

LAND SALE COMPARISON NO. 5
AYAKULIK RIVER

AYAKULIK RIVER



The Ayakulik River enters into Shelikof Strait on the southeastern shores of Kodiak Island. The river is a world class fishing stream. The Conservation Fund sought to acquire the site so that it might be managed under the Kodiak Wildlife Refuge System. The owner did not sell and will retain the site for subsistence and commercial fishing activity.

Photographer: Paul Bottge
Date: June 26, 1994

LAND SALE COMPARISON NO. 5

AYAKULIK RIVER

IDENTIFICATION

Ayakulik River

Location

The property is located at the southwest end of Kodiak Island on Shelikof Strait at the mouth of the Ayakulik River. It is 90 air miles southwest of Kodiak, 22 miles northwest of the Village of Akhiok. The site is surrounded by, but not a part of, the Kodiak National Wildlife Refuge.

Legal

U.S. Survey No. 4655, Alaska and the dependent re-survey of portions of Mineral Survey No. 247 and U.S. Survey No. 1790 and the retractment of a portion of U.S. Survey No. 1883.

SALE DESCRIPTION

Seller

Ayakulik River Corporation

Buyer

The Conservation Fund

Sale Price

\$1,000,000 offer

Property Rights

Fee simple, less surface rights

Financing

Cash offer

Date

September 9, 1993

Book / Page

Transaction did not close

Motivations

This was an offer to purchase, which was turned down by the sellers. The parcel is very desirable as a lodge location because it is at the mouth of the Ayakulik River, which is a world class salmon fishing stream. The owners had developed a proposal to construct a 4,500sf log lodge at the mouth of the river and 2,000 foot runway. The potential purchaser sought to block this development and associated adverse impacts on the environment, and to hold the site in its natural state.

SITE DESCRIPTION

Size

574.88 acres

Topography

The site is about 10 to 20 feet above high tide along waterfrontage, and slopes gradually up to the north and east. Approximately 75% of the site is level. Northern portions and southeast segments rise to an elevation of about 200 feet.

Access

Boat access is limited along the exposed beach. Float equipped aircraft can land in the ocean, subject to sea conditions, and can also land on river, but departure loads are restricted by the small inland water area. Wheel aircraft can operate on the beach.

<i>Vegetation and Soils</i>	Alder brush form dense patches along parts of the river. There is no standing timber.
<i>Waterfrontage</i>	Ocean frontage is 2,210 feet. Ayakulik River extends through the property for an estimated distance, including meandering, of approximately 1.5 miles. Although the frontage/size factor is very low for this parcel, the large amount of river frontage offsets this factor to a large degree.
<i>Species</i>	The Ayakulik River is best known for its pink salmon runs. Additionally, it is a primary spawning stream for reds, kings, and silver salmon. It is one of the few Kodiak streams supporting a healthy run of steelhead. Brown bear make heavy use of the river in the spring.
<i>Zoning</i>	Conservation (no 22g)
<i>Utilities</i>	None
<i>Existing Improvements</i>	There is a small hunting and fishing lodge adjacent to the north of the subject. A fish weir and two small temporary buildings owned and occupied by the State of Alaska Department of Fish and Game. They are situated on leased land. The lease is short-term and can be terminated upon expiration by the lessor.
<i>Current Use</i>	The parcel is very desirable for a lodge location. At present, guided and permitted fishing is conducted on the river.
<i>Proposed Use</i>	The Conservation Fund sought to retain the site in its natural state.

ANALYSIS

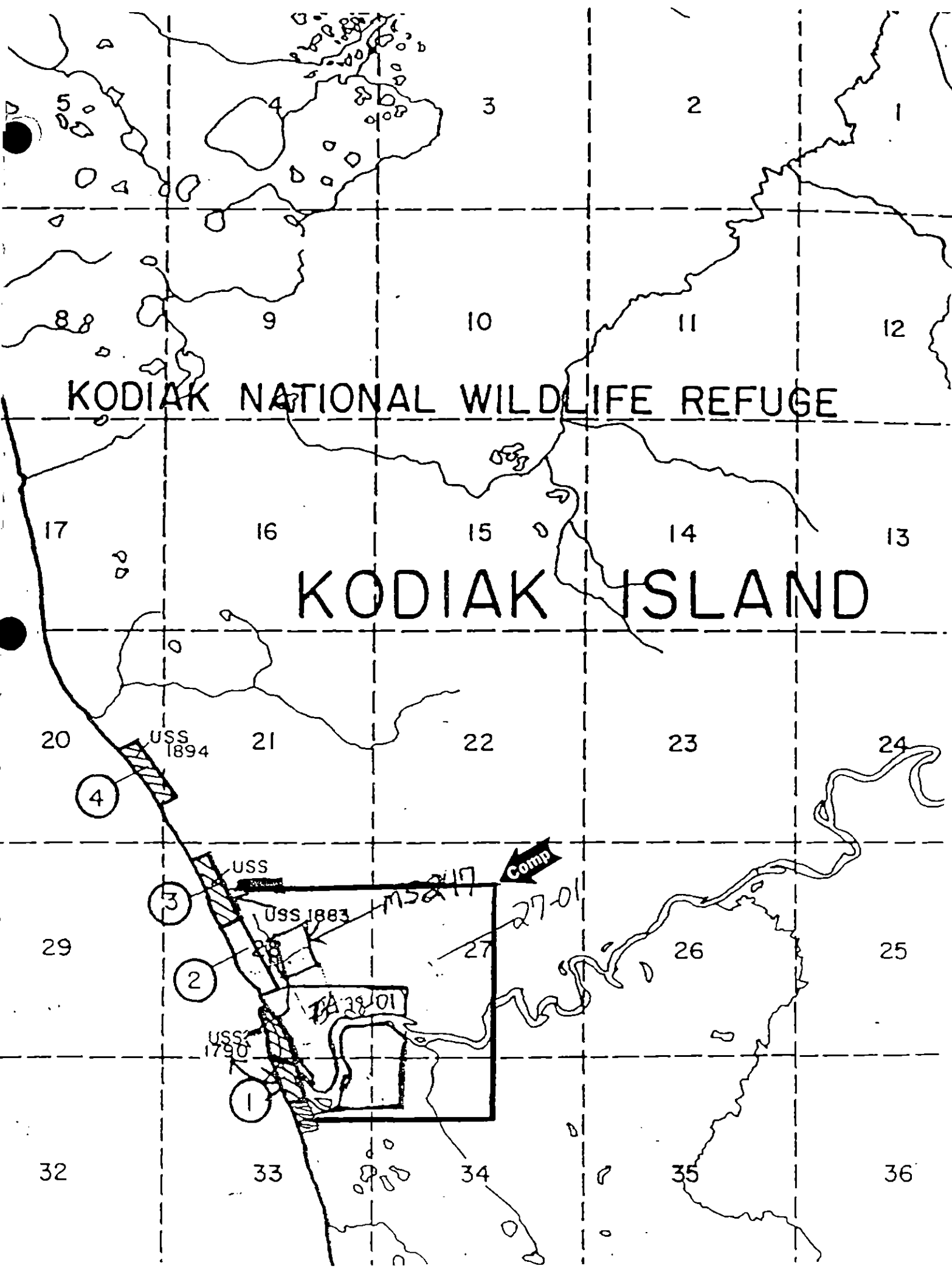
<i>Analysis Price</i>	\$1,000,000
<i>Price/Acre</i>	\$1,750

CONFIRMATION

<i>Name</i>	Ralph Eluska
<i>Affiliation</i>	President of AKI Corporation
<i>Appraiser</i>	Larry Shorett
<i>Telephone</i>	907-337-2770
<i>Date</i>	October 11, 1993

COMMENTS

The offer was rejected by the owners and as such is considered to represent a lower limit of value for the property.



LARGE SITE LAND SALE COMPARISONS

LARGE SITE LAND SALE COMPARISON NO. 1
SEAL BAY/TONKI CAPE

SEAL BAY/TONKI CAPE



Exposed eastern shoreline of Tonki Cape. Tonki Cape is comprised of an extensive mosaic of Sitka Spruce, grasslands, bogs and tundra. Tonki Cape lies outside of the area of Afognak Island known for high timber values. The site will be established as Afognak State Park.

Photographer: Larry Shorett
Date: June 24, 1994

SEAL BAY/TONKI CAPE



The irregular coastline of Seal Bay is comprised of many gravel beaches in the protected inlets and high cliffs along the exposed shores. Within the Seal Bay unit there is a fairly contiguous stand of commercial timber. The site, acquired by the Trustee Council, along with Tonki Cape, will be established as Afognak State Park.

Photographer: Larry Shorett
Date: June 24, 1994

LARGE SITE LAND SALE COMPARISON NO. 1

SEAL BAY/TONKI CAPE

IDENTIFICATION

Seal Bay/Tonki Cape

Location Seal Bay and Tonki Cape are located on eastern Afognak Island, approximately 40 airmiles due north of the City of Kodiak.

Legal Complete legal description contained in files.

SALE DESCRIPTION

Seller Seal Bay Timber Company

Buyer Nature Conservancy

Sale Price \$38,700,000

Property Rights Fee simple, less subsurface estate

Financing Cash

Date 11/23/93

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Motivations Large stands of commercial timber are present on the Seal Bay site, and preparations for commercial harvests (including logging roads and a sort yard) had been taken by the owner. The buyer is acting on behalf of the Exxon Valdez Oil Spill Trustee Council and the State of Alaska. The Oil Spill Trustee Council identified the site as eminently threatened and as important for habitat preservation. The site will be managed for public recreation and conservation.

SITE DESCRIPTION

<i>Size</i>	Seal Bay	17,167 acres
	Tonki Cape	<u>24,384 acres</u>
	Total	41,551 acres

Topography The topography of Seal Bay is level and gently rolling. Tonki Cape is characterized by a mountainous ridge, grading into rolling and level lands along the coast. Bog lakes are sprinkled throughout with few fresh water lakes near the cape.

Access Both sites are accessible by float plane or boat at various sheltered beach points between high sea cliffs. Certain lakes are also accessible by float plane. The Seal Bay portion has access to the timber roads and log transfer facilities on Afognak Island.

Vegetation and Soils

Seal Bay: Mature Sitka spruce forests blanket the shoreline, with some grass meadows inland.

Tonki Cape: Tonki Cape is comprised of an extensive vegetation mosaic of Sitka spruce forest, grasslands, bogs and tundra.

Species

Seal Bay: Seal Bay has an enriched marine environment as noted by kelp beds, heavy coverage of intertidal organisms, sea lion rookeries, high concentrations of harbor seals, numerous seabird rookeries, and the common presence of sea otters. Seal Bay is one of the very few accessible places on Afognak Island where extensive concentrations of harbor seals, sea lion and seabird rookeries occur simultaneously. Waterfowl and eagle nesting occur along the shores and lakes. Some of the small streams feeding into the bay provide spawning habitat for pink and silver salmon. Concomitantly, this area is an intensive use area for brown bear in the spring. Parts of the forest surrounding Seal Bay serves as a winter range for elk. Other mammals common to the area include deer, red squirrel, muskrat, beaver, short-tailed weasel, land otter, and red fox.

Tonki Cape: The shores and nearshore waters are biologically productive as noted by kelp beds and the near complete coverage of the shores by intertidal organisms. This enriched marine environment provides habitat for a Stellar sea lion rookery and concentrations of sea otters, harbor seals, and sea birds.

Waterfrontage

Seal Bay: The irregular coastline of Seal Bay is comprised of many gravel beaches in the protected inlets and high cliffs and boulder beaches along the exposed shores. A few long, narrow bays with offshore islands and rocks cut into the mainland of Afognak Island.

Tonki Cape: A few gravel beaches are nestled in among the steep, rocky coastline. These are mostly rock shores with some sheltered tide flats in the vicinity of Tonki Bay (the head of this bay has been retained by the seller). The easterly shoreline consists of exposed wave cut platforms for its entire length, particularly steep near the southeast end.

Zoning

Conservation. A public use easement allows for recreational activity on both parcels. No. 22g.

Utilities

None

Existing Improvements

There are general logging roads and a log sort yard on the Seal Bay site. Apparently, there are several former forest service recreation cabins on the site as well.

Current Use There is approximately 140 million board feet of timber on Seal Bay, and preliminary logging operations were underway. Tonki Cape has little merchantable timber. A public use easement has historically allowed for public recreational activities.

Proposed Use Seal Bay and Tonki Cape will be managed for habitat and recreation. Seal Bay offers the opportunity for sport fishing, duck and elk hunting, camping and sea kayaking in the protected bays. Tonki Cape has high wilderness attributes.

ANALYSIS

Analysis Price \$38,700,000

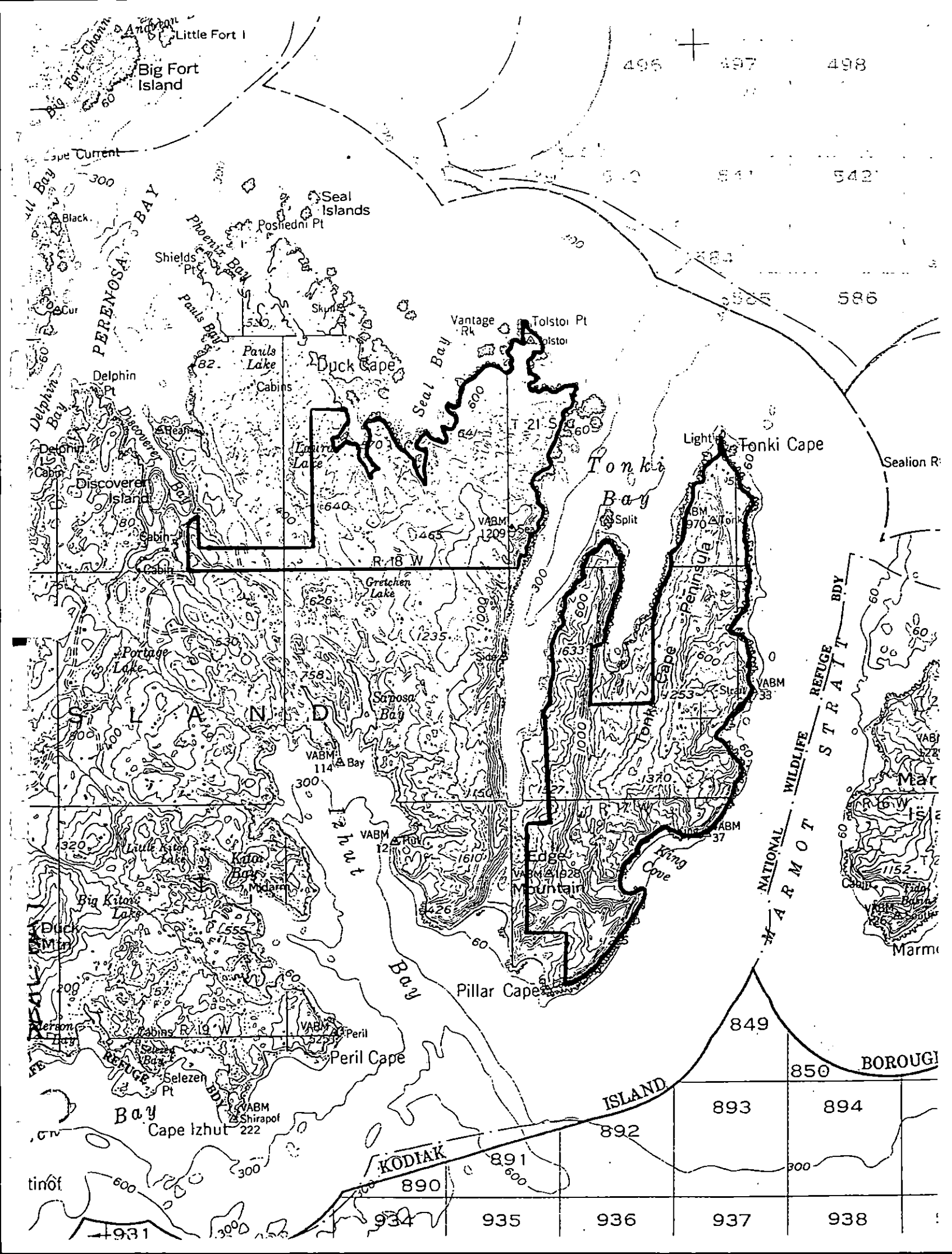
Price Per Acre \$931

CONFIRMATION

Name Ralf Eluska
Affiliation President, AKI
Telephone 907-337-2770
Appraiser Larry Shorett
Date December 12, 1993

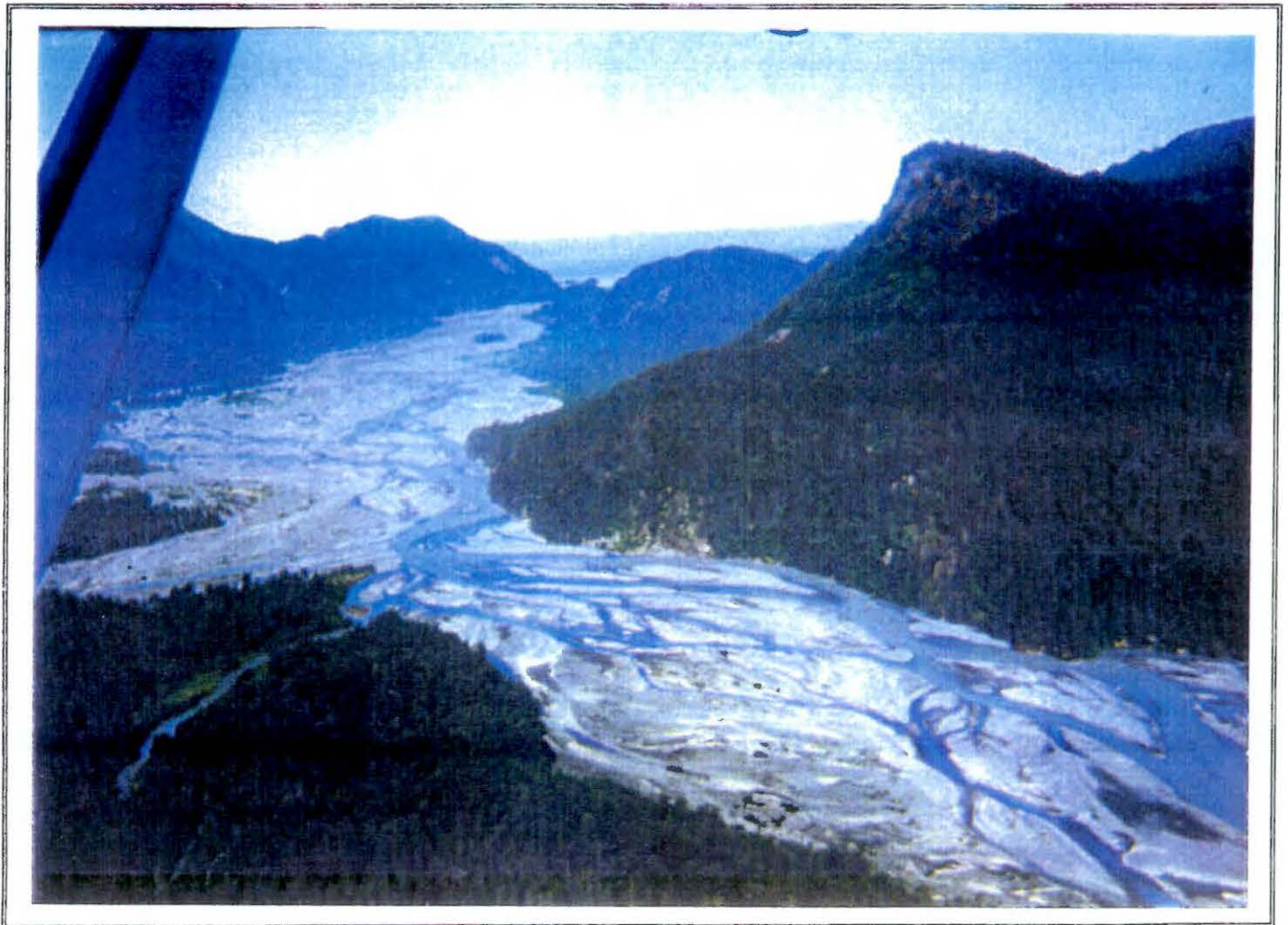
COMMENTS

The seller, Seal Bay Timber Co. (A Joint Venture of AKI and Old Harbor Native Corporations), had made preparations to harvest the Seal Bay timber units, and the construction of forest development roads has occurred throughout the area and some actual logging occurred. The acquisition was made possible through the Exxon Valdez Oil Spill Trustee council's habitat protection and acquisition program. The Seal Bay site represented one of two sties identified in the Trustee Councils Large Parcel Evaluation as being imminently threatened by development. The Nature Conservancy will transfer ownership to the State of Alaska for management.



LARGE SITE LAND SALE COMPARISON NO. 2
KACHEMAK BAY (China Poot Bay)

KACHEMAK BAY (CHINA POOT BAY)



Northwesterly view along the glacial outwash from the Doroshin and Wosnesenski glaciers. McKeon Flats and Kachemak Bay is just visible in the distance. These Kachemak Bay State Park inholdings were purchased by the State of Alaska and the Trustee Council.

Photographer: Larry Shorett
Date: August 4, 1994

KACHEMAK BAY (CHINA POOT BAY)



The glacier scoured walls of Sadie Cove climb more than 3,000 feet above sea level.

Photographer: Larry Shorett
Date: August 4, 1994

LARGE SITE LAND SALE COMPARISON NO 2

KACHEMAK BAY

IDENTIFICATION

Kachemak Bay

Location

Kachemak Bay State Park inholdings; to include China Poot Bay, Neptune Bay and Sadie Cove. The property encompasses nearly the entire southwest portion of Kachemak Bay State Park (KBSP) on the Kenai Peninsula in Southcentral Alaska, approximately 10 airmiles from Homer.

Legal

Full legal description contained in files. Located within Township 7 and 8 South, Range 12 West.

SALE DESCRIPTION

Seller

Seldovia Native Associate (SNA)

Buyer

State of Alaska DNR, Oil Spill Trustees Council

Property Rights

Fee - simple

Sale Price

\$22,000,000

Financing

Cash

Date

June 1, 1993

Motivations

SNA inholdings in Kachemak Bay State Park include key coastline and public use area, and accounted for over one-third of the total KBSP area. In 1987 SNA sold timber rights on a portion of its inholdings. The Oil Spill Trustee Council identified the site imminently threatened and as important for habitat preservation.

