, 1993

Mr. Bill Wallace
International Forestry Consultants, Inc.
1020 108th Avenue N.E.
Suite 101
Bellevue, WA 98004

Re: Seal Bay Timber Company
Our File No. 5277-8(b)

Dear Bill:

You have requested a brief ownership history of the property owned by Seal Bay Timber Company on Afognak Island.

The United States of America conveyed the property, along with other lands, to the Afognak Joint Venture pursuant to the Alaska National Interest Lands Conservation Act (ANILCA). The date of the interim conveyance was June 24, 1988 (IC #1384). The date of the patent was September 26, 1990. A copy of the patent is enclosed for your review.

Akhiok-Kaguyak, Inc. (AKI) and Old Harbor Native Corporation (OHNC) decided to withdraw from the Afognak Joint Venture in 1989. The withdrawal process was completed in 1991 and the property was conveyed to AKI and OHNC, as tenants-in-common, on August 1, 1991. Following completion of a survey, the sort yard was conveyed on July 23, 1992. It is my understanding that DNR has provided you with copies of these deeds.

For purposes of conducting the timber harvesting operations, AKI formed a wholly-owned subsidiary named Eagle Rock Trading Company, Inc. and OHNC formed Big Creek Land & Timber Company, Ltd. These entities in turn formed a joint venture named Seal Bay Timber Company. The parent corporations assigned the timber rights to the subsidiary corporations, which then assigned the timber rights to the joint venture.

The title to the real property is still held by AKI and OHNC. However, it is our intention to transfer title to Seal Bay Timber Company prior to closing and Seal Bay Timber Company will be the entity conveying title to the State. Therefore, for purposes of the appraisal, it is appropriate to reflect Seal Bay Timber Company as the owner of the real property and the timber.

Mr. Bill Wallace
June 18, 1993
Page 2

If you have any additional questions regarding the history of the property, please do not hesitate to contact me.

Best regards.

Very truly yours,

JAMIN, EBELL, BOLGER & GENTRY

A handwritten signature in cursive script, appearing to read "C. Walter Ebell".

C. Walter Ebell

CWE/bhb

Enclosure

cc: Seal Bay Timber Company (w/o encl.)
James K. Wilkens, Esq. (w/o encl.)
Alex Swiderski, Esq. (w/o encl.)

MEMORANDUM

State of Alaska

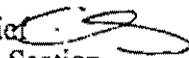
Department of Natural Resources

Division of Land

TO: Marty Rutherford, Comm. Office
Alex Swiderski, A.G.O.

DATE: July 7, 1993

FILE NO:

THRU: Carol Shobe, Chief 
Title & Contracts Section

TELEPHONE NO: 762-2352

FROM: James McAllister, NRM I 
Title Analysis

SUBJECT: Title Report
Afognak Units —
Seal Bay & Tonki Bay

THIS DOCUMENT IS CONFIDENTIAL UNDER ATTORNEY/CLIENT BASIS. IT IS PRODUCED FOR INTERNAL STATE USE ONLY AND MAY NOT BE DISPERSED TO THE PUBLIC, UNLESS APPROVED BY THE DIRECTOR, DIVISION OF LANDS.

We were requested to provide a Title Report in support of the acquisition of two parcels on the north side of Afognak Island. Included in the report is an analysis of title related management issues that we felt should be addressed in the purchase agreement or in the final conveyance document.

On May 28th, we were provided a copy of the Preliminary Commitment for Title Insurance accomplished by Western Alaska Land Title Co. for the attorney firm of Jamin, Ebell, Bolger & Gentry, who represent the Seal Bay Timber Company. The "Preliminary Commitment for Title Insurance" and attachments are incorporated into this report by reference.

For the purposes of this report the two parcels are called the "Seal Bay Unit" and the "Tonki Bay Unit." The Seal Bay Unit contains the following described land as established by the United States, Bureau of Land Management plat of survey officially filed December 22, 1989, which was used to pass title to Afognak Joint Venture (September 26, 1990; Patent # 50-90-0647 issued for surface estate only, subsurface estate created and reserved to United States) and Koniag, Inc. (September 26, 1990; Patent # 50-90-0648 issued for the reserved subsurface estate):

SEAL BAY UNIT

T. 20 S., R. 17 W., Seward Meridian,
Sec. 32.

Containing 25.99 acres.

T. 21 S., R. 17 W., Seward Meridian,
Secs. 6, 7 and 8;

Secs. 17 to 20, inclusive;

Sec. 29 (still held by Afognak Joint Venture);¹

Secs. 30 and 31.

Containing 3,288.29 acres.