SITE DESCRIPTION

Size

23,802 acres

Topography

The topography of the subject lands varies considerably from the alluvial plains of China Poot and Neptune Bays, to rugged mountainous terrain in the southern portion of the parcel. Two ridges extend through the property southeasterly from the northwest corner, roughly parallel with Sadie Cove. Elevation ranges from sea level to about 4,300 feet. The largest watershed is fed from the Wosnesenski Glacier through the middle section of the parcel into China Poot Bay. Stonehocker and Quiet Creeks are both fed by this drainage. In addition, there are numerous smaller lakes and drainages scattered throughout the property.

Access

Boat, float plane, foot trails. China Poot and Neptune Bays provide relatively safe moorage and landing areas with gently sloping shorelines. Sadie Cove has steeper coastlines with little to no beach area.

<i>Vegetation and Soils</i>	Steep wooded fjords of spruce trees in Sadie Cove contrast with muddy McKeon tidal flats. Timber rights to 4,435 acres have been sold to Koncor Forest Products. The value to Koncor for the timber was reported to be between about \$2 and \$7 million, depending on who made the cruise. However, since the completion of the timber cruises, thousands of acres of spruce have been killed by bark beetles. If the property follows the trend found in other areas of the Kenai, many more spruce trees will be killed. There were considerable discussions during the negotiations as to whether this timber had any market value for logging. Obtaining the permits for terminal sites in Kachemak Bay would be very difficult.
<i>Species</i>	McKeon Flats is an important waterfowl area, as is the bordering muddy southern portion of Neptune Bay. China Poot Bay supports strong salmon runs (including sockeye) and is a major haul out area for harbor seals.
<i>Waterfrontage</i>	The subject lands have extensive waterfrontage with approximately eight miles of shoreline along China Poot and Neptune Bay, and approximately four miles of frontage on Sadie Cove.
<i>Zoning</i>	None
<i>Utilities</i>	None
<i>Existing Improvements</i>	None
<i>Current Use</i>	State park inholding; dispersed recreation and subsistence. Timber rights to 4,435 acres have been sold to Koncor, but no logging has occurred.
<i>Proposed Use</i>	The site will be consolidated with other state holdings and managed as part of Kachemak Bay State Park.

ANALYSIS

For fifteen years DNR worked on various land exchange proposals to acquire SNA's 23,802 acres of inholdings within Kachemak Bay State Park. From October 1988 until March 1990, DNR, SNA, and TCC were involved in developing a land exchange. The exchange agreement provided for appraisals to be concluded by both parties and the employment of a three member appraisal review board if differences in the two appraisals could not be resolved. Final appraisals submitted to the DNR by SNA concluded values of \$22,272,000 for the 19,367 acres of park land and \$4,435,000 for the 4,435 acres of commercially viable forest lands. The timber was appraised separately. The appraisals were rejected by the state. The state appraisal valued the property under somewhat different assumptions at \$12,575,000. This was, in turn, rejected by SNA. The resulting review panel estimated the value to be between \$11.6 and 15.5 million depending on various scenarios involving logging of the 4,435 acre

parcel, or \$17.8 million for the entire 23,802 acre parcel intact.

Legislation was introduced in both 1990 and 1991 to purchase the property for \$20,000,000 including the subsurface estate owned by CIRI. Neither bill passed the Senate. In 1993, a third acquisition bill was introduced and passed, which combined state funding with Oil Spill Trustee's funds for a total acquisition cost of \$22,000,000. This can be broken down for the various rights as follows:

<u>Property Rights</u>	<u>Acres</u>	<u>Price</u>	<u>\$/acre</u>
TTC Merchantable timber	4,435	\$4,500,000	
CIRI Subsurface (gravel)	20,000	2,000,000	
SNA Surface	23,802	15,500,000	
TOTAL	23,802	\$22,000,000	\$925

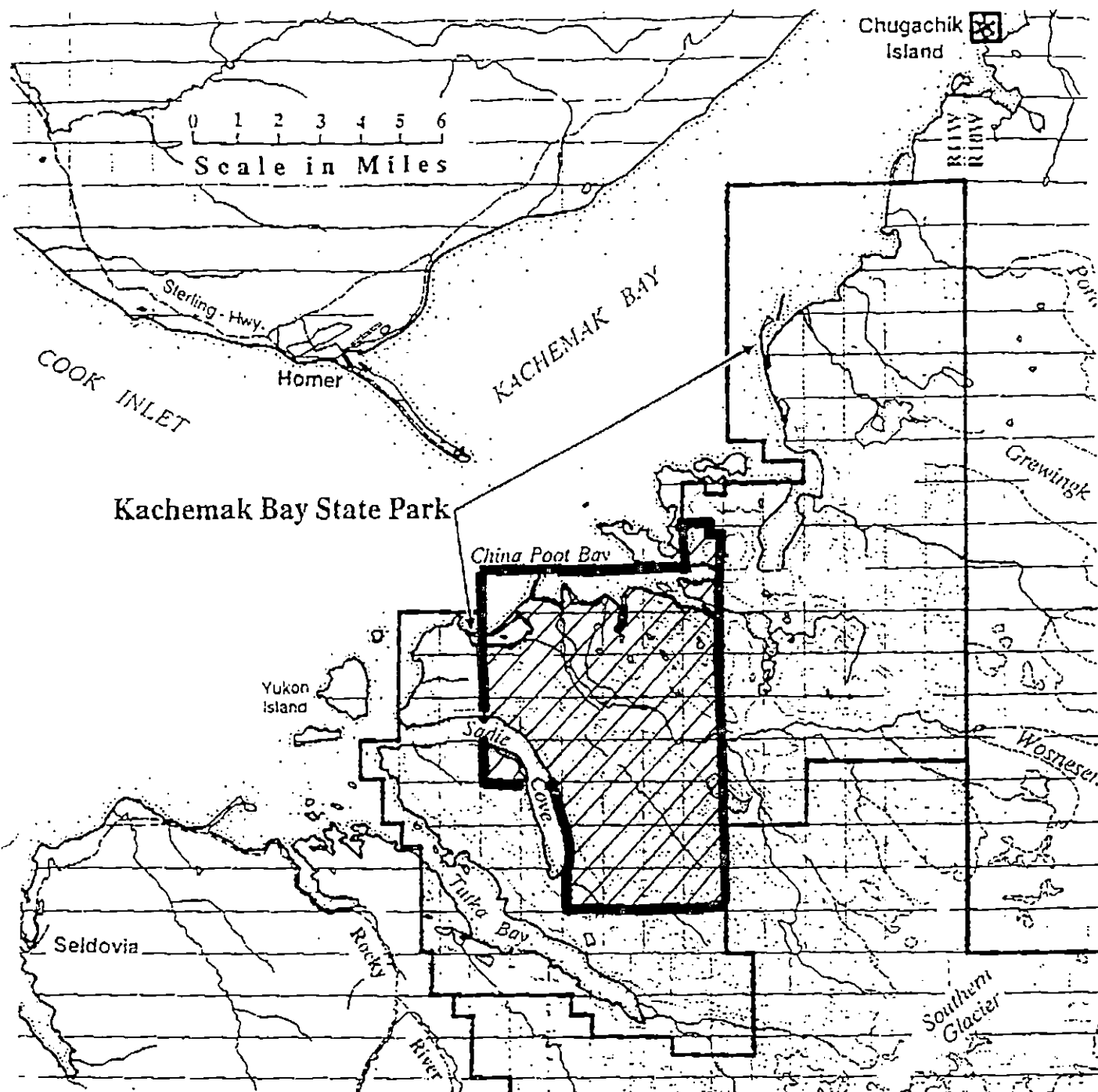
*Analysis of Surface
Estate Component:*

The appropriate manner to examine the sale from the perspective of natural land is to consider the surface estate and timber components of the deal as an intact parcel of park land, or:

$$\$15,500,000 + \$4,500,000 = \$20,000,000 / 23,802\text{ac} = \$840/\text{ac}$$

CONFIRMATION

<i>Name</i>	Dick Mylius
<i>Affiliation</i>	State DNR, Lands Division
<i>Telephone</i>	907-762-2660
<i>Appraiser</i>	Paul Bottge
<i>Date</i>	July 7, 1994



Kachemak Bay State Park

China Poot Bay

Yukon Island

Seldovia

Seldovia

Rocky River

Tuluksuk Bay

Kachemak Bay State Wilderness Park

State Park Boundary

Seldovia Native Association

West Arm

Tuluksuk River



ANWR EXCHANGE PROPOSAL

ANWR EXCHANGE PROPOSAL

History

In 1985 the Department of Interior was approached by the State of Alaska and a number of Native corporations, some of whom owned very large tracts of valuable fish and wildlife habitat within Alaska refuges. The State and the Native corporations were interested in acquiring rights to oil and gas within the Arctic Refuge 1002 area, should the area be opened to further exploration and development. It was understood that no exchange of interests would occur without congressional action opening the 1002 area. In 1987 six Alaska Native participants entered into comprehensive exchange agreements involving 891,100 acres of wildlife habitat inside seven Alaska refuges and 166,278 acres of subsurface estate on the Coastal Plain of the Arctic National Wildlife Refuge (ANWR).

The negotiated value of Native corporation lands offered in exchange is as follow:

<u>Corporation</u>	<u>Native Inholdings</u>			<u>ANWR Identified Tracts</u>	
	<u>Acres</u>	<u>\$/Acres</u>	<u>Value</u> <u>(millions)</u>	<u>Acres</u>	<u>Value</u> <u>(millions)</u>
Akhiok-Kaguyak	115,000	\$651	\$74.9	19,237	\$74.9
Doyon Limited	220,000	553	121.7	43,237	121.7
Gana-A' Yoo	56,000	625	35.0	43,367	35.0
Koniag	112,000	691	77.4	3,183	77.4
Native Lands Group	298,000	617	184.0	20,898	184.0
Old Harbor Native Corp.	<u>90,000</u>	<u>507</u>	<u>45.7</u>	<u>57,679</u>	<u>45.7</u>
TOTAL	891,000	\$605	\$538.7	166,278	\$538.7

The National Wildlife Refuge Systems involved are outlined below.

<u>Refuge</u>	<u>Acres</u>	<u>Native Participant</u>
Alaska Maritime	87,000	Native Lands Group/Old Harbor
Innoko	125,000	Donyon, Gana-A' Yoo
Kanuti	75,000	Donyon
Kenai	33,000	Native Lands Group
Kodiak	260,000	Akhiok-Kaguyak
Nowitna	78,000	Koniag, Old Harbor
Yukon Delta	<u>233,000</u>	Donyon Native Lands Group
Total	891,000	



**LARGE SITE LAND SALE COMPARISON NO. 3
POINT POSSESSION**

LARGE SITE LAND SALE COMPARISON NO. 3

POINT POSSESSION

IDENTIFICATION

Point Possession

<i>Location</i>	Point Possession, within the Kenai National Wildlife Refuge on the Kenai Peninsula, is just 15 minutes by air from Anchorage, Alaska. The property is located within the 1.35 million acres designated for wilderness in the Kenai National Wildlife Refuge. The parcel is bounded on the south and southwest by the Kenai National Wildlife Refuge, which shares nearly 5 miles of this property's boundary. The property is bounded on the north and east by Cook Inlet, on the west by state land, and on the northwest by a private Native allotment.
<i>Legal</i>	Portions of sections 17, 20, 21, 27, 28, 29, 31, 32, 33, and 34, Township 11 North, Range 6 west.

SALE DESCRIPTION

<i>Seller</i>	Point Possession Inc., Native Group Corporation		
<i>Buyer</i>	Not disclosed. Accepted offers in 1992, and current listing.		
<i>Sale Price</i>	Offer One:	\$4,150,000	cash
	Offer Two:	\$4,500,000	terms
	Current listing:	\$4,250,000	cash
	Current listing:	\$4,400,000	terms
<i>Financing</i>	Offer Two:	\$1,250,000 down (28%). Balance paid off over 8 years at 7%.	
	Current listing:	\$1,100,000 down (25%), seller financing \$3,300,000, 10 year note at 8.5%.	
<i>Property Rights</i>	Fee - surface rights only		
<i>Date</i>	Offers 1992, current listing		
<i>Motivations</i>	The listing broker advertises in the Robb Report and in Alaska Magazine, and receives about one call per week. The broker sees the most probable buyer as a well-to-do individual or naturalist organization.		

SITE DESCRIPTION

<i>Size</i>	4,481 acres
<i>Topography</i>	The terrain is gently rolling and ranges from 100 to 150 feet in elevation.
<i>Access</i>	Access by plane onto uplands, lakes, or land on the beach. From boat landing, access is up the bluff from

the beach by gradual terrain at the point, or by several gullies which provide for access by three-wheelers, all terrain vehicles, or by foot. Driving by an all-terrain vehicle around the beach at low tide is possible, or over land access along the pipeline corridor.

Vegetation and Soils

The parcel is covered by spruce/birch forest, a few grass land areas and shrubs. Little wetland area is present on the property, except near the lakes in the southwest corner of the parcel and a small area on the northwest side of Diamond Lake. The Kenai National Wildlife Refuge classifies the property as "mature forest" habitat which provides for a good diversity of wildlife. The "mature forest" habitat is dominated by trees 70 to 200 years old.

Waterfrontage

The property is bordered on the north and east by 4.58 miles of ocean front shoreline on Cook Inlet. Thirty-six lakes and ponds of varying sizes (up to 130 acres) are totally or partially located on the property.

Species

Wildlife species on this property include moose, brown bear, black bear and the Point Possession wolf pack. Bird life observed include bald eagles, hawks, and swans on Vogel and Cook Lakes. The lakes within the property contain both rainbow trout and Dolly Varden.

Zoning

Not zoned - 22g

Utilities

None

Existing Improvements

None. A right-of-way for a buried petroleum products pipeline encompassing an area of 3.25 acres is located on the northwest portion of the property.

Current Use

Recreation/subsistence

Proposed Use

Marketed as an ideal location for a major tourist wilderness resort, private hunting club, executive retreat, or for conservation purposes.

ANALYSIS

Analysis Price

\$4,150,000 - cash offer

Price/Acre

\$926

CONFIRMATION

Name

Ken Gain

Affiliation

Broker - Equivest Realty Advisors

Telephone

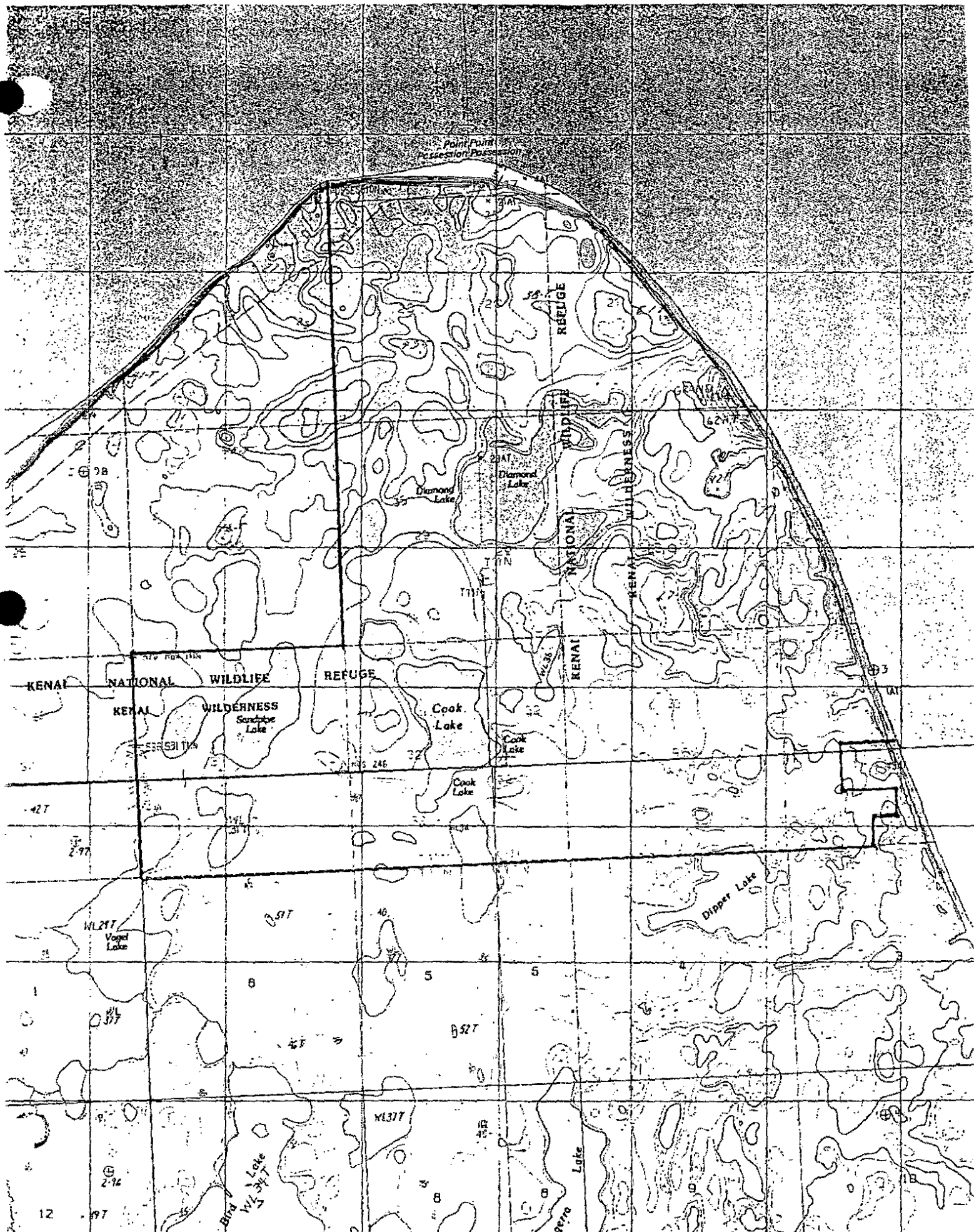
907-274-7630

Appraiser

Paul Bottge

Date

July 13, 1994



plan will: (1) identify the inholdings within the refuge's boundaries that need to be protected; (2) display the relative acquisition priority for each parcel; (3) describe the minimum interest in those lands that the Service should pursue; (4) discuss alternative means of land and resource protection; (5) analyze the impacts of the LPP on local residents.

- ▶ The Service will only work with willing landowners ◀

The plan is intended to guide the refuge's land protection activities subject to the availability of funds and other constraints. This plan does not constitute an offer to purchase land, nor does it diminish the rights of private landowners. The Service will pursue land protection measures only with landowners who are willing to work with us.

- ▶ Service policy is to acquire minimum interest necessary to protect resources ◀

The Service land acquisition policy is to acquire land only when other methods of achieving program goals and objectives are not appropriate, available, or effective. The Service does not expect to purchase all private property within the Kodiak Refuge boundaries. However, the Service would like to work with all landowners to ensure that overall wildlife values within Kodiak Refuge are protected.

II. LAND STATUS

- ▶ Kodiak Refuge established in 1941 ◀

On August 14, 1941, President Franklin D. Roosevelt established Kodiak National Wildlife Refuge by Executive Order 8857 to preserve the natural feeding and breeding range of the brown bear and other wildlife. The Executive Order withdrew about 1,957,000 acres from unreserved public domain on Kodiak and Uganik Islands. The refuge encompassed all of Uganik Island and most of the southwest portion of Kodiak Island except for the Karluk Indian Reservation. A one-mile shoreline strip remained open to public entry. Grazing of livestock in other areas of Kodiak Island, however, led to major bear/cattle conflicts. To resolve this issue, Interior Secretary Fred A. Seaton signed Public Land Order 1634 on May 9, 1958. This Order revoked Executive Order 8857, closed the mile-wide shoreline strip to the land laws, and reclassified the Shearwater and Kupreanof Peninsulas as unreserved public domain. The new refuge boundary extended from Viekada Bay along a mountainous ridge to the head of Kiliuda Bay. The adjustment reduced the refuge to about 1.82 million acres.

- ▶ Kodiak Natives receive rights to 310,000 acres in claims settlement ◀

The Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, had a major effect on Kodiak Refuge. As part of the settlement about 310,000 acres of refuge lands were to be conveyed to village corporations and Native groups (Figure 2). On

December 2, 1980, President Carter signed into law the Alaska National Interest Lands Conservation Act (ANILCA). A portion of ANILCA redesignated Kodiak National Wildlife Refuge. It also added about 50,000 acres of public lands on Afognak and Ban Islands to the refuge. The Afognak Island lands were originally part of the Chugach National Forest, administered by the U.S. Forest Service.

Table 1. Land ownership on the Kodiak National Wildlife Refuge as of January 1992.

	<u>Acres</u>
<u>Current Ownership</u>	
Inside administrative boundary	1,866,000
Federal	1,548,910*
Nonfederal:	
Native Corporation (selected and conveyed)	453,550*
Native Allotments (applications and patents)	7,263*
State	0
Other	560

*Acreage figures are estimates as of January 1992, and are subject to change. Overselections are included in these estimates, since the U.S. Fish and Wildlife Service is not responsible for adjudicating claims and has no means of deciding which are valid selections. Land status acreage figures in Alaska will not be finalized until conflicting claims are adjudicated and all inholdings are surveyed.

See Appendix A for a more detailed list of land ownership

III. MAJOR WILDLIFE RESOURCE VALUES

- THE KODIAK BROWN BEAR

Kodiak Refuge was created to conserve the Kodiak brown bear - the largest land carnivore in the world. Large females weigh about 650 pounds and males can weigh up to 1,500 pounds. The refuge's bears are its most well-known feature, attracting visitors from around the world. The refuge supports the highest known seasonal density of brown bear in the world (Troyer and Hensel 1964; Cowan 1972). Brown bears are found throughout the Kodiak Archipelago but most are found within the refuge boundaries. The population on the refuge is estimated to be 2,000 to 2,500 bears (Barnes et al. 1988).

Brown bears on Kodiak Island enter winter dens from late October to mid-December. Dens have been found in many areas, but most are at or near treeline above 1,000 feet (Lentfer et al. 1972). Bears emerge from their dens from early March to late May. They seek out areas where they can graze on emerging forbs, sedges and grasses. Salmon become available in mid-summer and the bears concentrate on localized stretches of streams and lake shores where fish can be easily caught. The salmon provide a valuable, protein-rich food source. They are one of the reasons that Kodiak bears obtain their large size. The bears feed primarily on salmon until late summer when berries become the mainstay of their diet. However, late salmon runs remain important to many bears into the fall.

SALMON, BALD EAGLES AND OTHER WILDLIFE

Numerous streams in the refuge provide habitat for resident and anadromous fish. The pink, sockeye, chum, chinook and coho salmon, Dolly Varden/Arctic char and rainbow/steelhead trout populations found in the refuge are of special value to sport, commercial and subsistence fishermen. Spawning salmon also are a valuable food source for many resident wildlife species. About 200 pairs of bald eagles nest on the refuge, one of the largest nesting concentrations of bald eagles in North America. The eagles nest on the shoreline pinnacles, cliffs and cottonwood trees. The refuge also provides nesting and wintering habitat for migratory waterfowl such as swans, ducks, geese, and numerous shorebirds.

Only six species of land mammals are native to Kodiak Island: the brown bear, river otter, red fox, short-tailed weasel, tundra vole, and little brown bat. Other species that have been introduced to Kodiak and Afognak Islands include the Sitka black-tailed deer, mountain goat, elk, reindeer, and beaver.

PURPOSES OF THE KODIAK NATIONAL WILDLIFE REFUGE

The Alaska National Interest Lands Conservation Act declared the following major purposes for which the Kodiak Refuge was established and shall be managed:

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonids, sea otters, sea lions, and other marine mammals and migratory birds;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.



The Kodiak Refuge was created to conserve the world-renowned Kodiak brown bear.

IV. HUMAN PRESSURE ON BROWN BEAR POPULATIONS

- More people are present in remote bear habitats ◄

Human activities are increasing throughout the brown bear habitat of the Kodiak Refuge. The 1990 population of the Kodiak Island Borough was 13,309, an increase of 34% from 1980 (State of Alaska 1992). The Draft Kodiak Public Use Management Plan (USFWS 1990a) estimated a 50 percent increase in recreational use on the refuge

between 1990 and 1995. Popular activities include deer and bear hunting, sport fishing, photography and sightseeing. Much of the increased use of refuge lands is expected to result from newly developed facilities on refuge inholdings. Although these facilities are located on private lands much of the resulting recreational use will take place on the refuge. Most of these facilities provide lodging for sport fishermen and deer hunters. Recent developments include lodges or cabins in Zachar Bay, Uyak Bay, Larsen Bay, the mouth of the Ayakulik River, Olga Bay, the mouth of Upper Station River and Three Saints Bay. Several of these developments are just getting started and a number of additional developments are proposed.

► Brown bears and people don't mix ◄

A primary concern on the Kodiak Refuge is the cumulative impact of various forms of human activity on the brown bear population. Historically, it has not necessarily been the conversion of habitat that has caused diminution or disappearance of brown bear populations in the American West. More important has been the intolerance of humans for bears as human activity intrudes on the bears and causes conflict. The result is that bears have tended to abandon otherwise good habitat to avoid human activity, and humans have tended to kill individual bears that were considered to be a threat (Jonkel 1978).

The recent popularity of deer hunting on the Kodiak Refuge has led to an increase in defense of life and property (DLP) kills. During the peak deer hunting years of 1984-86 reported DLP kills by deer hunters averaged eight bears annually (Smith et al. 1989). This average was twice the number reported from 1976-80. A significant portion of DLP kills are maternal females. The loss of maternal females, and subsequently their dependent cubs, could lead to a population reduction in localized areas. Although DLP mortality is a small percent of total recorded mortality, the DLP trend reflects an overall increase in bear/human interactions on Kodiak Refuge.

Indirect impacts to Kodiak bears may occur due to the increasing public use. The number of bears displaced from traditional home ranges because of human presence is unknown. These displacements may only be temporary or seasonal in nature but still have a significant impact on bears. The increasing sport fishing pressure at remote rivers and streams, may displace bears from prime fishing areas. Increased social interaction by displaced bears may lead to direct mortality, especially of cubs. Also, bears may be attracted to food sources at the new developments. Garbage dumps and unattended food caches will attract bears and lead to confrontations with humans.

Displacement from prime habitat, DLP kills, and garbage habituation are some of the direct and indirect impacts to brown bears. A summarization of the effect of human activity on brown bears can be found in the draft Kodiak Public Use Management Plan. Land protection measures could preclude human development and activity that may be detrimental to the Kodiak brown bear.

V. LAND PROTECTION PRIORITIES

THE ALASKA PRIORITY SYSTEM (APS)

- ▶ APS was developed to rank statewide priorities on refuge inholdings ◀

The Alaska Submerged Lands Act of 1988 mandated that the Service rank in priority for acquisition all inholdings. The Alaska Priority System (APS) was developed to meet this requirement. The computer model APS was designed to rank the relative significance of wildlife habitats on private inholdings statewide across all refuges. This task was monumental as there are claims on approximately 23 million acres of inholdings within the 16 national wildlife refuges in Alaska. These 16 refuges encompass 77 million acres of federal land.

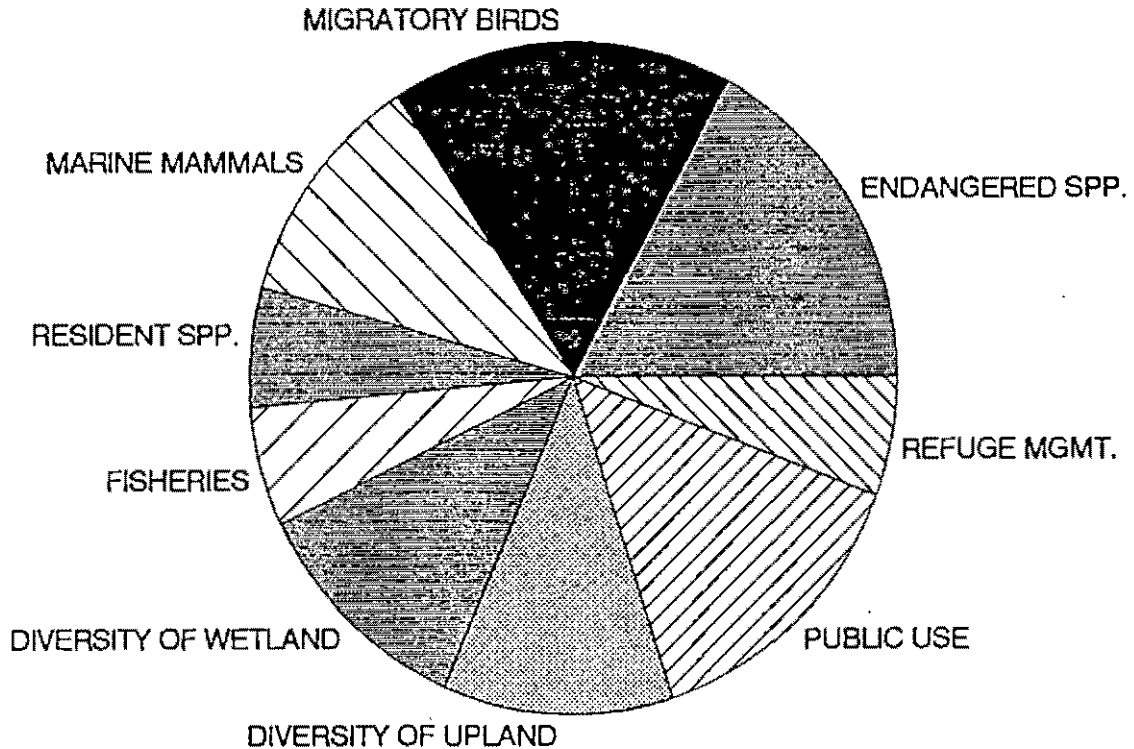
- ▶ APS was adopted and modified for this plan ◀

A major objective during development of this plan was to refine the statewide priority ranking used in the Submerged Lands Act Report. The plan needed to focus specifically, and in more detail, on the Kodiak Refuge. To meet this objective the APS model was modified slightly and used to rank only Kodiak inholdings against themselves. The new model uses seven resource and two management criteria (Figure 3). A third management criterion, the ability of acquisition to reduce threats, was used in the statewide model. Threats is now used outside of the computer model as an additive criteria. The seven resource criteria are: endangered species, migratory birds, diversity of wetlands, diversity of uplands, marine mammals, resident refuge purpose species, and fisheries. The two management criteria are public use and the capacity of acquisition to enhance management of refuge lands. Criteria are subdivided into categories and point values are assigned to each category. The resource categories are usually the densities of a specific wildlife population. The management categories are public use activities and fire management concerns.

All criteria and categories were developed from statutory mandates and the Service's national land protection system. Thus, migratory birds, endangered species and marine mammals rank highest in the system. A detailed description of the criteria, categories, and point values can be found in a separate APS paper available from the Anchorage Realty office (USFWS 1992).

The priority process begins with the gathering and mapping of fish and wildlife data and management information. The hand drawn maps and related attribute tables are then digitized and entered into a geographic information system known as ARC/INFO (Environmental Systems Research Institute 1989). The computer program ARC/INFO allows concurrent manipulation of computerized maps and attribute data. The result is a set of layers of mapped resource information in ARC and numerical descriptions in INFO. Each criterion represents one layer in the model (Figure 4). All of the criteria

**FIGURE 3. THE ALASKA PRIORITY SYSTEM:
THE HIGHEST SCORES ARE AWARDED TO MIGRATORY
BIRDS, ENDANGERED SPECIES AND DIVERSITY.**



layers are merged into one resource map. This new map is then overlain on a map depicting land status. The result is a map depicting the private lands within the refuge and an associated point score within each section (Figure 5). Finally a determination of priority, based on a scale of 1 to 5, is calculated from these scores.

PRIORITY LEVELS

- Five levels divide land protection priorities ◄

Figure 5 depicts the relative priority level of resource values on conveyed Native corporation lands and allotments within the refuge boundary. Each section of private

The APS model combines resource maps of wildlife use areas and management concerns with a land status map.

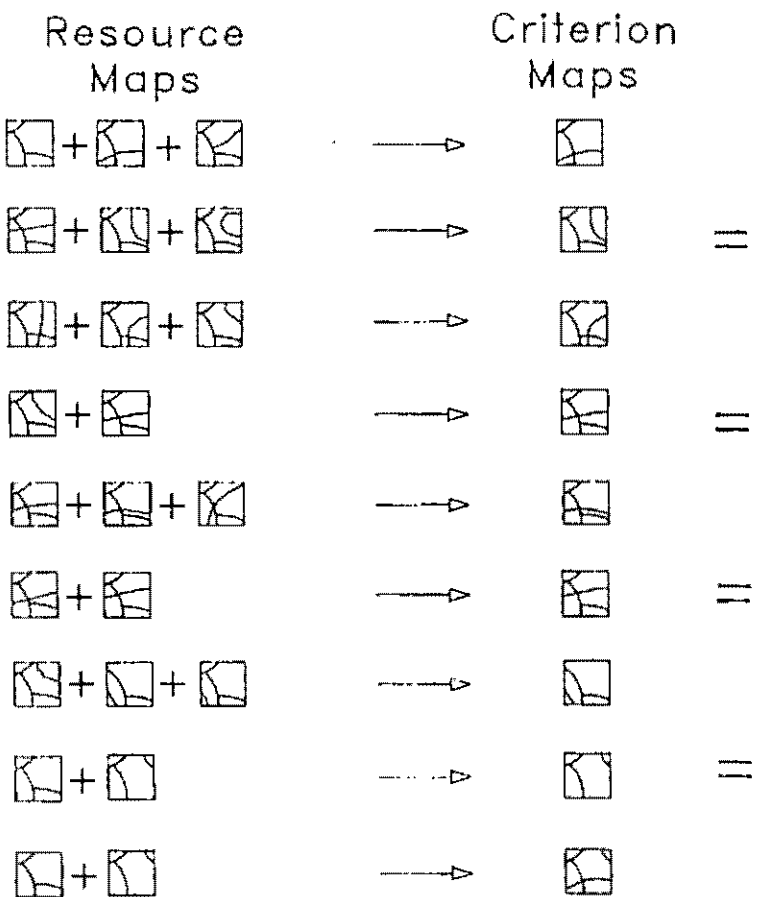
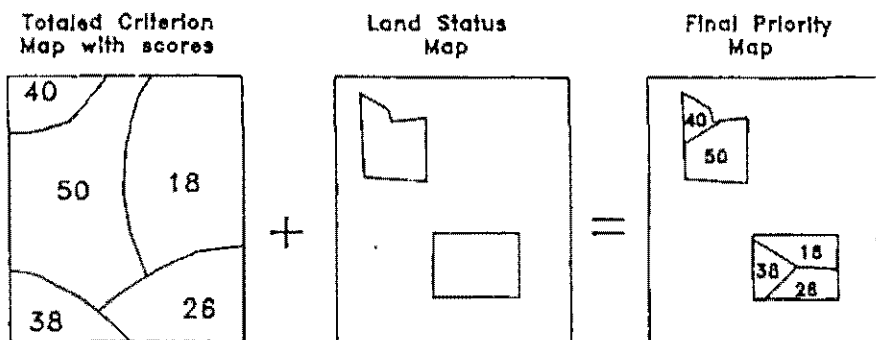


Figure 4. The Alaska Priority System uses ARC/INFO to rank priorities.

land was awarded a priority rank of 1-5 based on it's criteria point score. Priority rank 1-3 are subdivisions of the highest priority acreages. The ranking can be described as:

Priority 1-3	High
Priority 4	Medium
Priority 5	Low

The actual divisions between high, medium and low priority were made by criteria point scores, and consequently do not divide the total acreages into three exactly equal groups (Table 2). The priority levels reflect the relative ranking of wildlife resources, and refuge management concerns, on private land within refuge boundaries. The levels are derived from the APS model. Acquisition funding requests will be based on these relative rankings and on an additive criteria - threats.

Table 2. Summary of land protection priorities on Kodiak National Wildlife Refuge by land ownership (acres)*.

Priority	Native Corporation (Conveyed)	Native Allotment (Conveyed)	Native Allotment (Selected)	Other Private (Conveyed)	Total
1	3,866	0	237	3	4,106
2	16,191	0	651	31	16,873
3	66,908	152	907	44	68,011
4	107,288	201	2,433	116	110,038
5	77,407	362	2,320	366	80,455

* These acreage figures were derived from the APS computer model. Acreage may not match BLM summaries due to differences in scale and detail between the Service's automated land status and hand-drafted BLM Master Title Plats. Water bodies have not been surveyed and are included in these figures.

THREATS

- Threatened wildlife areas receive additional consideration ◀

The APS computer model ranks relative resource values of inholdings on Kodiak Refuge based on statewide criteria. Valuable wildlife habitats will receive a high score within the APS model. In addition, these areas may face some risk from development or human uses that may harm wildlife. An additive criteria, Threats, is used in this LPP to



Bald eagles are a common sight along the refuge coastline and inland waterways. A parcel of land that supports migratory birds, such as eagles, could receive a high score in the APS model.

ensure threatened parcels receive attention. The Threats criterion is a three level screening process applied to parcels after they have been ranked by the resource model:

Level 1. Initial identification of a threat to refuge resources.

The refuge manager identifies areas of concern to be entered into the screening process. The initial consideration is whether land protection measures available to the Service will be able to reduce the threat to wildlife. If the answer is "yes", additional screening questions are asked: Is the site geographically suitable for development? Would it be economically viable to develop the site in the next 10 years? Parcels that meet these criteria are outlined on a 1:63,000 topographic map.

Level 2. The probability of development or overuse within the next 10 years.

Is it probable that the parcel will be developed or that detrimental use will increase in 10 years? For example, has the owner expressed an interest in a development action?

Level 3. The APS score and refuge purpose species density of each parcel.

Determine the APS score or the density of refuge purpose species (i.e. brown bears), whichever is higher. Only high and medium priority or density parcels will receive a consideration for threats.

Parcels that have passed through all three screening levels are listed in Table 3. Figure 6 is a map of these identified parcels. The purpose of Table 3 is to highlight parcels currently considered most threatened. New parcels will be added or subtracted as the economy and development pressures change. Parcels to be added will follow the same screening process as outlined above. Table 3 parcels do not replace the APS resource rankings, but rather serves as an additional consideration in pursuing land protection.

VI. LAND PROTECTION ISSUES NOT MEASURED BY APS

ECOSYSTEM INTEGRITY

► Protection of refuge ecosystems is a concern ◀

Wildlife resource values, and simplifying refuge management, are major considerations when selecting the necessary level of land protection. The Alaska Priority System uses these values to identify important parcels on a refuge-wide basis. In addition, selection of land protection alternatives should also be based on the importance of an individual parcel to the overall health of individual plant and animal communities. Questions to be answered include:

1. Does the parcel encompass a key wildlife migration or public access corridor?
2. Would development actions on the parcel affect wildlife resources on adjacent federal lands?
3. Will high value habitats be impacted by commercial or private development?

The close proximity of marine, estuarine, riparian and alpine habitats on Kodiak Refuge creates many distinct plant and animal communities. These areas may include individual bays, peninsulas, isolated geologic areas, or river drainages. The importance of any small parcel of land to one of these communities would need to be assessed on a site specific

Table 3. Important wildlife areas threatened by development or human uses (not listed in order of priority).

ID	Location	Priority Rank (APS)	Bear Density	Landowners
J	Grant Lagoon	1	Low	Koniag & small parcels
C	Chief Cove	3	Medium	Small parcels
M	Portage	3	Medium	Koniag & small parcel
I	Karluk Lake	3	High	Koniag
K	Sturgeon River	1	High	Koniag & small parcels
O	Midway Bay	1	High	Old Harbor
G	Olga Lakes	3	High	Akhiok-Kaguyak & small parcel
R	Horse Marine Lagoon	3	High	Akhiok-Kaguyak & small parcel
FF	Browns Lagoon	3	High	Small parcels
D	Akalura Creek	3	High	Small parcels
W	Head Uyak Bay	3	High	Small parcel
B	East Arm Uganik Bay	3	High	Small parcel
H	Silver Salmon Lake	4	High	Small parcels
L	Halibut Bay	2	Low	Small parcels
T	Kiliuda Bay	2	High	Old Harbor & small parcels
X	West Uyak Bay	3	High	Small parcel
U	Kiliuda Bay	3	High	Old Harbor & small parcels
E	Dog Salmon Creek	3	High	Akhiok-Kaguyak & small parcel
N	Larsen Bay	3	Medium	Small parcel
EE	Carlson Point	3	High	Small parcels
Y	West Uyak Bay	4	High	Small parcels
A	East Uyak Bay	4	High	Small parcels
V	Kiliuda Bay	4	High	Old Harbor & small parcels
DD	Zachar Bay Cannery	4	High	Small parcel
Z	West Uyak Bay	4	High	Small parcels
Q	Barling Bay	2	High	Old Harbor
GG	Uganik Island	5	Medium	Small parcel
P	3 Saints Bay	5	Medium	Old Harbor & small parcel
S	Sulua Bay	5	Medium	Akhiok-Kaguyak & small parcels
HH	Sukhoi Lagoon	2	Low	Akhiok-Kaguyak & small parcels

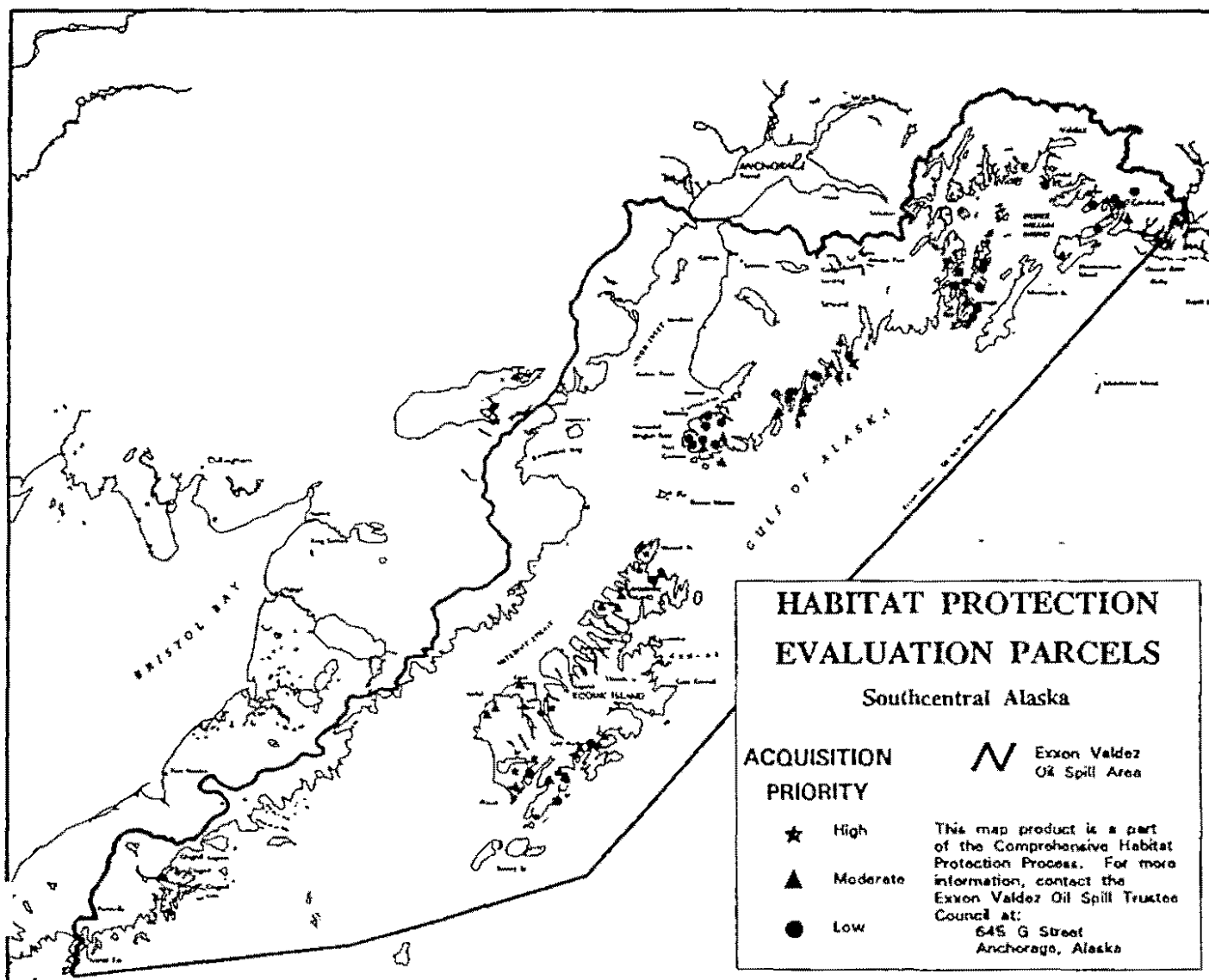
basis. This LPP does not attempt to identify, or formulate land protection measures, for every plant and animal community within the Kodiak Refuge.