T. 21 S., R. 18 W., Seward Meridian,

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

Secs. 11 to 14, Inclusive;

Sec. 15, *lots 1 and 2;*

Sec. 16, *lots 1 and 2;*

Sec. 17, lot 1 (fractional, needs supplemental survey) and lot 2;

Secs. 20 to 29, inclusive;

Secs. 31 to 36, inclusive.

Containing 12,513.37 acres.

T. 21 S., R. 19 W., Seward Meridian,

Secs. 35 and 36.

Containing 1,280.00 acres.

¹ The italicized descriptions indicate where the legal description has varied from how the land was surveyed and patented to Afognak Joint Venture from the United States; or, as noted, where an isolated parcel of land was left out of the description of the original conveyance from Afognak Joint Venture to Akhiok-Kaguyak, Inc. and Old Harbor Native Corporation. The subsurface estate appears to be held by Koniag, Inc. in all cases (based on the post-patent recorded transactions), but a more extensive title search may be required.

SORTYARD: A parcel of land situated within Sections 26, 27, and 34, T. 21 S., R. 19 W., Seward Meridian, more fully described as follows:

Commencing at the intersection of the easterly boundary of the Ouzinkie log storage site and the southerly edge of the 1100 Road, this point being the true point of beginning and being Cor. No. 1 for this description, [which] bears S. 36° 00' E. a dist. of 219.36 ft. from the mean high water line of Discover Bay. (This distance is a portion of the easterly boundary of the Ouzinkie log storage site).

THENCE along the southerly edge of the 1100 Road on the following courses:

N. 63° 00' E. a dist. of 127.38 ft.
N. 55° 00' E. a dist. of 175.00 ft.
N. 46° 30' E. a dist. of 404.00 ft.
N. 29° 00' E. a dist. of 117.00 ft.
N. 07° 45' E. a dist. of 83.00 ft.
N. 01° 15' E. a dist. of 265.00 ft. to Cor. No. 2,

THENCE S. 28° 24' E. a dist. of 2892.99 ft. to Cor. No. 3, this line traversing westerly near Mallard Creek,

THENCE West along the section line between Secs. 26 and 35, a dist. of 374.00 ft. to Cor. No 4, which is the section corner common to Secs. 26, 27, 34, 35 of said township and range,

THENCE S. 00° 02' 48" E. along the section line between Secs. 34 and 35, a dist. of 1316.70 ft. to Cor. No. 5,

THENCE N. 28° 45' W. a dist. of 2204.16 ft. to Cor. No. 6, marking a point on the southerly boundary of Ouzinkie log storage yard,

THENCE N. 54° 00' E. along the southerly boundary of the Ouzinkie log storage yard, a dist. of 137.41 ft. to Cor. No. 7,

THENCE N. 36° 00' W. along the easterly boundary of the Ouzinkie log storage yard, an approx. dist. of 1179.25 ft. to Cor. No. 1, the true point of beginning.

Containing 58.96 acres.

Aggregating 17,166.61 acres for the Seal Bay Unit.

The Tonki Bay Unit contains the following described land based on the United States, Bureau of Land Management plat of survey officially filed December 22, 1989, unless stated otherwise, which was used to pass title to Afognak Joint Venture (September 26, 1990; Patent # 50-90-0647 issued for surface estate only, subsurface estate created and reserved to United States) and Koniag, Inc. (September 26, 1990; Patent # 50-90-0648 issued for the reserved subsurface estate):

TONKI BAY UNIT

T. 21 S., R. 16 W., Seward Meridian,

Sec. 19, *lots 1, 2 and 3*;

Secs. 30 and 31.

Containing 298.17 acres.

T. 21 S., R. 17 W., Seward Meridian,

Sec. 13;

Secs. 23 to 26, inclusive;

Sec. 33;

Sec. 34(still held by Afognak Joint Venture);

Secs. 35 and 36.

Containing 2,439.65 acres.

T. 22 S., R. 16 W., Seward Meridian,

Sec. 6;

Sec. 7, lots 1 and 2;

Secs. 18, 19 and 31.

Containing 435.57 acres.

T. 22 S., R. 17 W., Seward Meridian,

Secs. 1 to 5, inclusive;
Secs. 8 and 9;
Secs. 11 to 14, inclusive;
Sec. 17;
Secs. 19 and 20;
Secs. 23 to 29, inclusive;
Secs. 32 to 36, inclusive.

Containing 13,639.13 acres.