**EXCERPTS: EVOS LARGE PARCEL EVALUATION
AND RANKING**

WORKING DOCUMENT

COMPREHENSIVE HABITAT PROTECTION PROCESS;
LARGE PARCEL
EVALUATION & RANKING
VOLUME I

Prepared by:
Exxon Valdez Oil Spill Restoration Team
Habitat Protection Work Group
November 30, 1993

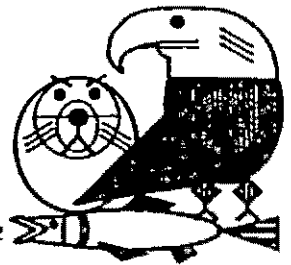


Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 402, Anchorage, Alaska 99501

Phone: (907) 278-8012 Fax: (907) 276-7178



November 30, 1993

Dear Reviewer:

This document presents the results of the Comprehensive Habitat Protection Process; Large Parcel Evaluation and Ranking. We invite your comments on the evaluation process including the list of ranked parcels that will be considered for acquisition by the Exxon Valdez Oil Spill Trustee Council.

The goal of the Comprehensive Habitat Protection Process is to identify and protect habitats that will benefit the recovery of resources and services injured by the Exxon Valdez oil spill. This process is a refinement of the completed imminently threatened lands evaluation process. The Comprehensive Habitat Protection Process, an integral part of the Restoration Plan, will eventually evaluate all lands in the oil spill area where a willing seller has been identified.

The Large Parcel Evaluation and Ranking began on March 18, 1993, with the mailing of letters to 90 landowners of large parcels in the oil spill area. This area is defined by the map on page 14. Thirty-two landowners responded expressing interest in having their land considered. Based upon this response and evaluation, eighty one parcels were identified for further evaluation. Parcel boundaries were based on both ecological factors and ownership. Parcels larger than one thousand acres were evaluated and ranked. These parcels were evaluated, scored and ranked as high, moderate or low. Over 850,000 acres were evaluated in this manner.

Once the parcel boundary was determined, the parcels were subjected to detailed evaluation against a set of Evaluation/Ranking Criteria (Table 2). The evaluation determined:

- The degree of linkage for injured resources and services to specific parcels; and
- The potential for benefit that implementation of habitat protection on specific parcels would have on each linked resource and service.

Parcels larger than one thousand acres were evaluated and ranked. Larger parcels tend to have greater ecological integrity and contain more linked habitats and services. There are also advantages to protection of small areas that benefit injured resources or services. A Small Parcel Evaluation and Ranking Process will begin in January 1994.

Please send your written comments by January 30, 1994, to:

Exxon Valdez Oil Spill Trustee Council
645 "G" Street
Anchorage, AK 99501

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation

United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

INTRODUCTION

The purpose of the Comprehensive Habitat Protection Process is to identify and protect habitats that will benefit the recovery of resources and services injured by the Exxon Valdez oil spill. This process is a multi-step approach that is divided into evaluation, ranking, negotiation, protection, and management phases (Figure 1). The first step in the Comprehensive Process was to identify and evaluate large parcels of private lands throughout the oil spill area. Future efforts will focus on identification and evaluation of small parcels, newly nominated large parcels of private land, and public lands.

The Memorandum of Agreement and Consent Decree (MOA) is the primary authority directing use of settlement funds for restoration activities including implementation of the Comprehensive Process. The MOA was executed between the United States and the State of Alaska and approved and entered by Judge Holland on August 28, 1991.

The original Habitat Protection and Acquisition Process was presented to the public in the Restoration Framework Supplement (July, 1992) and was described in the Draft Restoration Plan, Summary of Alternatives for Public Comment (April, 1993) and in the Supplement to the Draft Restoration Plan (June, 1993). These documents provide the framework for the development of the Comprehensive Process which is included as part of the Restoration Plan.

The Comprehensive Process evolved from discussions with local experts; comments from the public; reviews of the literature; reviews of damage assessment and restoration studies; and collaboration with biologists, ecologists, resource managers, archaeologists, and realty, recreation and subsistence specialists. Existing habitat protection systems, such as the Florida Conservation and Recreation Lands program were reviewed as models. To aid in the development of this process, The Nature Conservancy produced a handbook for the Trustee Council. The handbook provides an overview of protection tools, techniques and strategies used by the Conservancy, federal and state resource agencies and by other land stewardship organizations. A workshop was held on June 7-8, 1993, to review the Comprehensive Process. Recommendations from this workshop were incorporated into the Comprehensive Process.

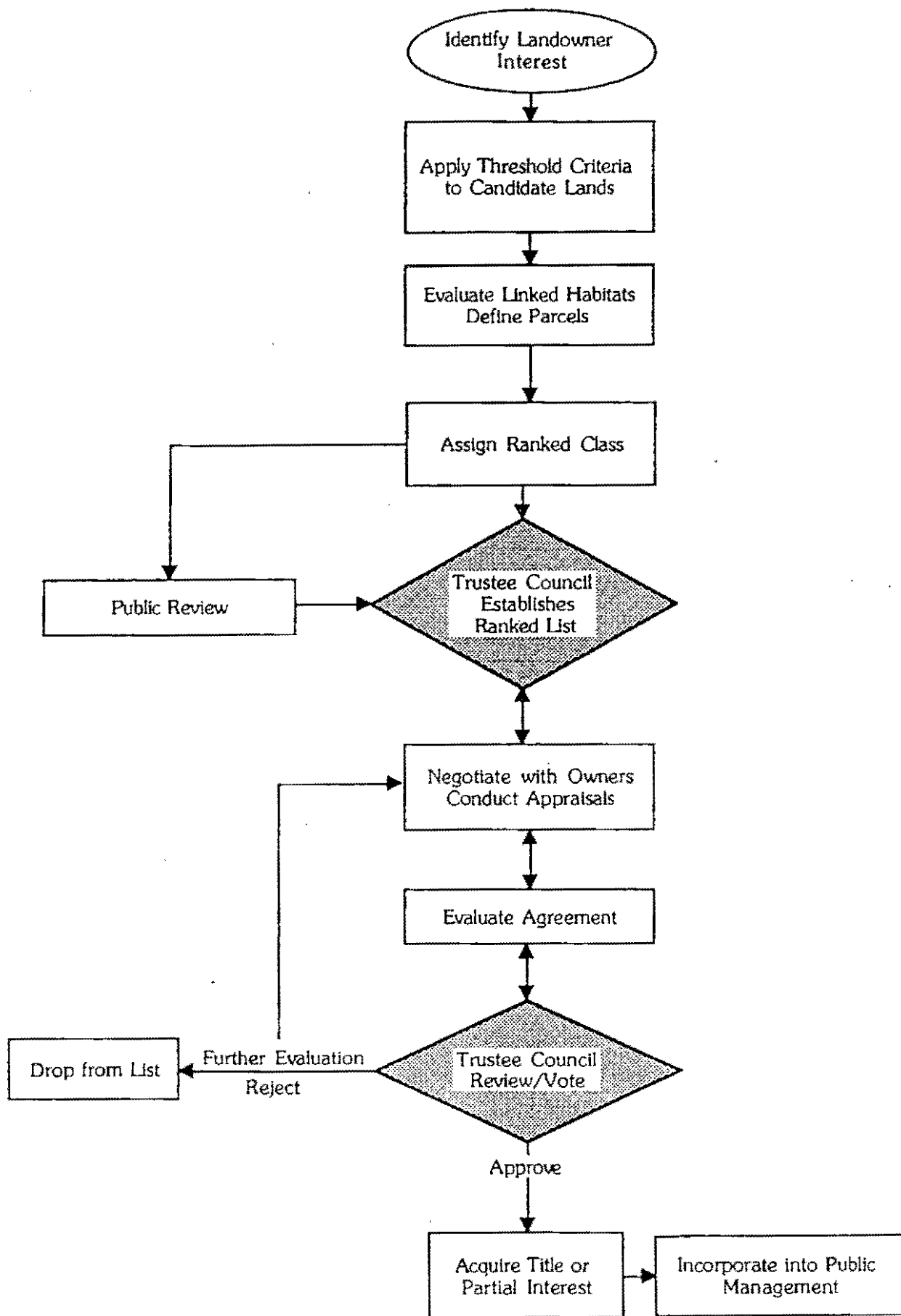
Threshold criteria were developed and included in the Comprehensive Process to eliminate lands that would not meet restoration objectives. Subsequently, evaluation and ranking criteria were used to prioritize candidate lands that met the threshold criteria. Additional lands will be evaluated as willing sellers are identified.

Some of the protection tools available include: fee title acquisition, conservation easements, acquisition of partial interests, and cooperative management agreements. Following purchase, acquired parcels will be managed in a manner that is consistent with the restoration objectives for the injured resources and/or services. The Trustee Council will decide which resource agency manages each acquired parcel.

Initially, the Trustee Council used a similar evaluation and ranking process to identify lands that contain injured resource and service habitats that were imminently threatened. The imminent threat evaluation process has been completed. That process resulted in the purchase of private lands in Kachemak Bay State Park and on northern Afognak Island.

This document describes the evaluation and ranking elements of the Comprehensive Process and presents the results of the evaluations for the 81 large parcels that have been identified to date.

Figure 1: COMPREHENSIVE HABITAT PROTECTION



THE COMPREHENSIVE HABITAT PROTECTION PROCESS

The Comprehensive Process consists of a sequence of steps leading to possible protection of those lands that contain habitats linked to the recovery or replacement of injured resources and services. This process is depicted graphically in Figure 1. The analysis to date, has progressed through the first four steps; 1) Identify Landowner Interest, 2) Apply Threshold Criteria to Candidate Lands, 3) Evaluate Linked Habitats and Define Parcels, and 4) Assign Ranked Class. The remaining steps in the process will occur in the near future. The evaluation and ranking elements of the Comprehensive Process are described below.

Identify Landowner Interest

On March 18, 1993, ninety letters and response forms were mailed via certified mail to major landowners in the oil spill area. In addition, phone calls were made to the majority of the large landowners. Thus far, 32 nominations of candidate lands have been received from this solicitation. Of these, eleven responses were evaluated as part of the Large Parcel Evaluation and Ranking and the remainder will be evaluated as part of the Small Parcel Evaluation and Ranking.

Apply Threshold Criteria to Candidate Lands

Candidate lands were evaluated to see if they met the following threshold criteria (Table 1). Candidate lands were rejected if not in compliance with ALL threshold criteria. Rejected proposals can be recycled back into the process for another review if additional information is made available that allows for compliance with all threshold criteria.

Table 1: 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 governments can purchase the parcel or property rights only at or below 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; and
- 5) The acquired property rights can reasonably be incorporated into public land management systems.

Evaluate Linked Habitats and Define Parcels

Parcel Design

Following application of the threshold criteria, each landowner nomination was divided into one or more evaluation parcels. The parcel boundaries were delineated based upon ecological considerations, injured resource and service concerns, and ownership patterns. For the most part, the resulting 81 parcels represent tracts of private land greater than 1,000 contiguous acres.

Large parcels were evaluated first because they generally have greater ecological integrity and contain more habitats for injured resources and services than smaller parcels. To date the Comprehensive Process evaluated over 850,000 acres of private lands. This phase of the process focused on large parcels since an analysis of smaller parcels would not have been feasible using the current methodology.

Restoration benefits can also be obtained from protection of small areas. Protection of small parcels can, for example: 1) facilitate public access to a large parcel; 2) eliminate potential threats to a specific habitat area or larger surrounding ecological unit; 3) improve management of a large parcel; 4) focus restoration efforts on individual species or key habitats/sites. A small parcel evaluation process will be developed and used for the evaluation and ranking of small parcels.

Land status was a primary factor in the design of each parcel. Native corporations are the major private landowners in the spill area. Only those lands that are conveyed or are expected to be conveyed were evaluated and ranked. The Bureau of Land Management provided information on acreage entitlements and Native corporation priorities for conveyance. This facilitated the evaluation and ranking of priority lands up to the total acreage entitlements likely to be conveyed.

Parcel Evaluation

Once parcel boundaries were determined, the parcels were subjected to detailed evaluation against a set of Evaluation/Ranking Criteria (Table 2). These evaluation criteria, listed in Table 2, were designed to determine:

- The degree of linkage for injured resources and services to specific parcels; and
- The potential for benefit that habitat protection on each parcel would have for each linked resource and service.

Table 2: Evaluation/Ranking Criteria

- 1) The parcel contains essential habitat(s)/sites for injured resources or services. Essential habitats include areas for feeding, reproduction, molting, roosting, and migration; 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 it contains essential habitats that are connected to other elements/habitats in the greater ecosystem.
- 3) Adjacent land uses will not significantly degrade the ecological function of the essential habitat(s) nominated or recommended for protection.
- 4) Protection of the habitats on a parcel would benefit more than one injured resource/service (unless protection of a single resource/service would provide a high recovery benefit).
- 5) The parcel contains critical habitat for a depleted, rare, threatened, or endangered species.
- 6) Essential habitats/sites on a parcel are vulnerable to or potentially threatened by human activity.
- 7) Management of adjacent lands is, or could easily be made compatible with protection of essential habitats on a parcel.
- 8) The parcel is located within the oil spill area.

- * Criteria #1 was applied to a parcel as specified in Table 4, page 11, resulting in a score of High, Moderate, or Low for each injured resource / service.
- * Criteria #2 through #8 were scored with a simple yes or no indicating potential benefit to the entire ecosystem.

A list of injured resources and services that are linked to upland and nearshore habitats was developed from the Draft Restoration Plan, Summary of Injury and the recommendations of the Chief Scientist. These are listed in Table 3, Linked Resources and Services. Severity of injury was not considered in the parcel evaluation process due to incomplete damage assessment information.

Table 3: Linked Resources and Services

Resources		Services
Sockeye Salmon	Harbor Seal	Recreation
Pink Salmon	Harlequin Duck	Wilderness
Dolly Varden	Intertidal/Subtidal	Subsistence
Cutthroat Trout	Marbled Murrelet	
Pacific Herring	Pigeon Guillemot	
Bald Eagle	River Otter	
Black Oystercatcher	Sea Otter	
Common Murre	Cultural Resources	

Injured resources are linked to a parcel if they are dependent on distinct upland and nearshore habitat(s) during critical life stages, i.e. reproduction, feeding, molting, migration. For example, anadromous streams support reproduction of anadromous fish and also act as movement corridors between the spawning and rearing habitat and the sea.

Services are linked to a parcel if the parcel includes species habitat as well as recreation sites or viewsheds. Examples of linkage for services are recreational salmon fishing or recreational use by the public in an area of high scenic value with opportunities for viewing wildlife.

In determining the potential benefits to injured resources and services that a parcel will provide, the process considers the susceptibility of injured resources / services to adverse impacts from human activities and the probability that these impacts will occur within or adjacent to the parcel. Potential threats to resources and their habitats include both disturbance and habitat degradation or loss. Examples of habitat degradation would be the pollution of spawning habitat or the fragmentation of nesting habitat due to changes in land use or development activity. Disturbance can result in the disruption of reproductive activity or displacement of animals from important feeding areas. Marine mammals, for example, when hauled out on land, are sensitive to disturbance. Some land uses within a parcel or on lands bordering a parcel could interfere with seasonal movements or create movement corridor conflicts.

Information used in the evaluation process included resource agency data on anadromous fish streams, marine mammal haul-out areas, bald eagle nest locations, seabird colony locations, and spruce bark beetle infestation areas. EVOS natural resources damage assessment studies and agency planning studies were also reviewed.

Field surveys were conducted during the spring and summer of 1993. This effort provided wildlife observations and nearshore habitat data for most of the evaluated parcels. A wide range of information was solicited from experts for all nineteen injured resources and services. This information was gathered through a workshop run by The Nature Conservancy and on an individual basis.

Parcels were evaluated independently of each other by a single evaluation team. The degree of linkage for each parcel was determined according to evaluation Criteria #1, Table 2 (page 7). The rating for Criteria #1 was derived from the quality of the habitat and the estimated benefit the injured resource / service would receive from protection of the parcel. A value of high, moderate, or low was determined for each resource / service, for every parcel, according to the criteria summarized in Table 4: Criteria for Rating Benefit of Parcel to Injured Resources / Services (page 11). The value was based on an evaluation of similar habitat throughout the oil spill area. Secondary importance was given to the local or regional importance of the habitat. Potential benefit to the associated ecosystem was determined by a Yes or No scoring of evaluation criteria #'s 2-8.

The parcel score was computed by summing the number of High plus one half the number of Moderate ratings identified in the linkage criteria (1), multiplied by the sum in the Yes responses to the potential for benefit criteria (2-8). The score can be expressed as:

$$\text{Score} = [\text{Sum of High} + 0.5 (\text{Sum of Moderate})] \times \text{Sum of Yes (Criteria 2-8)}$$

As an example, when this formula is applied to parcel ABC 01, South Cove, the analysis of Criteria #1 yielded 4 High scores and 4 Medium scores for a value of 6. This number was then multiplied by the 5 Yes (Y) scores in criteria 2-8, resulting in a parcel score of 30.

PARCEL #	PARCEL NAME	EVALUATION CRITERIA								SCORE
		1	2	3	4	5	6	7	8	
ABC01	South Cove	4H, 4M	Y	Y	Y	N	N	Y	Y	30

$$\text{Example: ABC 01 Score} = [4H + (0.5 \times 4M)] \times 5Y = (4 + 2) \times 5 = 30$$

See Volume II for a presentation of detailed individual parcel evaluations.

Resource and service ratings for all 81 parcels were reviewed by experts familiar with the area and its resources. Additional information provided by expert reviewers was incorporated into the final analysis. A list of those expert reviewers is appended to this document.

Ranking

Each of the scored parcels was assigned a ranking of high, moderate or low, based on review of evaluation results. The evaluation team created the ranked classes based on observed breaks in the distribution of parcel scores (pages 16-19). The bar graph in Figure 2, Comprehensive Parcel Analysis, depicts the relationship of the 81 parcels relative to their respective scores. Figure 3 depicts the relationship between parcel acreage and rank. In addition, parcels have also been grouped by region and by landowner.

This ranking represents the degree to which protection of a parcel will benefit the recovery of linked resources and services that occur on that parcel.

SUMMARY

In summary, 81 large parcels were identified, evaluated, and placed in ranked classes during this phase of the Comprehensive Habitat Protection Process. A description of the Comprehensive Process and summary tables and charts containing results of this process are included in this volume. Volume II of this report provides parcel-specific results and maps. In the future, small parcels, public lands, and any additional large parcels meeting threshold criteria will be evaluated for their potential benefit to restoration.

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE/SERVICE	HIGH	MODERATE	LOW
Pink Salmon	High density of pink salmon streams per parcel; system known to have exceptional production.	Average density of pink salmon streams on parcel; average production.	Few or no pink salmon streams on parcel; low production.
Sockeye Salmon	Sockeye salmon streams on parcel; system known to have exceptional production.	Sockeye salmon streams on parcel; average production.	Few or no sockeye salmon streams on parcel; low production.
Cutthroat Trout	Cutthroat trout streams on parcel; system known to have exceptional production.	Cutthroat trout streams on parcel; average production.	Few or no cutthroat trout streams on parcel; low production.
Dolly Varden	Dolly Varden streams on parcel; system known to have exceptional production.	Dolly Varden streams on parcel; average production.	Few or no Dolly Varden streams on parcel; low production.
Pacific Herring	Documented consistent annual herring spawning along parcel shoreline.	Occasional spawning along parcel shoreline.	No documented herring spawning along parcel shoreline; possible feeding.
Bald Eagle	High density (1 or more per mile of shoreline) of nests on parcel; and/or known critical feeding area.	Average density (less than one per mile of shoreline) of nests on or immediately adjacent to parcel; important feeding area.	Few or no nests on parcel.
Black Oystercatcher	Area known to support nesting or concentration area for feeding.	Probable nesting; known feeding area.	Possible feeding.
Common Murre	Known nesting on or immediately adjacent to parcel.	Feeding concentrations in nearshore waters.	Possible feeding in area.

Table 4

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

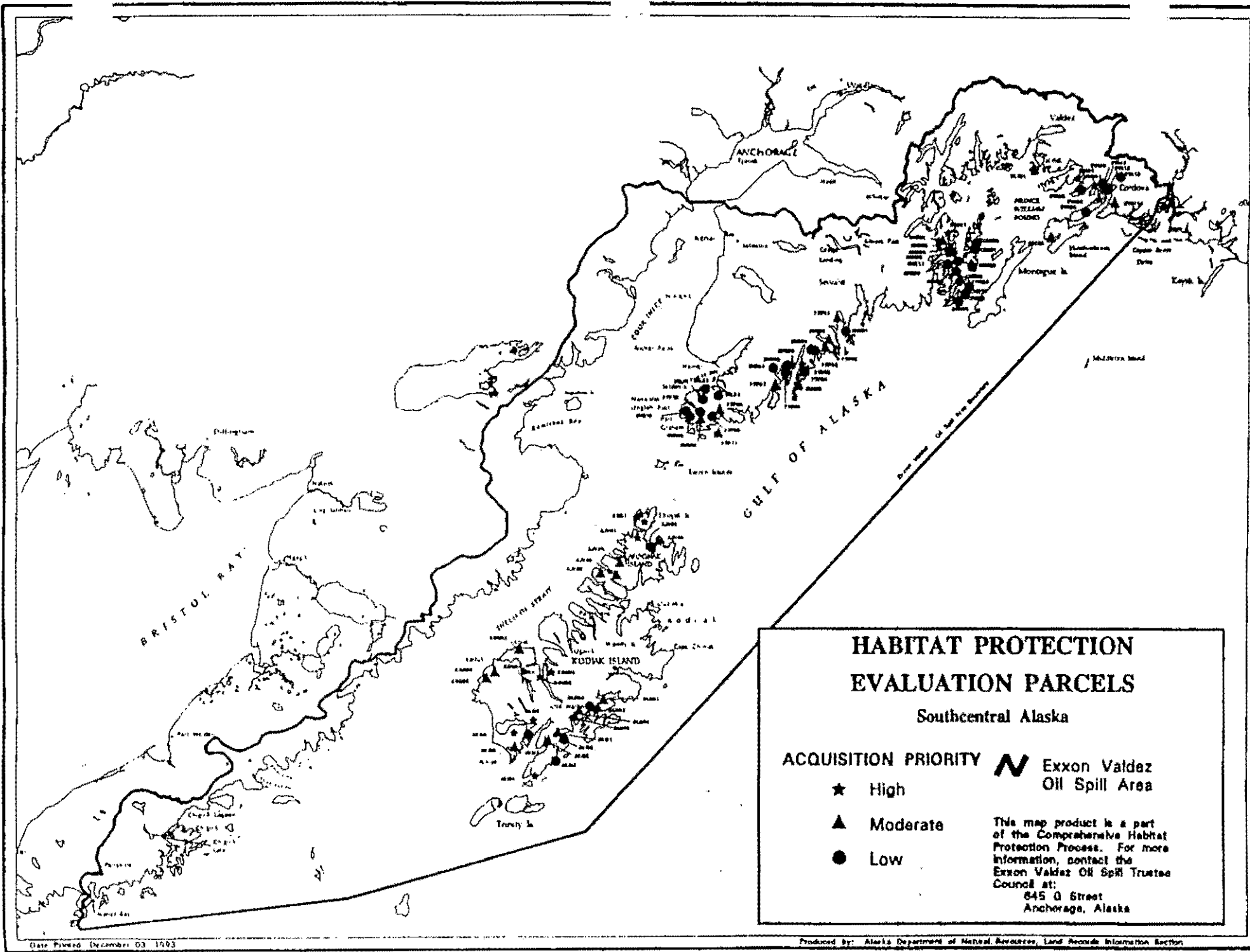
INJURED RESOURCE/SERVICE	HIGH	MODERATE	LOW
Harbor Seal	Known haul out of 10 or more seals on or immediately adjacent to parcel.	Known haulout, use sporadic, less than 10 seals. Probable haul outs in vicinity of parcel; probable feeding in nearshore waters.	Possible feeding in nearshore waters.
Harlequin Duck	Known nesting or molting concentrations on parcel; feeding concentration area.	Probable nesting on or adjacent to parcel or important for molting; probable feeding in stream, estuary, or intertidal.	Possible feeding and loafing in area adjacent to parcel; some offshore molting.
Intertidal/subtidal Biota	Known high species abundance/diversity; high quality habitat.	Extensive intertidal habitat with observed or probable moderate species diversity and abundance.	Little intertidal habitat with low species abundance.
Marbled Murrelet	Known nesting or high confidence that nesting occurs; feeding concentrations in nearshore waters.	Probable nesting on parcel; known feeding in nearshore waters.	Low likelihood of nesting; possible feeding in nearshore waters.
Pigeon Guillemot	Known nesting on or immediately adjacent to parcel; feeding concentrations in nearshore waters.	Probable nesting; known feeding in nearshore waters.	Low likelihood of nesting; possible feeding in nearshore waters.

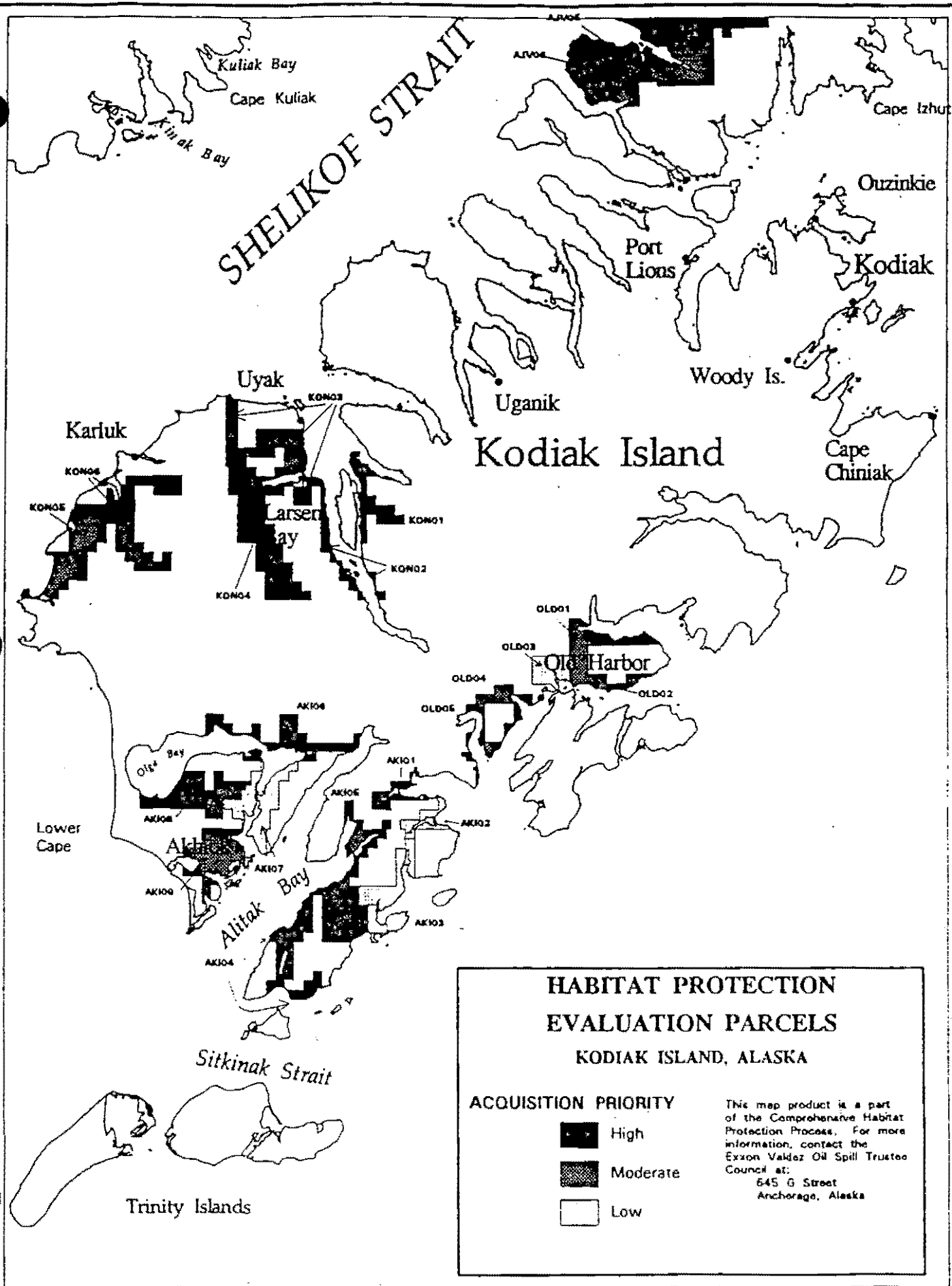
Table 4

CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE/SERVICE	HIGH	MODERATE	LOW
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.	Possible feeding in adjacent intertidal/streams.
Sea Otter	Known pupping concentrations.	Concentration area for feeding and/or shelter; potential pupping.	Feeding in adjacent waters.
Recreation/Tourism	Receives regular, high directed public use; highly visible to a large number of recreationists/tourists.	Receives occasional public use; adjacent waters used for recreational boating; adjacent area receives high public use.	Low to no recreational use; access may be difficult.
Wilderness	Area remote; little or no evidence of human development.	Area remote; evidence of human development and/or ongoing activities.	High/moderate evidence of human development and/or ongoing activities.
Cultural Resources	Documented concentration or significant cultural resources/sites on parcel.	No significant cultural resources/sites on or adjacent to parcel.	No known or suspected cultural resources/sites on parcel.
Subsistence	Known current subsistence use area.	Known historic subsistence use area, which may be used again.	Status as a subsistence use area unknown.

Table 4





OLD 01
KILIUDA BAY

HABITAT PROTECTION ACQUISITION PARCELS









KODIAK ISLAND, ALASKA

Parcel: OLD01

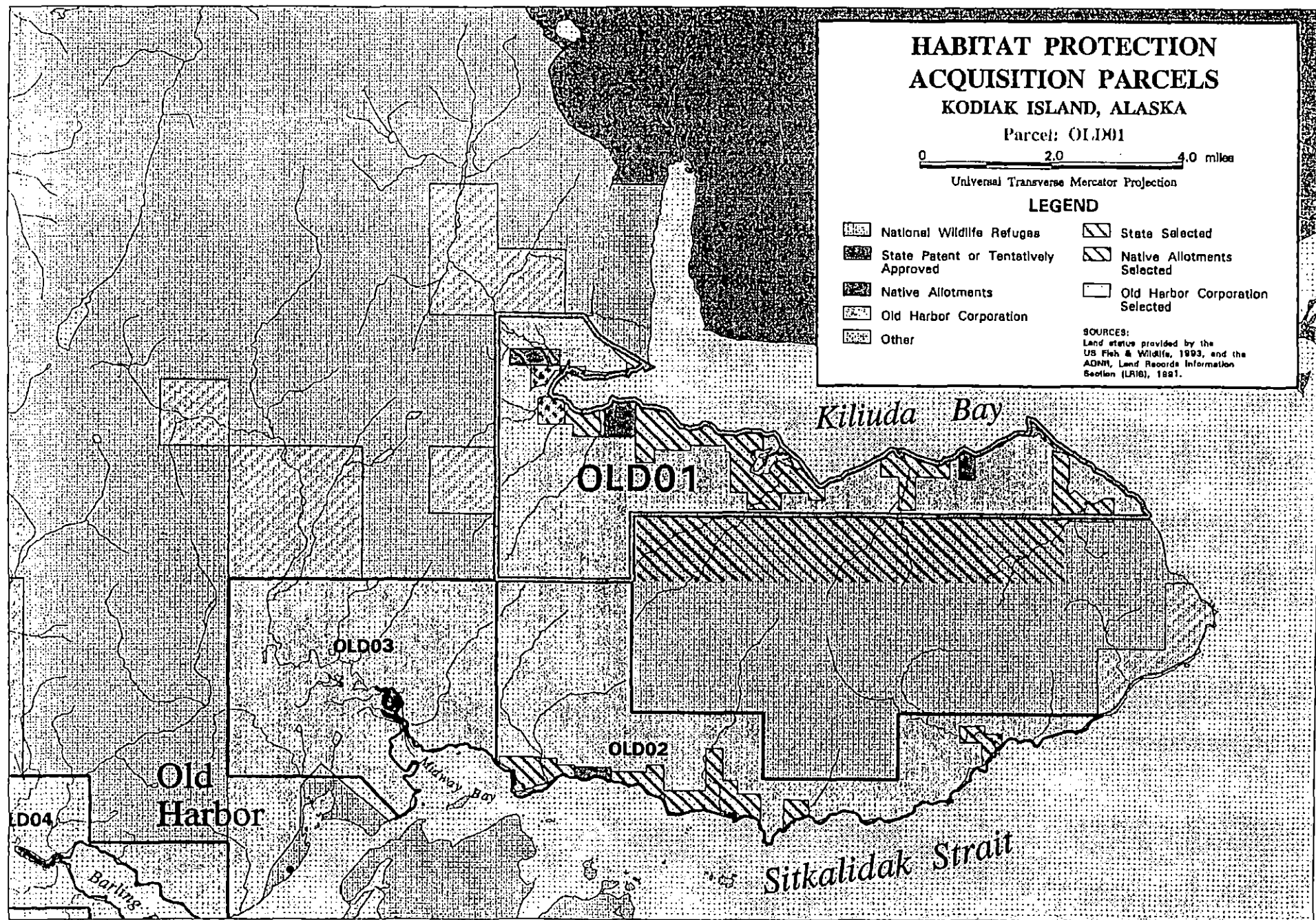
0 2.0 4.0 miles

Universal Transverse Mercator Projection

LEGEND

- | | | | |
|---|--------------------------------------|---|---------------------------------|
|  | National Wildlife Refuges |  | State Selected |
|  | State Patent or Tentatively Approved |  | Native Allotments Selected |
|  | Native Allotments |  | Old Harbor Corporation Selected |
|  | Old Harbor Corporation | | |
|  | Other | | |

SOURCES:
Land status provided by the
US Fish & Wildlife, 1993, and the
ADMT, Land Records Information
Section (LRIS), 1991.



HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD01	PARCEL NAME: Kiliuda Bay	SCORE: 34.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 9,500

INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
PINK SALMON	High	Eight documented spawning streams; some have high productivity.
SOCKEYE SALMON	None	
CUTTHROAT TROUT	None	
DOLLY VARDEN	Low	
PACIFIC HERRING	High	Extensive, consistent herring spawning.
BALD EAGLE	High	Eighteen documented nest sites.
BLACK OYSTERCATCHER	Low	
COMMON MURRE	Moderate	Known winter feeding concentrations in nearshore waters.
HARBOR SEAL	Moderate	Probable haulout in vicinity of parcel; feeding in nearshore waters.
HARLEQUIN DUCK	Moderate	Feeding and molting along shoreline and nearshore rocks; probable nesting on anadromous streams.
INTERTIDAL/SUBTIDAL BIOTA	Low	
MARbled MURRELET	Low	
PIGEON GUILLEMOT	Moderate	One documented colony at Pivot Point and another probable colony in inner bay.
RIVER OTTER	Moderate	Feeding and known latrine sites along shoreline; possible denning.
SEA OTTER	Low	
RECREATION/TOURISM	Moderate	Commercial and recreational hunting and fishing lodges; recreational trapping.

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD01	PARCEL NAME: Kiliuda Bay	SCORE: 34.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 9,500

WILDERNESS	Moderate	Existing lodge development; extensive boat and aircraft traffic.
CULTURAL RESOURCES	High	Three documented sites.
SUBSISTENCE	High	Used by residents of Old Harbor for deer harvest and trapping; salmon fishing and waterfowl hunting.

ECOLOGICAL SIGNIFICANCE: Anadromous fish streams also support populations of coho and chum salmon. West end of bay has high brown bear feeding and denning habitat.

ADJACENT LAND MANAGEMENT: U.S. Fish and Wildlife Service.

ADDITIONAL CONSIDERATIONS: Parcel contains extensive Native allotments along shoreline; possible increasing lodge and cabin development.

PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitats for anadromous fish, river otter and harlequin duck; 2) maintain nesting opportunities for bald eagle and pigeon guillemot; and 3) minimize disturbance to nearshore and intertidal habitat use.

RANKING CRITERIA								
1	2	3	4	5	6	7	8	TOTAL
SH, 7M	Y	N	Y	N	Y	N	Y	34.0

¹ Parties other than landowner may own partial rights (e.g., timber, minerals).

OLD 02
SITKALIDAK STRAIT

HABITAT PROTECTION ACQUISITION PARCELS









KODIAK ISLAND, ALASKA

Parcel: OLD02

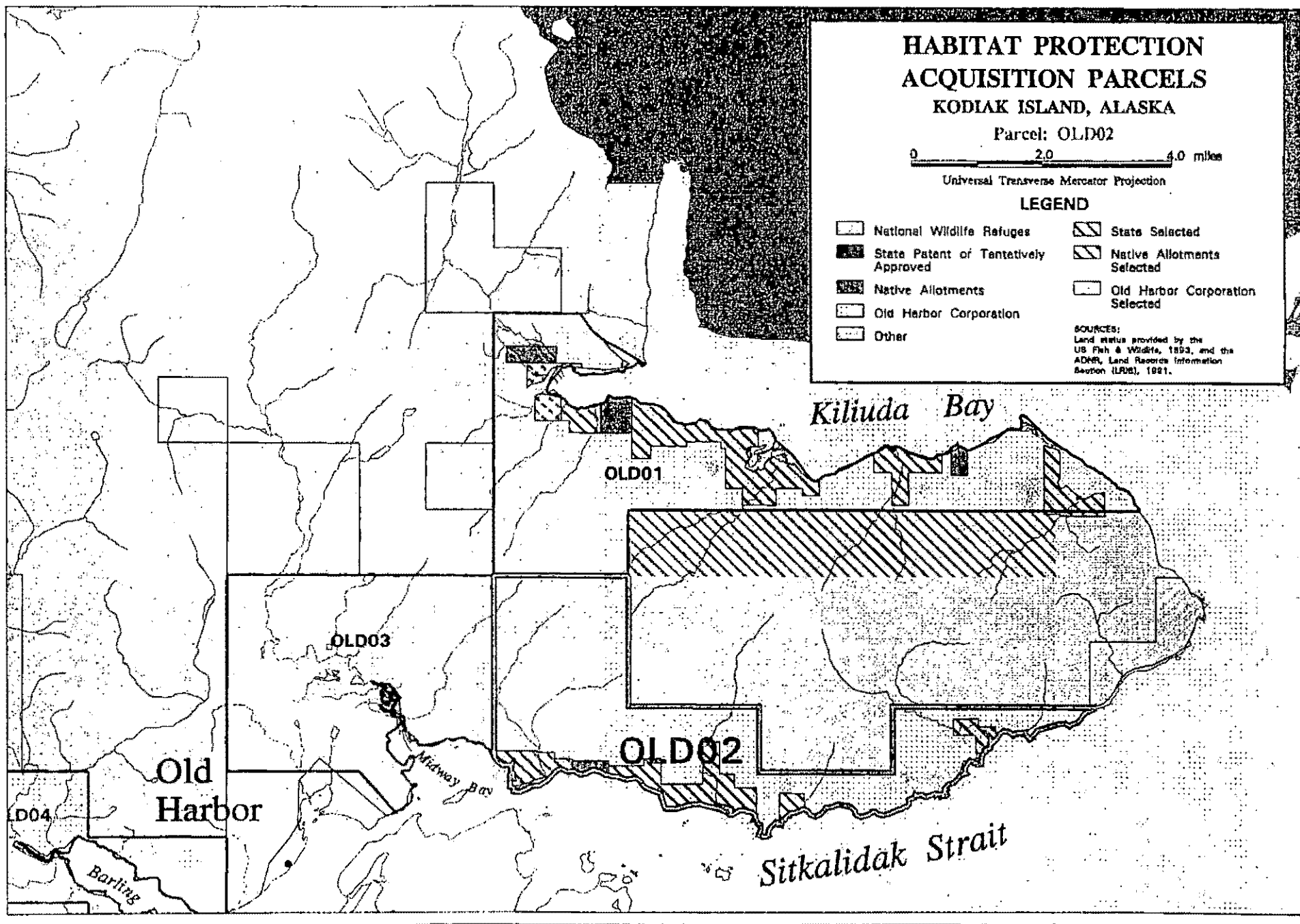
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Universal Transverse Mercator Projection

LEGEND

- | | |
|--|---|
|  National Wildlife Refuges |  State Selected |
|  State Patent or Tentatively Approved |  Native Allotments Selected |
|  Native Allotments |  Old Harbor Corporation Selected |
|  Old Harbor Corporation | |
|  Other | |

SOURCES:
Land status provided by the
US Fish & Wildlife, 1993, and the
ADNR, Land Resources Information
Section (LRIS), 1991.



HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD02	PARCEL NAME: Sitkalidak Strait	SCORE: 30.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 8,000

INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
PINK SALMON	Low	
SOCKEYE SALMON	None	
CUTTHROAT TROUT	None	
DOLLY VARDEN	Low	
PACIFIC HERRING	High	Extensive, consistent herring spawning adjacent to parcel.
BALD EAGLE	Moderate	Seven documented nest sites.
BLACK OYSTERCATCHER	Moderate	Feeding and possible nesting on numerous nearshore rocks.
COMMON MURRE	Low	
HARBOR SEAL	High	Known haulout at Three Sisters Rocks.
HARLEQUIN DUCK	Moderate	Feeding and molting along shoreline and nearshore rocks; high potential for nesting on anadromous streams.
INTERTIDAL/SUBTIDAL BIOTA	Moderate	Rocky, shallow intertidal; estuarine habitats; numerous rocks and islets; eelgrass.
MARBLED MURRELET	Low	
PIGEON GUILLEMOT	Moderate	Documented colony at Ghost Rocks; possible colony in inner bay; feeding in nearshore waters.
RIVER OTTER	Moderate	Feeding and known latrine sites along shoreline; possible denning.
SEA OTTER	Low	
RECREATION/TOURISM	Low	
WILDERNESS	High	Little evidence of human development.

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD02	PARCEL NAME: Sitkalidak Strait	SCORE: 30.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 8,000

CULTURAL RESOURCES	Moderate	Evidence of cultural resources on site.						
SUBSISTENCE	High	Used by residents of Old Harbor for deer, waterfowl, marine mammals harvesting and trapping; fishing; marine invertebrates.						
ECOLOGICAL SIGNIFICANCE: Anadromous fish streams also support populations of chum salmon. West end of bay has some brown bear feeding. Sea lions forage in bay. Killer whales also present. Steller's eider occur in nearshore waters.								
ADJACENT LAND MANAGEMENT: U.S. Fish and Wildlife Service and Old Harbor Native Corporation:								
ADDITIONAL CONSIDERATIONS: Parcel contains extensive Native allotments along shoreline; possible increasing lodge and cabin development.								
PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitats for anadromous fish, river otter and harlequin duck; 2) maintain nesting opportunities for bald eagle and pigeon guillemot; 3) minimize disturbance to nearshore and intertidal habitat use; and 4) maintain opportunities for subsistence use.								
RANKING CRITERIA								
1	2	3	4	5	6	7	8	TOTAL
4H, 7M	Y	N	Y	N	Y	N	Y	30.0

¹ Parties other than landowner may own partial rights (e.g., timber, minerals).