T. 23 S., R. 17 W., Seward Meridian,

Secs. 1 to 5, inclusive;
Sec. 6, SE¹/₄;
Sec. 7, E¹/₂;
Secs. 8 to 10, inclusive;
Sec. 15;
Sec. 16, *lots 1 and 2*;
Sec. 17;
Sec. 18, E¹/₂;
Sec. 19, NE¹/₄;
Sec. 20, N¹/₂, SE¹/₄;
Secs. 21, 22 and 28;
Sec. 29, *lot 1*.

Containing 7,571.21 acres, as shown on the plat of survey officially filed December 22, 1989, and supplemental plat of survey for Sec. 3, T. 23 S., R. 17 W., Seward Meridian, officially filed April 19, 1990.

Aggregating 24,383.73 acres for the Tonki Bay Unit, more or less.

Together the two units total 41,550.34 acres, more or less. The interests to be acquired are the surface estate, and the associated timber rights which have been constructively severed from the surface estate and held by the Seal Bay Timber Company. The subsurface estate would be acquired separately from Koniag, Inc.

OWNERSHIP:

Afognak Joint Venture holds title to the surface estate to the following described isolated tracts of land within the land to be acquired, received from United States under Patent No. 50-90-0647 issued September 26, 1990, and recorded in the Kodiak Island Recording District on July 8, 1991 in Book 107 at Page 839:

T. 21 S., R. 17 W., Seward Meridian,
Sec. 29,
Sec. 34.

Akhiok-Kaguyak, Inc. and Old Harbor Native Corporation, as tenants in common, hold title to the surface estate of the remainder of the land, as successor in interest to *Afognak Joint Venture*, pursuant to the Partition Parcel Limited Warranty Deed issued August 1, 1991, and recorded in the Kodiak Island Recording District on August 6, 1991 in Book 108 at Page 389. The "Sortyard," contiguous parcel, was received by a Sortyard Limited Warranty Deed issued on July 23, 1992, recorded in the Kodiak Island Recording District on August 6, 1992 in Book 114 at Page 637.

Seal Bay Timber Company, a joint venture, holds the timber rights in the subject land, except for the two isolated tracts of land still held by the *Afognak Joint Venture*.

Koniag, Inc., Regional Native Corporation, holds title to the subsurface estate in all the land described above, and "all the rights, privileges, immunities, and appurtenances, of whatever nature, accruing unto said estate pursuant to Sec. 1427(c) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2371,2523(c) and the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f)" received from United States under Patent No. 50-90-0648 issued September 26, 1990. There is no indication on the computerized data base that the patent was recorded. However, there is the possibility that an entry error occurred when recorded document was entered on the database. (See reference to Patent # 50-90-0647 under *Koniag, Inc.*, which is the surface patent to *Afognak Joint Venture*).

ENCUMBRANCES OF RECORD:

Deed of Trust Fixture Statement between Seal Bay Trading Company/Eagle Rock Trading Company Inc./Big Creek Land and Timber Company Inc./Akhiok Kaguyak Inc./Old Harbor Native Corporation/Afognak Joint Venture (grantors) and Koncor Forest Products Company/(WALTCO) (grantees) for an undisclosed amount; recorded in the Kodiak Island Recording District on August 6, 1991 in Book 108 at Page 424. Corrected as to the name of one of the parties and the legal description of one parcel on August 24, 1992 and recorded in the Kodiak Island Recording District in Book 114 at Page 891 (Note: the legal description is still technically incorrect after attempt to correct).

Memorandum "*First Amended Discoverer Bay Log Transfer Facilities Agreement*," as amended, recorded on August 6, 1991 in Book 108 at Page 364. Multiple parties - Afognak Joint Venture, Afognak Native Corporation, Ouzinkie Native Corporation, and Natives of Kodiak, Inc. (Note: the actual agreement was not recorded).

Memorandum "*First Amended Afognak Island Road Use Agreement*," as amended, recorded on August 6, 1991 in Book 108 at Page 323. Multiple parties - Afognak Joint Venture, Afognak Native Corporation, Ouzinkie Native Corporation, and Natives of Kodiak, Inc. (Note: the actual agreement was not recorded).

Deed of Trust between Afognak Joint Venture (grantor) and (TT)/ Afognak Native Corporation/ Koniag, Inc. (grantees) for the amount of \$680,675.00; recorded on May 4, 1989 in Book 96 at page 39. Amended to "\$1,100,000.00 and \$1,700,000.00" on August 5, 1991 and recorded in Book 108 at Page 313 (no legal description on document).