OLD 03
MIDWAY BAY









HABITAT PROTECTION ACQUISITION PARCELS KODIAK ISLAND, ALASKA

Parcel: OLD03

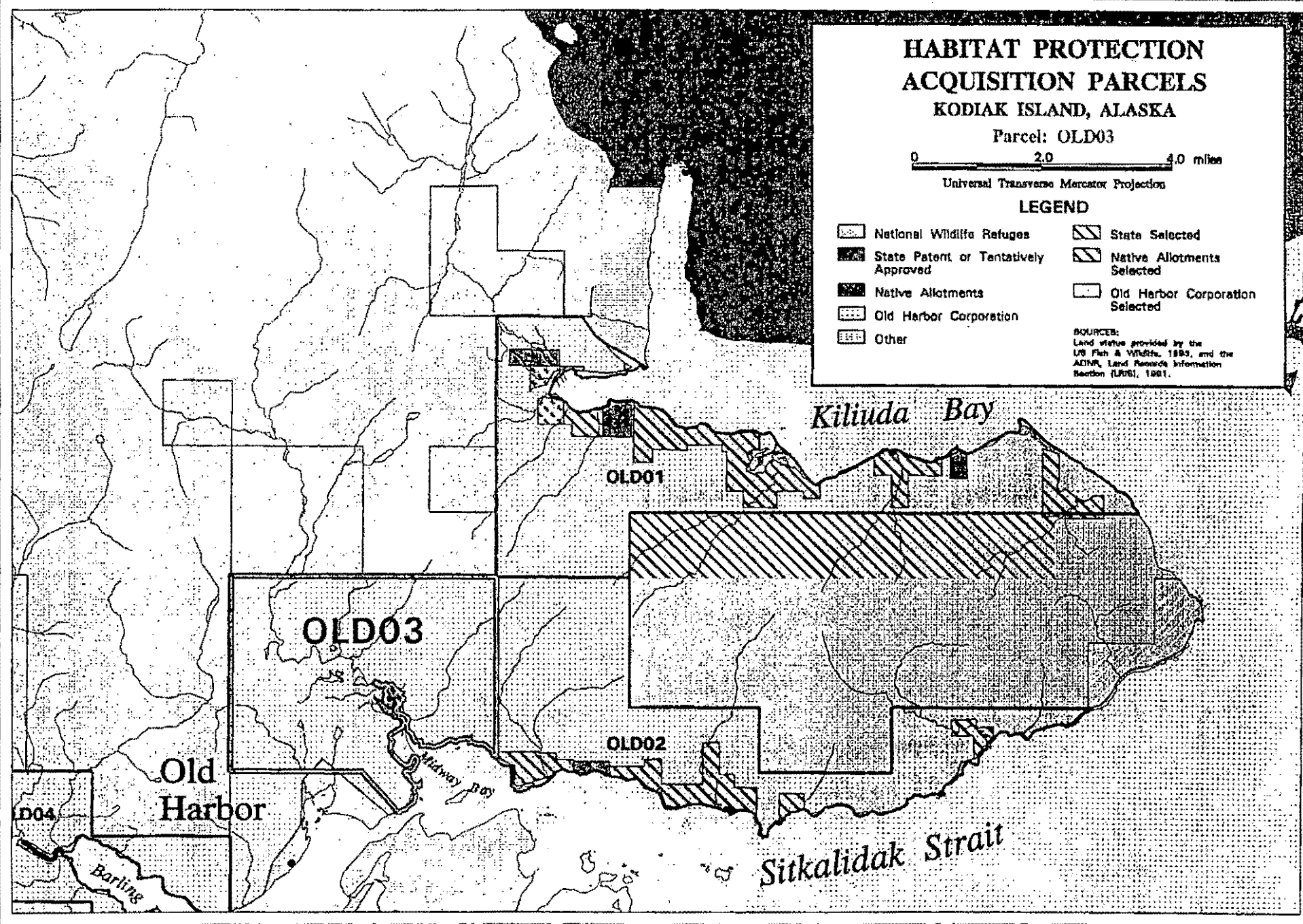
0 2.0 4.0 miles

Universal Transverse Mercator Projection

LEGEND

- | | |
|--|---|
|  National Wildlife Refuges |  State Selected |
|  State Patent or Tentatively Approved |  Native Allotments Selected |
|  Native Allotments |  Old Harbor Corporation Selected |
|  Old Harbor Corporation | |
|  Other | |

SOURCES:
Land status provided by the
US Fish & Wildlife, 1983, and the
ADNR, Land Records Information
Section (LRIS), 1981.



HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD03	PARCEL NAME: Midway Bay	SCORE: 28.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 7,300

INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
PINK SALMON	Moderate	One documented spawning stream; moderate productivity.
SOCKEYE SALMON	None	
CUTTHROAT TROUT	None	
DOLLY VARDEN	Low	
PACIFIC HERRING	Moderate	Documented herring spawning adjacent to parcel.
BALD EAGLE	High	Six documented nest sites.
BLACK OYSTERCATCHER	Low	
COMMON MURRE	Low	
HARBOR SEAL	Low	
HARLEQUIN DUCK	High	High feeding concentrations during winter; molting along shoreline and nearshore rocks; high potential for nesting on anadromous stream.
INTERTIDAL/SUBTIDAL BIOTA	High	Shallow intertidal; extensive estuarine habitats at head of bay; rocks and islets in outer bay; eelgrass; extensive mussel beds in Sitkalidak Passage.
MARbled MURRELET	Low	
PIGEON GUILLEMOT	Moderate	Documented colony on adjacent Sheep Island; feeding in Straits.
RIVER OTTER	Moderate	Feeding and known latrine sites along shoreline; possible denning.
SEA OTTER	Low	

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD03	PARCEL NAME: Midway Bay	SCORE: 28.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 7,300

RECREATION/TOURISM	Moderate	Some use by Old Harbor-based marine outfitters; camping, waterfowl hunting.						
WILDERNESS	Low							
CULTURAL RESOURCES	Moderate	Evidence of cultural resources on site.						
SUBSISTENCE	High	Used by residents of Old Harbor for deer, fish, waterfowl, marine mammals harvesting and trapping.						
ECOLOGICAL SIGNIFICANCE: Anadromous fish stream also supports populations of chum and coho salmon. Moderate brown bear feeding. Steller's eiders feed in nearshore waters. Northern sea lion forage in bay.								
ADJACENT LAND MANAGEMENT: U.S. Fish and Wildlife Service and Old Harbor Native Corporation.								
ADDITIONAL CONSIDERATIONS: Community expansion and disturbance is increasing adjacent to parcel.								
PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitats for anadromous fish, river otter and harlequin duck; 2) maintain nesting opportunities for bald eagle and pigeon guillemot; 3) minimize disturbance to nearshore and intertidal habitat use; and 4) maintain opportunities for subsistence use.								
RANKING CRITERIA								
1	2	3	4	5	6	7	8	TOTAL
4H, 6M	Y	N	Y	N	Y	N	Y	28.0

¹ Parties other than landowner may own partial rights (e.g., timber, minerals).

OLD 04
BARLING BAY

HABITAT PROTECTION ACQUISITION PARCELS









KODIAK ISLAND, ALASKA

Parcel: OLD04

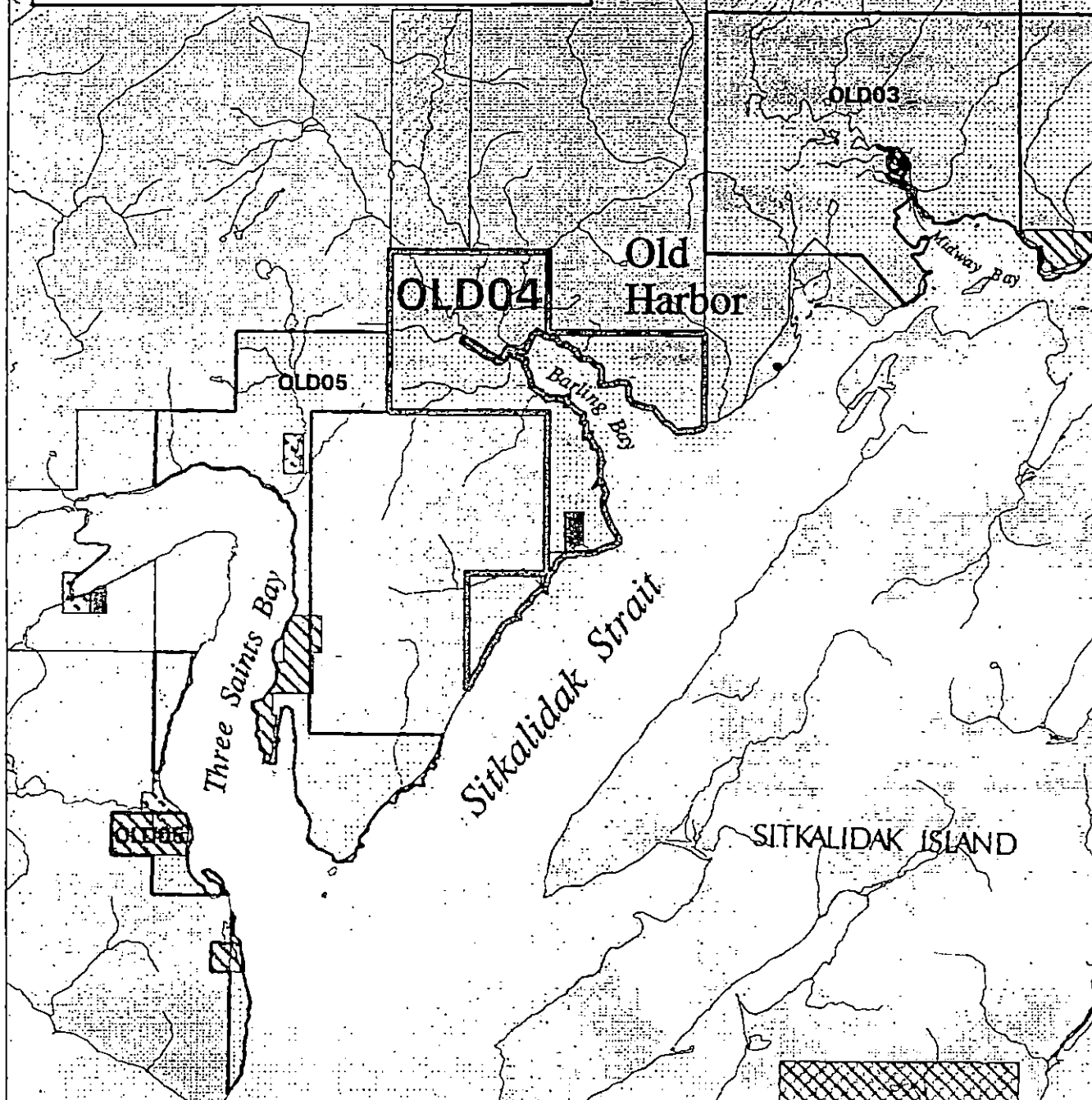
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Universal Transverse Mercator Projection

LEGEND

- | | |
|---|---|
|  National Wildlife Refuges |  Native Allotments Selected |
|  Native Allotments |  Old Harbor Corporation Selected |
|  Old Harbor Corporation |  Other Selected |
|  Other | |
|  State Selected | |

SOURCES:
Land status provided by the
US Fish & Wildlife, 1993, and the
ADNRL Land Records Information
Section (LRIS), 1991.



HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD04	PARCEL NAME: Barling Bay	SCORE: 35.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 4,600

INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
PINK SALMON	High	Two documented spawning streams; high productivity.
SOCKEYE SALMON	None	
CUTTHROAT TROUT	None	
DOLLY VARDEN	Low	
PACIFIC HERRING	High	Consistent, documented herring spawning adjacent to parcel.
BALD EAGLE	Moderate	Three documented nest sites.
BLACK OYSTERCATCHER	Low	
COMMON MURRE	Moderate	Heavy concentration of winter feeding in Sitkalidak Strait.
HARBOR SEAL	Low	
HARLEQUIN DUCK	Moderate	Probable feeding, probable nesting in adjacent estuarine area.
INTERTIDAL/SUBTIDAL BIOTA	Moderate	Shallow intertidal; estuarine habitats at head of bay with eelgrass.
MARbled MURRELET	Low	
PIGEON GUILLEMOT	Low	
RIVER OTTER	Moderate	Feeding and known latrine sites along shoreline; possible denning.
SEA OTTER	Low	
RECREATION/TOURISM	Moderate	Some use by Old Harbor-based marine outfitters: waterfowl hunting.
WILDERNESS	Moderate	Proximate to Old Harbor village; boat use.

HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD04	PARCEL NAME: Barling Bay	SCORE: 35.0
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 4,600

CULTURAL RESOURCES	Moderate	Evidence of cultural resources on site.						
SUBSISTENCE	High	Used by residents of Old Harbor for deer, fish, waterfowl, marine mammals harvest and trapping.						
ECOLOGICAL SIGNIFICANCE: Anadromous fish stream also supports populations of chum and coho salmon. Moderate brown bear feeding. Steller's eiders feed in nearshore waters. Northern sea lion feed in nearshore waters.								
ADJACENT LAND MANAGEMENT: U.S. Fish and Wildlife Service and Old Harbor Native Corporation.								
ADDITIONAL CONSIDERATIONS: Community expansion and disturbance is increasing adjacent to parcel.								
PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitats for anadromous fish, river otter and harlequin duck; 2) maintain nesting opportunities for bald eagle; 3) minimize disturbance to nearshore and intertidal habitat use; and 4) maintain opportunities for subsistence use.								
RANKING CRITERIA								
1	2	3	4	5	6	7	8	TOTAL
3H, 8M	Y	Y	Y	N	N	Y	Y	35.0

¹ Parties other than landowner may own partial rights (e.g., timber, minerals).

OLD 05
THREE SAINTS BAY

HABITAT PROTECTION ACQUISITION PARCELS









KODIAK ISLAND, ALASKA

Parcel: OLD05

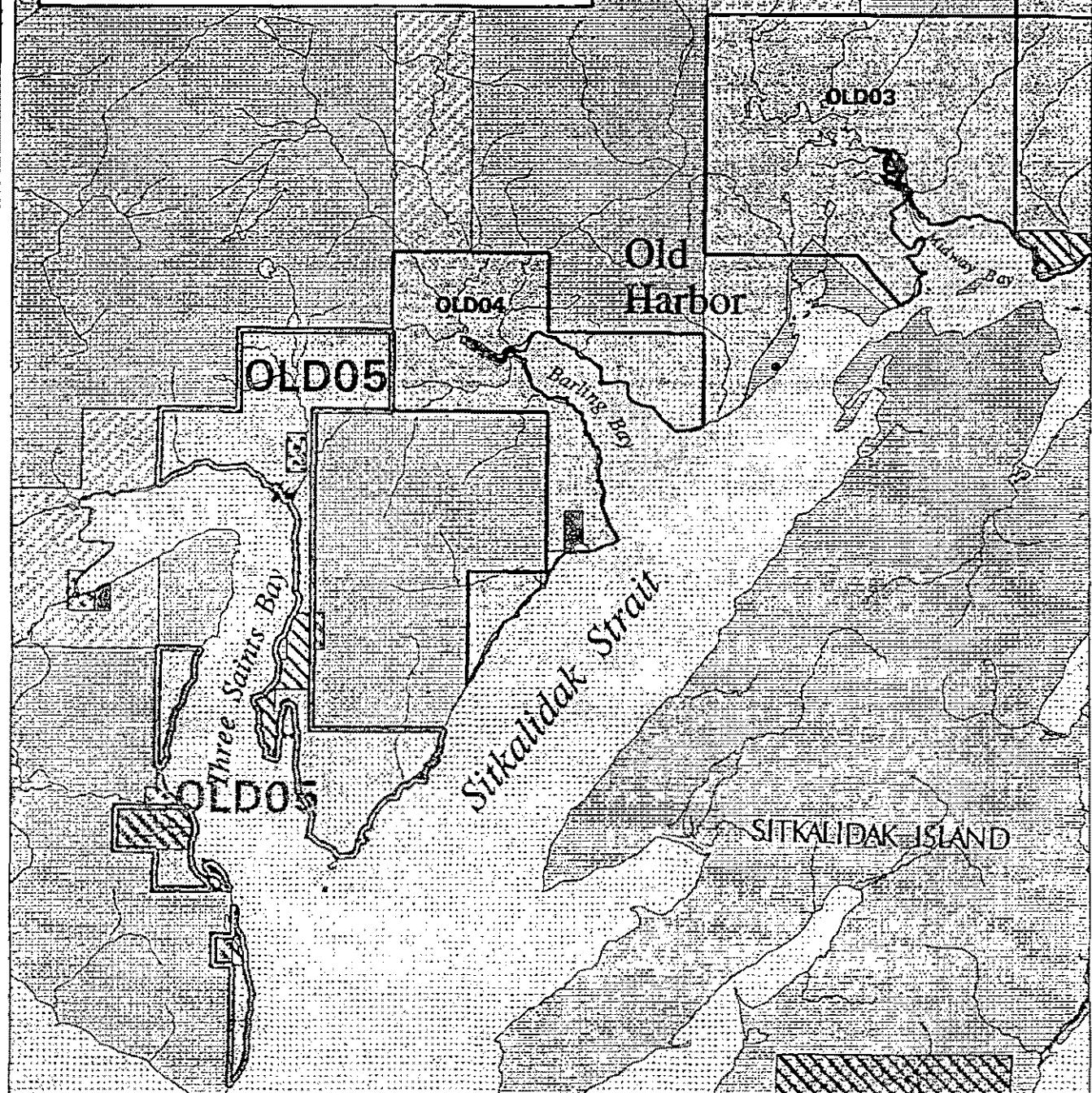
0 2.0 4.0 miles

Universal Transverse Mercator Projection

LEGEND

- | | | | |
|---|---------------------------|---|---------------------------------|
|  | National Wildlife Refuges |  | Native Allotments Selected |
|  | Native Allotments |  | Old Harbor Corporation Selected |
|  | Old Harbor Corporation |  | Other Selected |
|  | Other | | |
|  | State Selected | | |

SOURCES:
Land status provided by the
US Fish & Wildlife, 1993, and the
ADNR, Land Records Information
Section (LRIS), 1991.



HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD05	PARCEL NAME: Three Saints Bay	SCORE: 37.5
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 5,300

INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
PINK SALMON	Low	
SOCKEYE SALMON	None	
CUTTHROAT TROUT	None	
DOLLY VARDEN	Low	
PACIFIC HERRING	Low	
BALD EAGLE	High	Fourteen documented nest sites.
BLACK OYSTERCATCHER	Moderate	Documented nesting area; feeding area.
COMMON MURRE	Moderate	Heavy concentration of winter feeding in Sitkalidak Strait.
HARBOR SEAL	Moderate	Probable haulout in adjacent area; feeding.
HARLEQUIN DUCK	Moderate	Probable feeding, probable nesting; molting on John Island.
INTERTIDAL/SUBTIDAL BIOTA	Moderate	Shallow intertidal on west shore; John Island rocky intertidal with mussel beds and <i>Fucus</i> .
MARBLED MURRELET	Moderate	Feeding; probable nesting.
PIGEON GUILLEMOT	Moderate	Feeding concentrations in nearshore waters, particularly in winter; small colonies on John Island.
RIVER OTTER	Moderate	Feeding and known latrine sites along shoreline; possible denning.
SEA OTTER	Low	

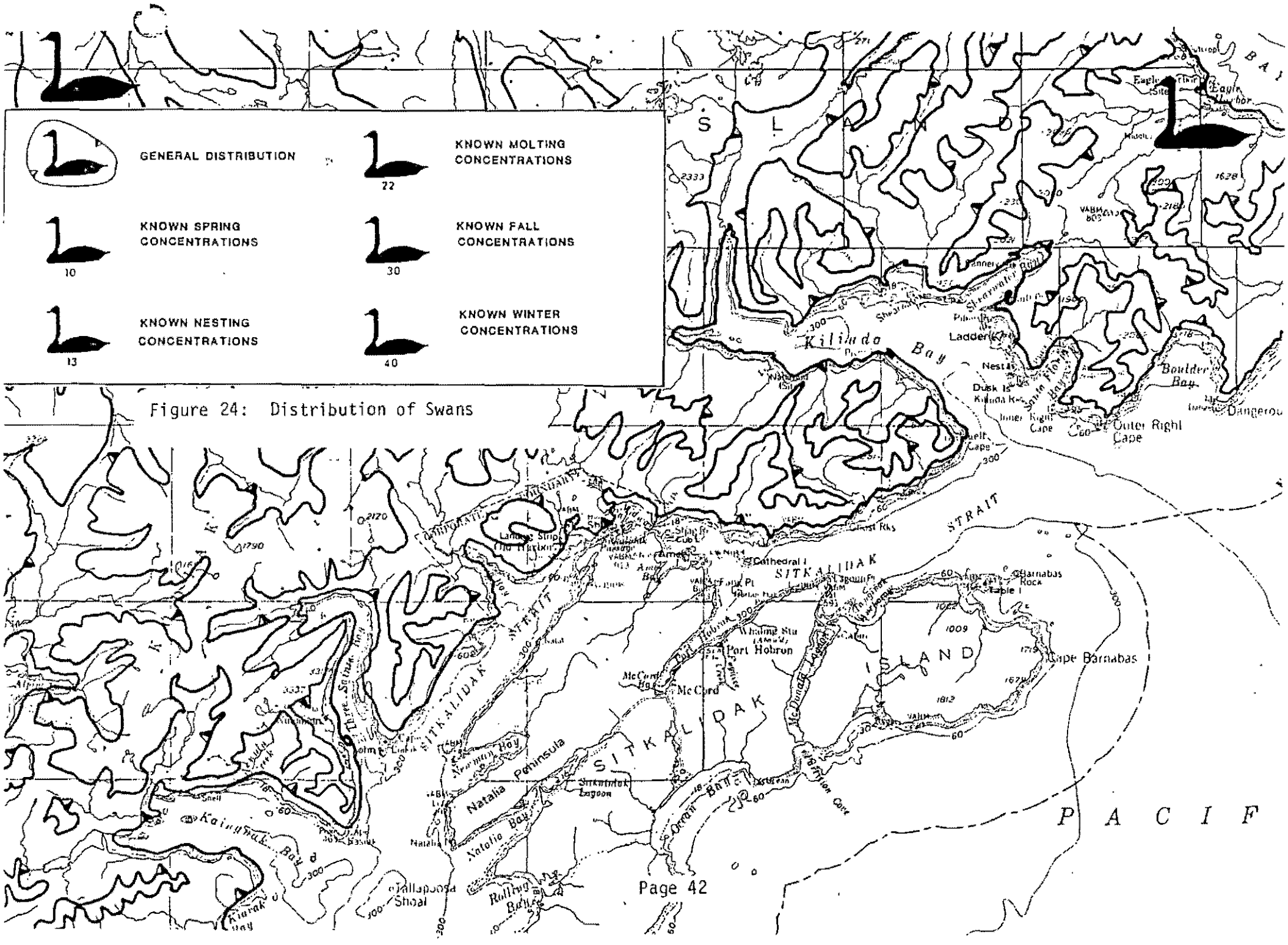
HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: OLD05	PARCEL NAME: Three Saints Bay	SCORE: 37.5
LANDOWNER: Old Harbor Native Corporation		PARCEL ACREAGE: 5,300

RECREATION/TOURISM	Moderate	Some use by Old Harbor-based marine outfitters; hunting; good anchorage; wildlife viewing; several cabins on parcel.						
WILDERNESS	Moderate	Two cabins.						
CULTURAL RESOURCES	Moderate	Evidence of cultural resources on site.						
SUBSISTENCE	High	Used by residents of Old Harbor for deer and marine mammals harvest.						
ECOLOGICAL SIGNIFICANCE: Anadromous fish stream also supports populations of coho salmon. Steller's eiders and Northern sea lion feed in nearshore waters.								
ADJACENT LAND MANAGEMENT: U.S. Fish and Wildlife Service. Approximately seven small inholdings within area.								
ADDITIONAL CONSIDERATIONS:								
PROTECTION OBJECTIVE: 1) Maintain water quality and riparian habitats for anadromous fish, river otter and harlequin duck; 2) maintain nesting opportunities for bald eagle and pigeon guillemot; 3) minimize disturbance to nearshore and intertidal habitat use; and 4) maintain opportunities for recreational and subsistence uses.								
RANKING CRITERIA								
1	2	3	4	5	6	7	8	TOTAL
2H, 11M	Y	Y	Y	N	N	Y	Y	37.5

¹ Parties other than landowner may own partial rights (e.g., timber, minerals).

OLD HARBOR WILDLIFE DISTRIBUTION MAPS



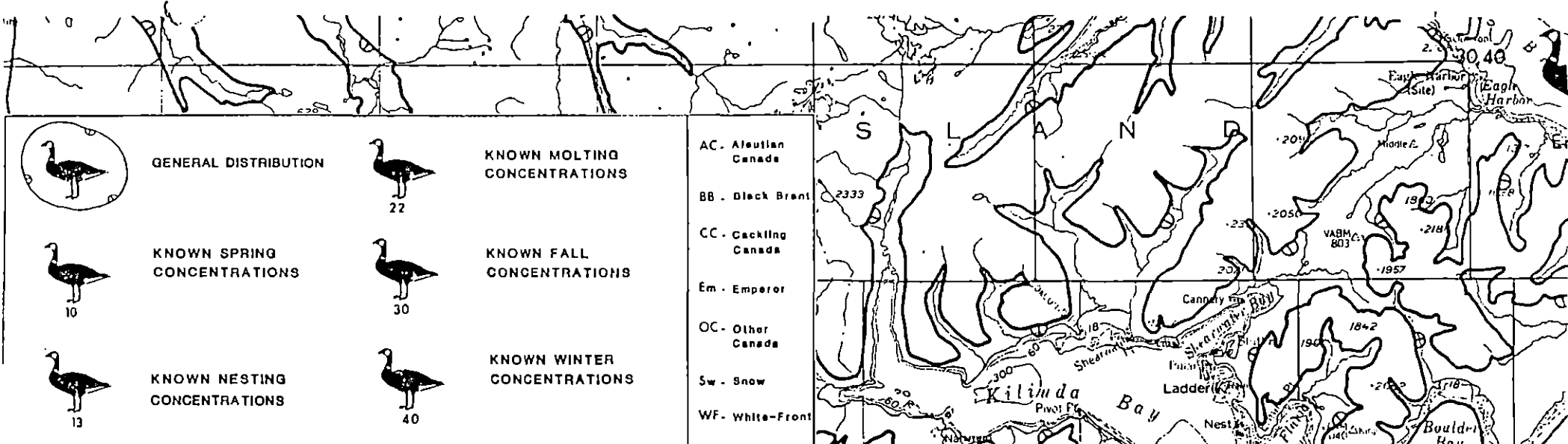
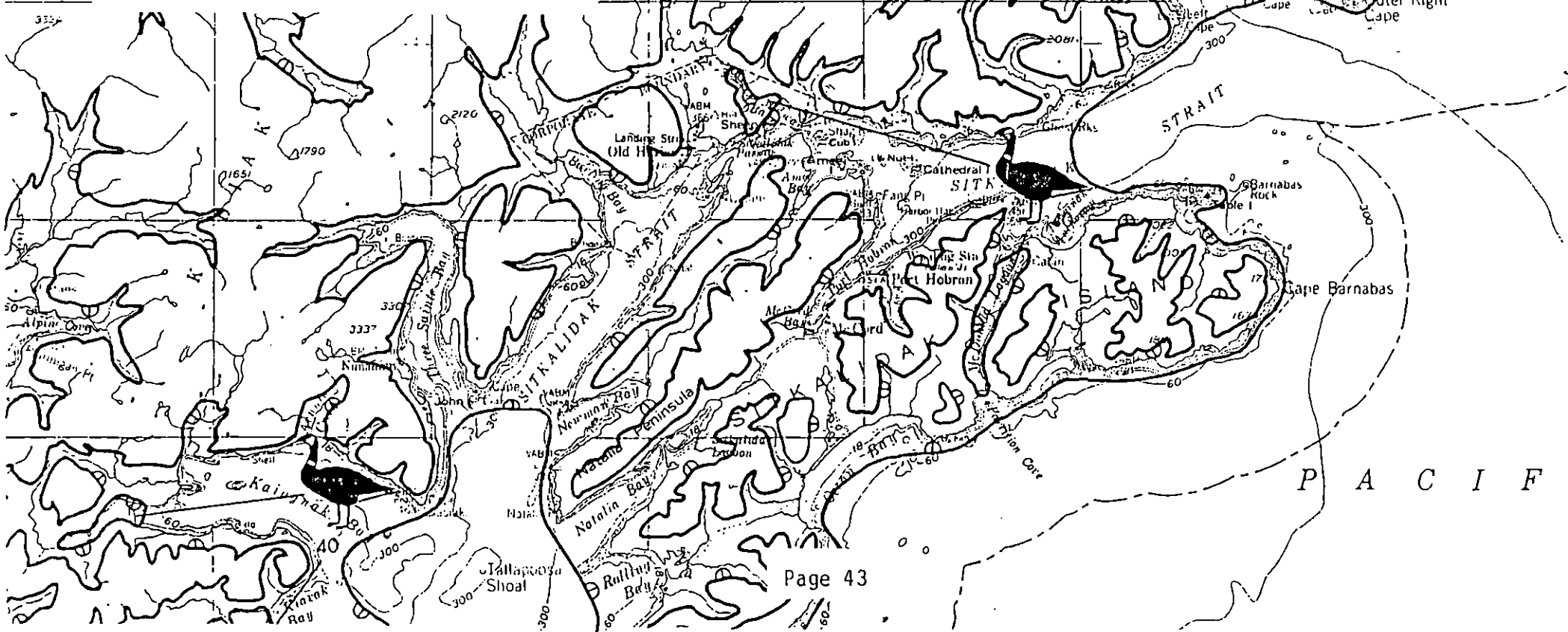


Figure 25: Distribution of Geese



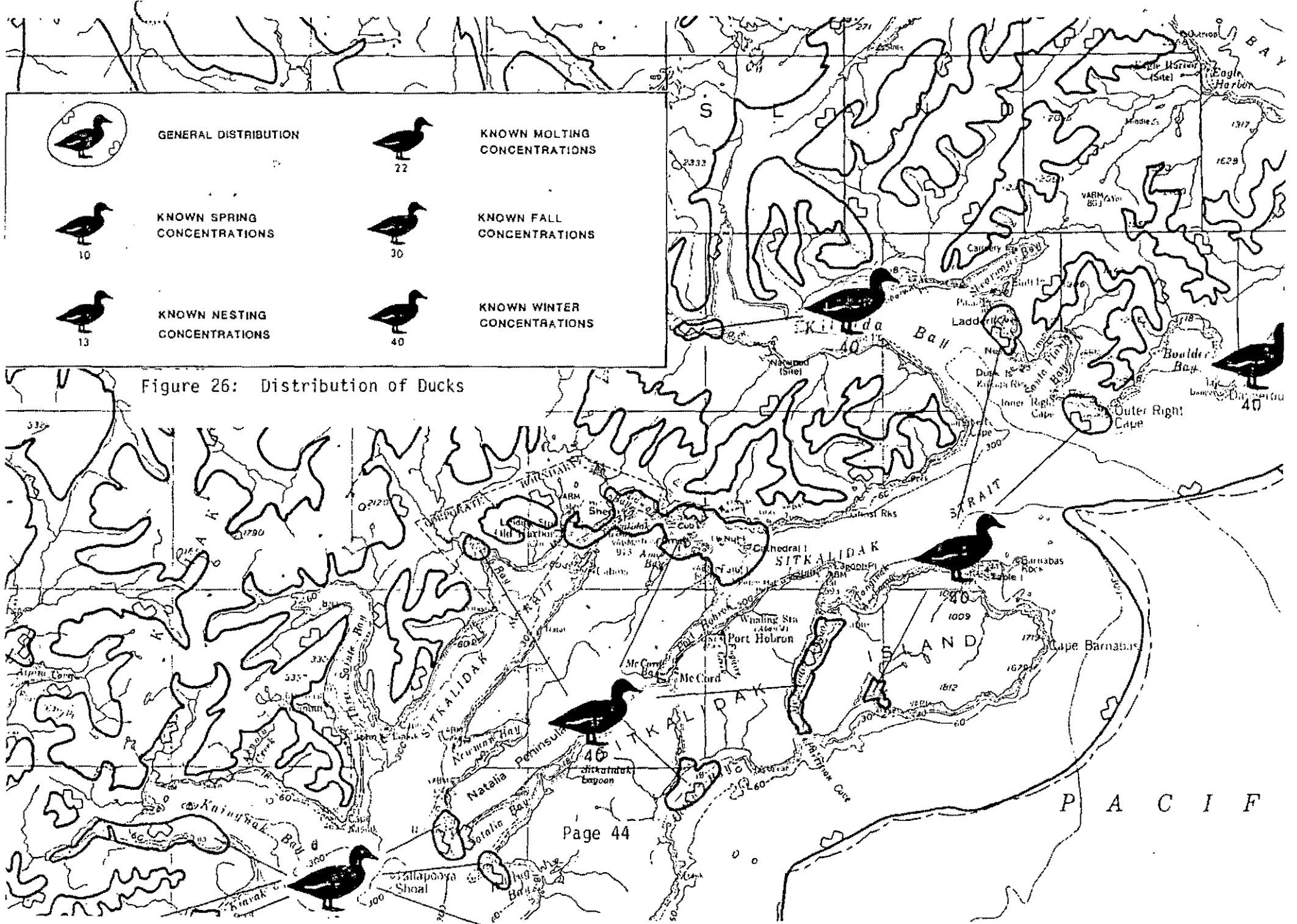
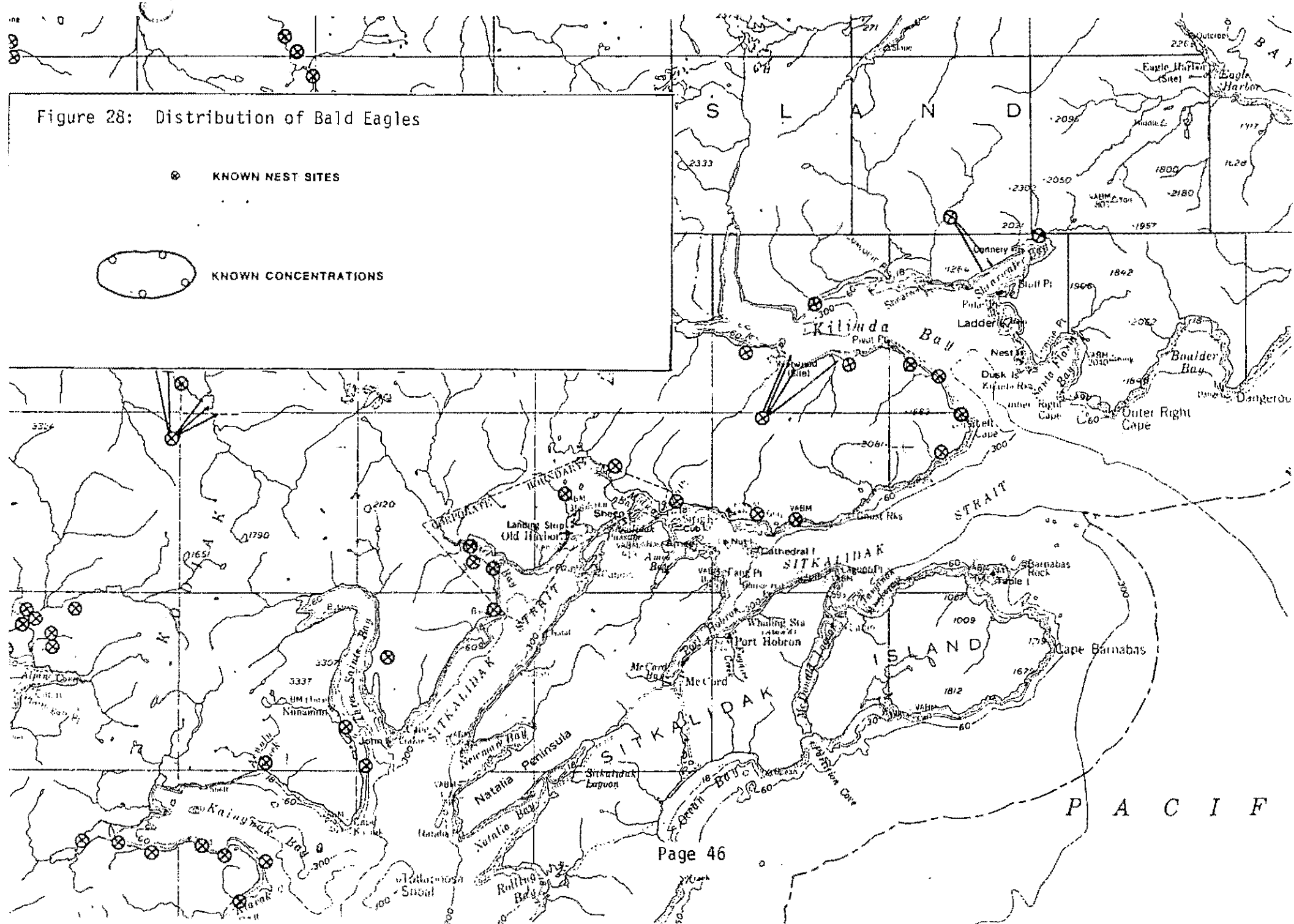


Figure 28: Distribution of Bald Eagles

⊗ KNOWN NEST SITES

○ KNOWN CONCENTRATIONS



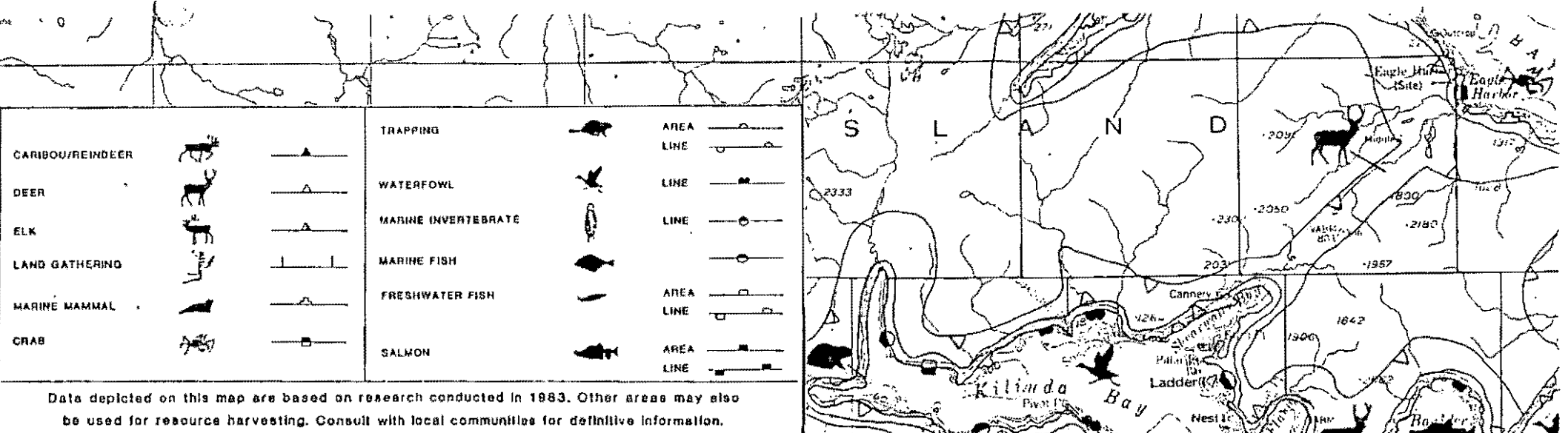


Figure 29: Subsistence Usage

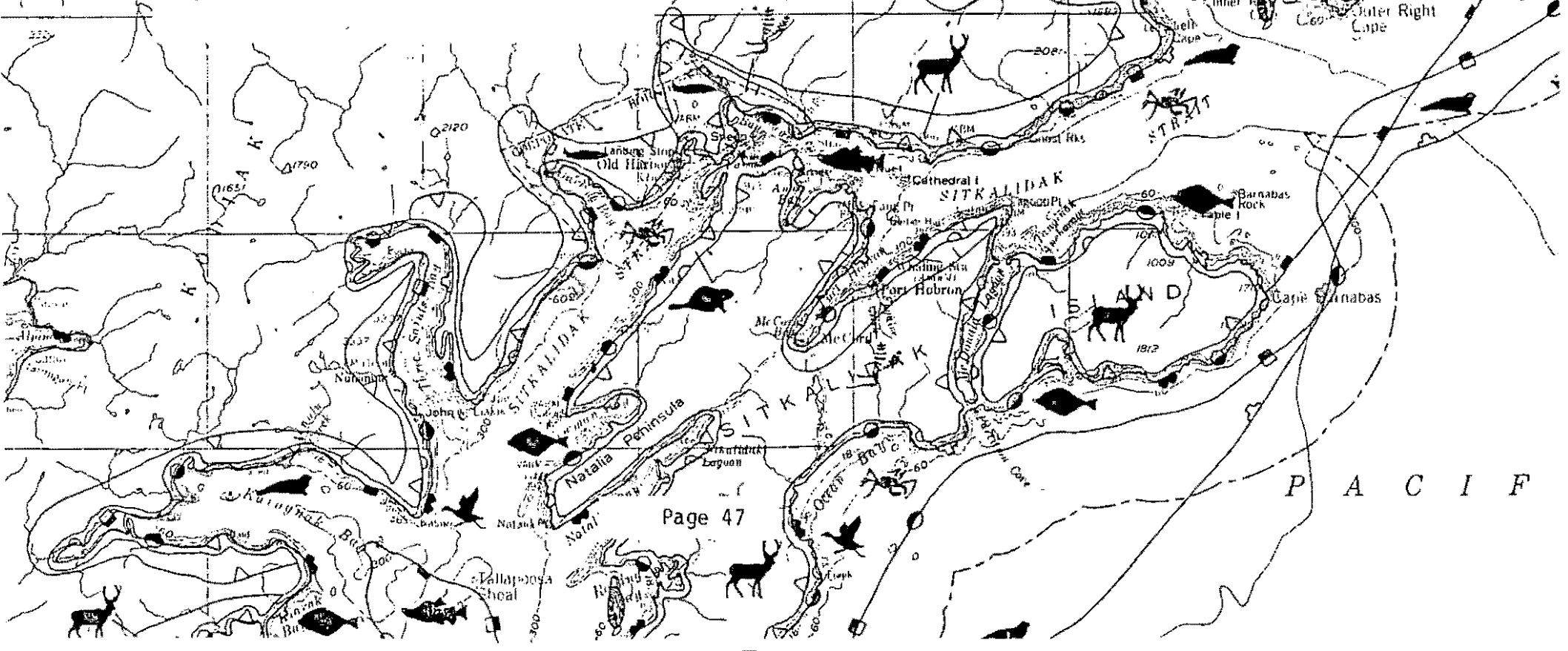


Figure 9: Distribution of Harbor Seals



KNOWN HAUL-OUT CONCENTRATIONS

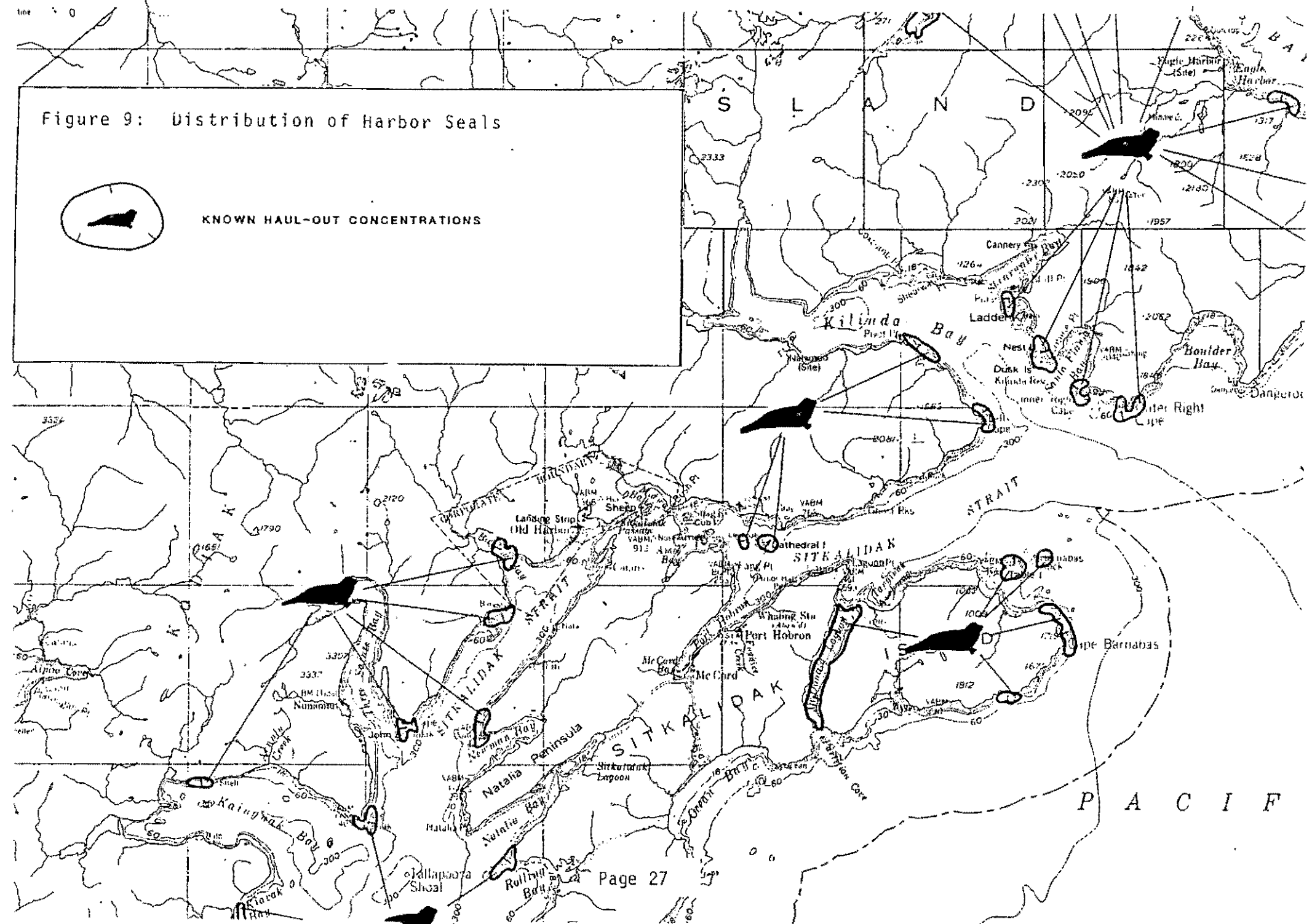
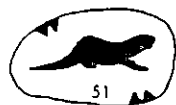