Patent No. 50-90-0647: - United States Reserved Easement (EIN 103,J) Tonki Cape Lighthouse, located in Sec. 13, T. 21 S., R. 17 W., Seward Meridian. "The easement is circular, having a 235 foot radius whose center is the center of the navigation aid and includes the right to ingress and egress to the site. The uses allowed include those uses associated with the construction, reconstruction, operation, and maintenance of the navigational aid, the right to clear and keep the lands clear from any obstruction infringing upon or penetrating the airspace, the right to remove buildings or obstructions of any type which may infringe upon or extend into the airspace, and the

right to prohibit use on and remove from the lands beneath the airspace any object which would create interference for users of the navigation aid."

Patent No. 50-90-0647: - United States Reserved Easement (EIN 104,J) An easement twenty-five (25) feet in width for an existing access trail from EIN 105,J, in Sec. 24, T. 21 S., R. 17 W., Seward Meridian, northerly to the navigational aid (EIN 103,J).

Patent No. 50-90-0647: -United States Reserved Easement (EIN 105,J) An One (1) acre site easement upland of the mean high tide line in Sec. 24, T. 21 S., R. 17 W., Seward Meridian, "in a small bight on the west side of Tonki Cape." Reserved in United States Patent No. 50-90-0647.

Patent No. 50-90-0647 - Other Title Restriction : "The provisions of Sec. 1427(c) of the Alaska National Interest Lands Conservation Act of December 2, 1980, Pub. L. 96-487, 94 Stat. 2524, that no action will be taken or permitted which may be inimical to bear denning activities on the Tonki Cape Peninsula." Restriction found also in Patent # 50-90-0648 issued for the subsurface estate.

Patent No. 50-90-0647 - Other Title Restriction : "The provisions of Sec. 1427(b)(5) of the Alaska National Interest Lands Conservation Act of December 2, 1980, Pub. L. 96-487, 94 Stat. 2523, that the lands shall remain open and available to sport hunting and fishing and other recreational uses by the public under applicable law, subject only to reasonable restrictions necessary to insure the public safety and minimize conflicts between those persons recreating and ongoing logging or other commercial operations" Restriction found also in Patent # 50-90-0648 issued for the subsurface estate.

Patent No. 50-90-0647 - Other Title Restriction : "Requirements of Sec. 14 (c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c) as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section."

Patent No. 50-90-0648- Other Title Restriction : "All the easements and rights-of-way referenced in the aforementioned patent (Patent # 50-90-0647) of the surface estate, and to valid existing rights therein, if any, in the said subsurface estate, including but not limited to those created by any

lease, contract, permit, right-of-way, or easement, and the right to enjoyment of all rights, privileges, and benefits thereby granted to him."

STATE RECORDS:

The State of Alaska has patent to lands in the vicinity of the subject lands pursuant to National Forest Community Grant #72 (NFCG-72), which may be considered in any legislative action designating these lands for a specific use. Patent No. 50-93-0084, issued January 13, 1993, was for the following described land:

T. 22 S., R. 17 W., Seward Meridian,
Secs. 30 and 31.

T. 22 S., R. 18 W., Seward Meridian,
Sec. 36, lot 2.

T. 23 S., R. 17 W., Seward Meridian,
Sec. 6, NE¹/₄;
Sec. 7, lot 1;
Sec. 18, lots 1 and 2;
Sec. 19, lot 1, SE¹/₄;
Sec. 20, SW¹/₄;
Sec. 29, lot 2;
Sec. 30.

T. 23 S., R. 18 W., Seward Meridian,
Sec. 1, lot 1;
Sec. 12, lot 1;
Sec. 13, lots 1, 2 and 3;
Sec. 24;
Sec. 25.

Containing 3,579.11 acres.

On October 4, 1990 the State of Alaska received title by Quitclaim Deeds from Afognak Joint Venture (surface estate) and Koniag, Inc. (subsurface estate) for lots 1 and 2 of section 6, T. 23 S., R. 17 W., Seward Meridian 234.21 acres (recorded October 15, 1990 in Book 103 page 434 and Book 103 page 432, respectively). Our File - OSL 1056. These lands may be considered in any legislative action designating these and the land to be acquired for a specific use.

A portion of the log transfer facility on Discoverer Bay is located on State-owned tide and submerged lands adjacent to the subject lands, and is currently operating under a pending application for a tideland lease ADL 221676. Early entry was authorized on November 8, 1991, but no lease has been issued to date (awaiting appraisal). Alaska Tidelands Survey 1029 is being revised to support the lease application. This log transfer facility is the subject of the "First Amended Discoverer Bay Log Transfer Facilities Agreement - July 24, 1991. Apparently, access to this facility is one purpose for the First Amended Afognak Island Road Use Agreement.

KNOWN ENCUMBRANCES NOT OF RECORD:

Navigable waters were not addressed by the Bureau of Land Management.² There exists the possibility that these waters were not segregated by survey prior to the conveyance from the United States to Afognak Joint Venture and Koniag, Inc. We may be purchasing some land we already own under the equal footing doctrine as confirmed by the 1953 Submerged Lands Act extended by Section 6(m) of the Alaska Statehood Act.

Former Forest Service recreation cabins were apparently conveyed to the native corporation with the conveyance of the surface estate. These cabins represent potential liability and occupancy trespass problems, since we will not be able to restrict sport hunting and fishing in the surrounding area. We were unable to determine the number and location of these cabins. If personal property, a time limit should be imposed to have them removed.

A network of forest development roads exist on the land. Some of these roads were sanctioned with Forest Service road permits (1100, 1110, 1120 roads, and the 1200 road). The 1100 road is

² July 21, 1991 U.S.D.I., Bureau of Land Management, Memorandum - *Navigable Water Bodies on Land Conveyed by Interim Conveyances 053, 064, 641 and 863, Within Survey Group 133 (Window 1570).*

"Navigability determinations are not made for water bodies on Afognak Island. Title to the beds of water bodies within the Chugach National Forest at the time of statehood, if navigable in fact, did not pass to the State of Alaska."

used in locating one boundary of the "Sortyard" parcel. The road system remaining after the acquisition must be determined. Liability for the roads must be addressed. Maintenance and the life of the improvements (such as bridges) must be considered for public safety reasons. In addition, the State may become a "party" in the Afognak Island Road use Agreement by acquiring a participating party's interest (and obligations) in the subject land. This agreement appears to create private easements, that may survive even if an "owner" terminate participation in the agreement. These easements is not limited to road access, but may include easements for utilities needed in support of logging operations. This agreement should be closely reviewed by the Attorney General's Office.

DISCUSSION:

Some of the land has been logged and may not now possess a forest stand of marketable timber. These logged areas may have to be identified and the acreage determined, if reforestation requirements have been imposed and not waived.

Timber harvesting was made possible by the construction of forest development roads throughout the area. These roads are not public roads, at present, but some of these roads may be necessary for Afognak Joint Venture, Seal Bay Timber Company, Akhiok-Kaguyak, Inc. or Old Harbor Native Corporation [collectively called the grantor(s)] to gain access to other timber lands or resource development areas outside of the area to be acquired. If any portion of the road system will continue in existence after the acquisition, the ownership of this road system needs to be addressed.

Two small parcels of land³ identified above may have been inadvertently left out of the original conveyance from Afognak Joint Venture to Akhiok-Kaguyak, Inc. and Old Harbor Native Corporation, as tenants in common. If the Seal Bay Timber Company is going to acquire the fee interest in the land where they presently hold timber rights, then it is possible that they may acquire the two small isolated parcels that were left out of the original conveyance.

³ One parcel in the Seal Bay unit being all of section 29, T. 21 S., R. 17 W., Seward Meridian (0.09 acres), and the other in the Tonki Bay unit being all of section 34, T. 21 S., R. 17 W., Seward Meridian (0.12 acres).

The Preliminary Commitment for Title Insurance indicates that section line easements are in place for the subject land. No dedication for section line easements under AS 19.10.010 will occur until the State gains ownership of the land. No acceptance of RS 2477 easements under AS 19.10.010 was possible while the land was reserved under federal ownership and unsurveyed (it was not surveyed until 1989). There are no surveyed sections - the sections are protracted. We do not believe that section line easements exist for the area.

Finally, the conveyance we receive should reflect the legal description found in the current plat(s) of survey for the land involved. Any deviation from the approved plat of survey is a subdivision and must be supported by an approved and recorded plat of survey.⁴ Lots in an approved cadastral survey cannot be legally subdivided and described as aliquot parts as was done in Sec. 17, T. 21 S., R. 18 W., Seward Meridian. If the whole lot is not to be conveyed then the lot must be subdivided. This also holds true for the "Sortyard" parcel, which is unsurveyed.

ATTACHMENTS:

- A copy of the computerized title record as indicated on the State recording system.
- Survey Plats for the subject land.
- Bureau of Land Management- Master Title Plats
- State of Alaska - Status Plats
- U.S.G.S. Quads
- United States Patent No. 50-90-0647
- United States Patent No. 50-90-0648
- Preliminary Commitment for Title Insurance accomplished by Western Alaska Land Title Co.

⁴ Ch.115 SLA 1953; codified as AS 40.15.010; See also July 10, 1989, Att'y Gen Opin # 661-89-0111, *Dedicated Easements in Rocky Lake Subdivision*.