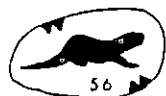
Figure 10: Distribution of Sea Otters



KNOWN CONCENTRATION
AREAS



UNPOPULATED HABITAT



ESTABLISHED POPULATIONS

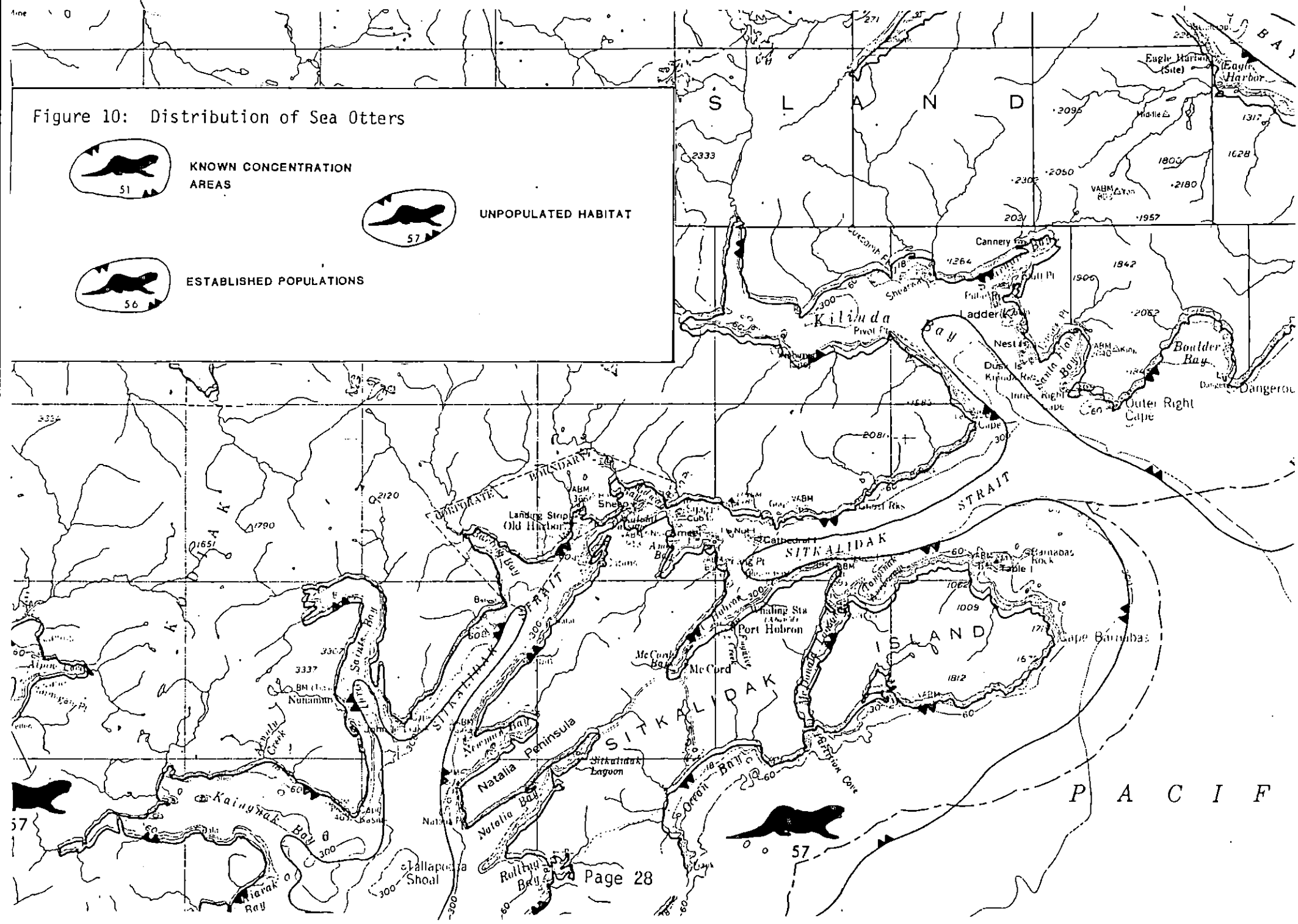


Figure 12: Distribution of Brown Bears



GENERAL DISTRIBUTION



KNOWN CONCENTRATIONS
ALONG FISH STREAMS

21



KNOWN SPRING
CONCENTRATIONS

10



KNOWN DENNING
CONCENTRATIONS

44

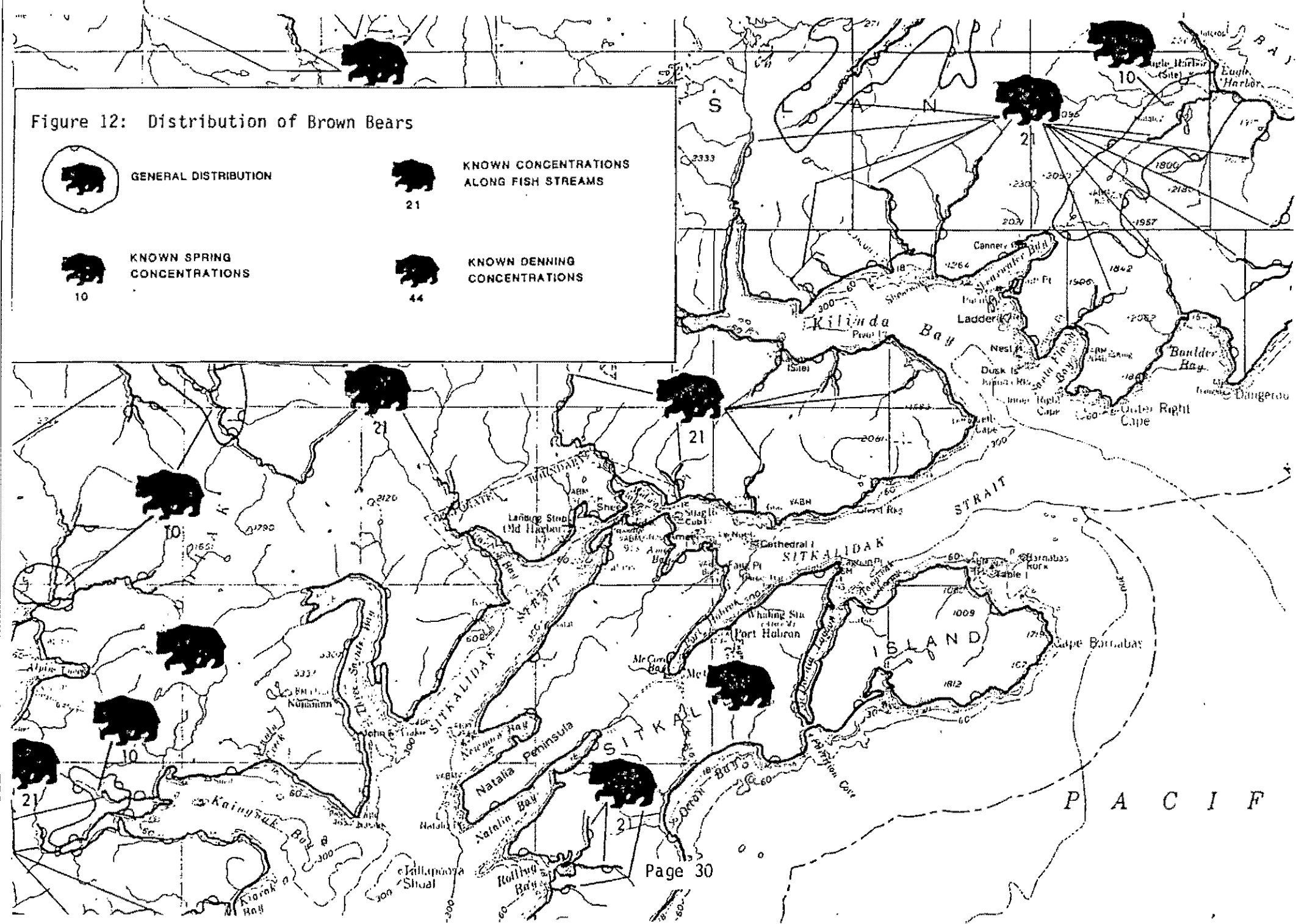


Figure 13: Distribution of Beaver



GENERAL DISTRIBUTION



KNOWN HIGH DENSITY AREAS

52

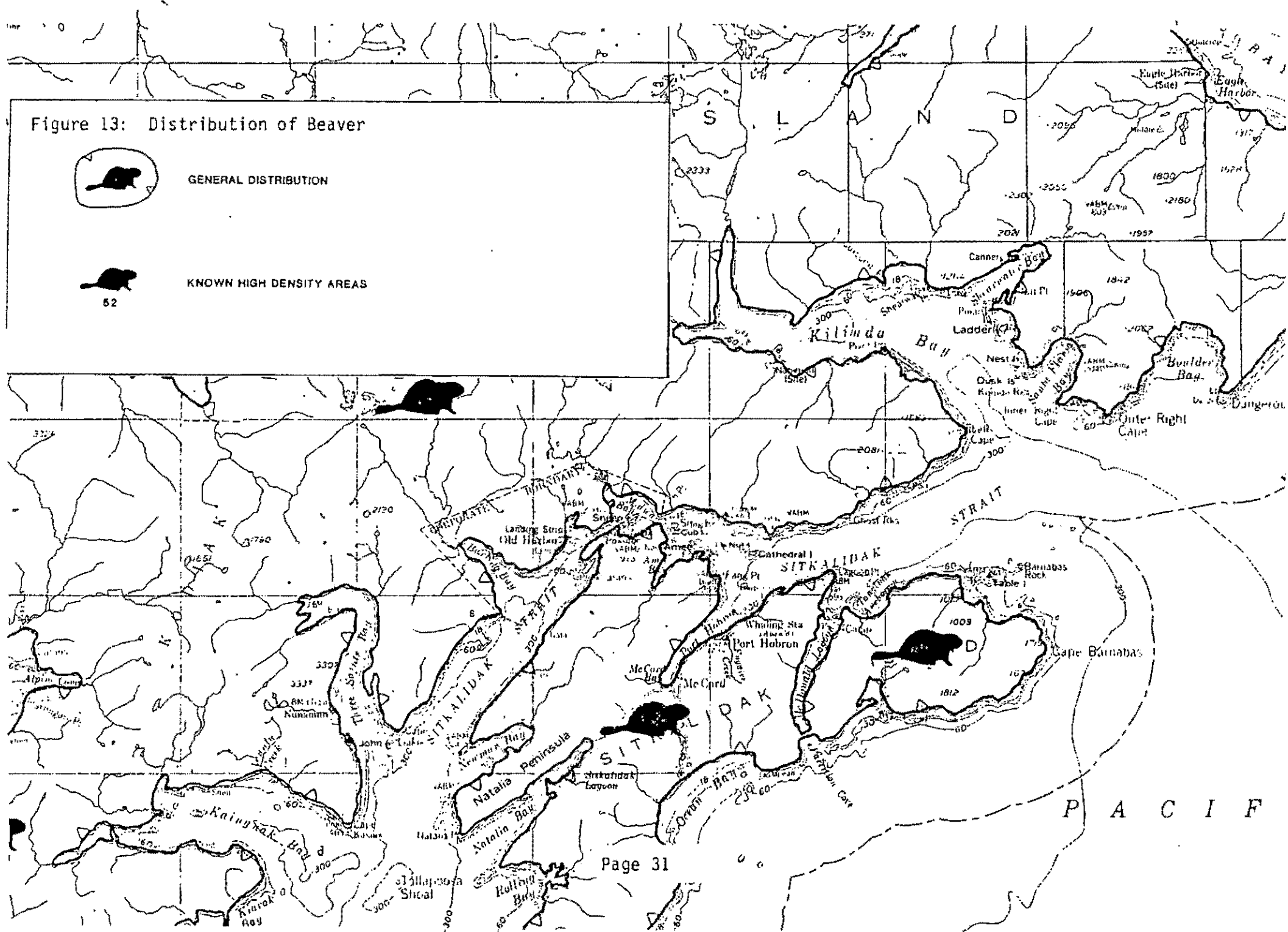
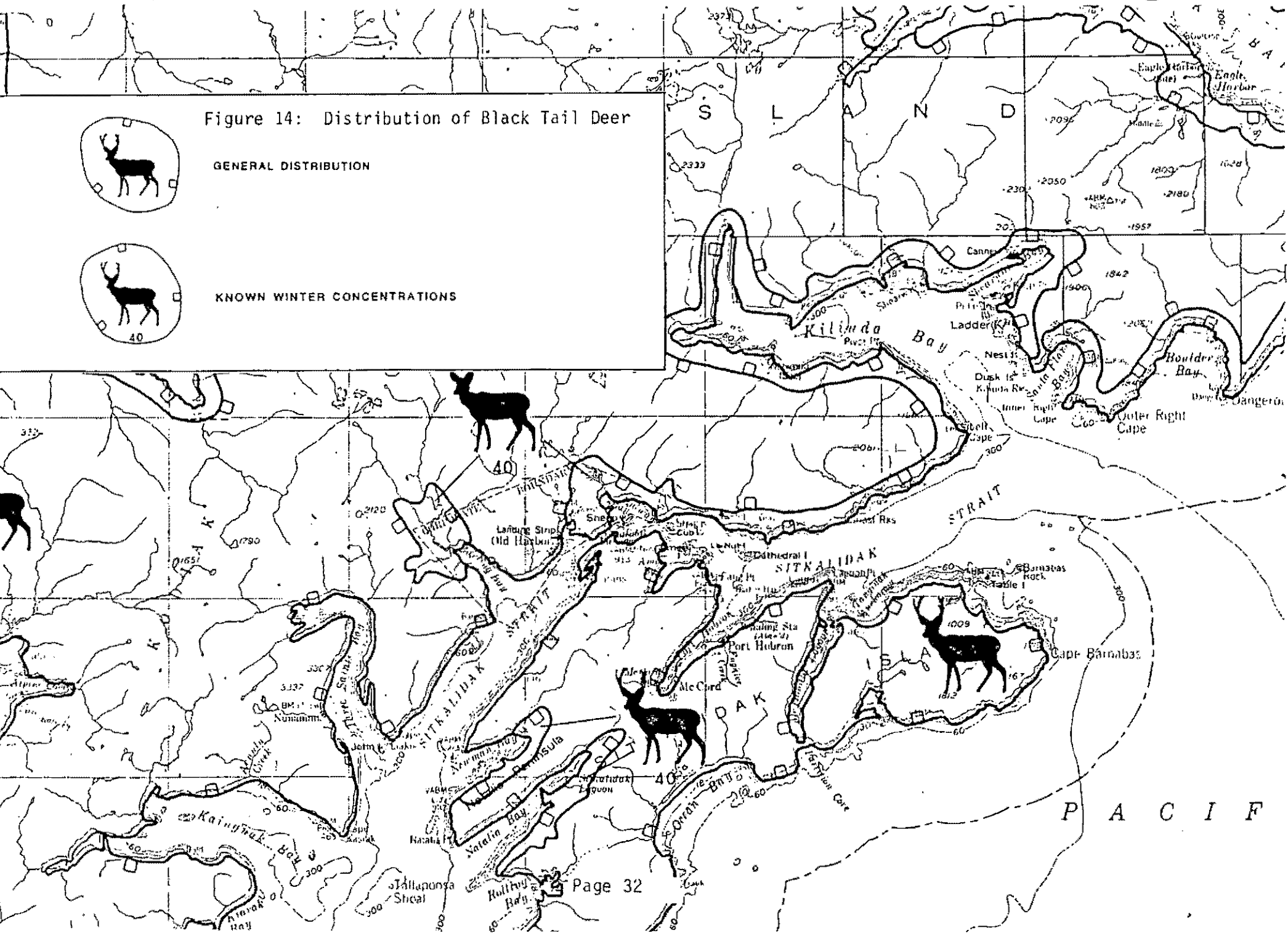


Figure 14: Distribution of Black Tail Deer

GENERAL DISTRIBUTION

KNOWN WINTER CONCENTRATIONS



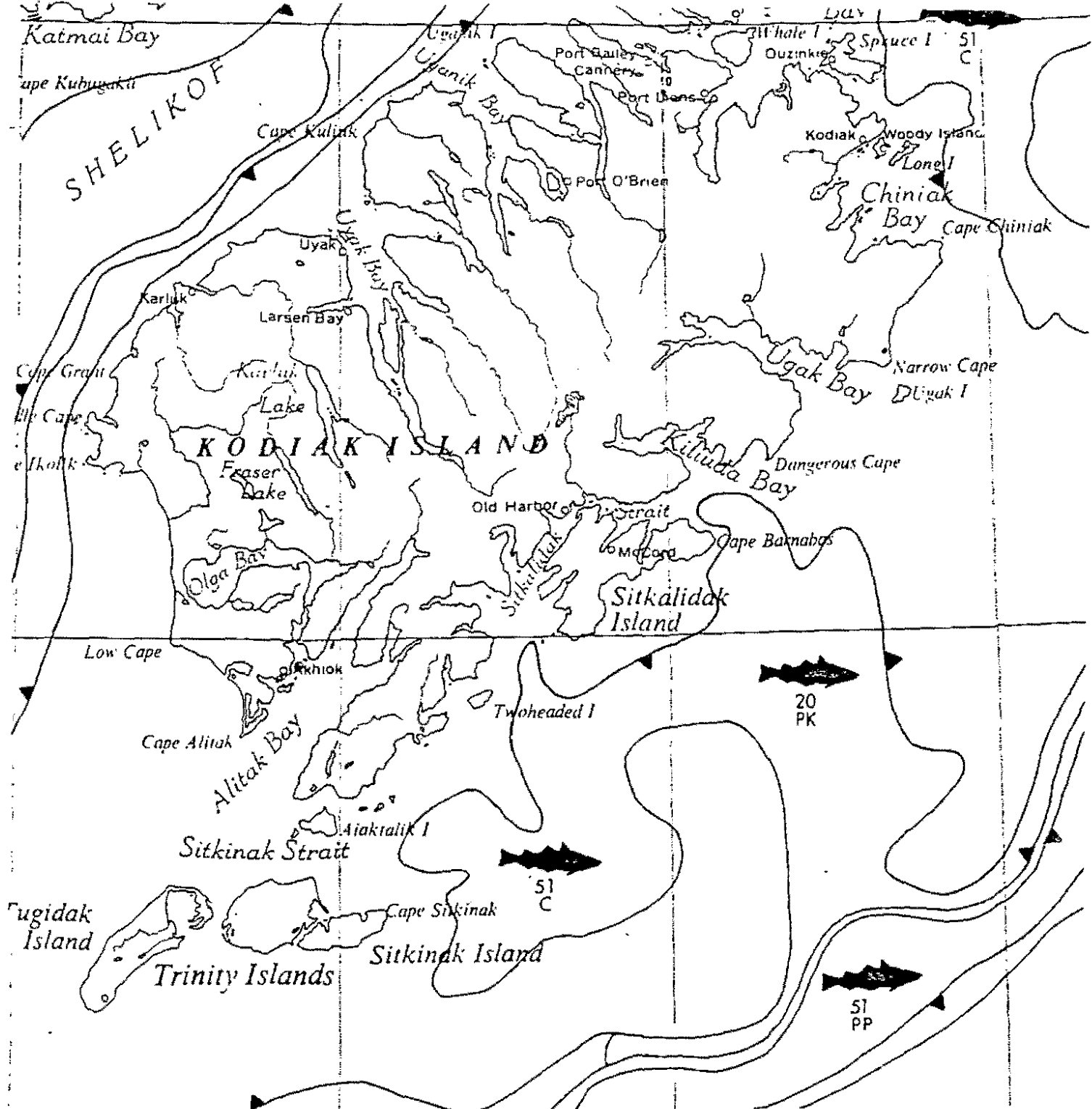

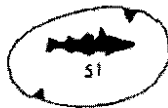

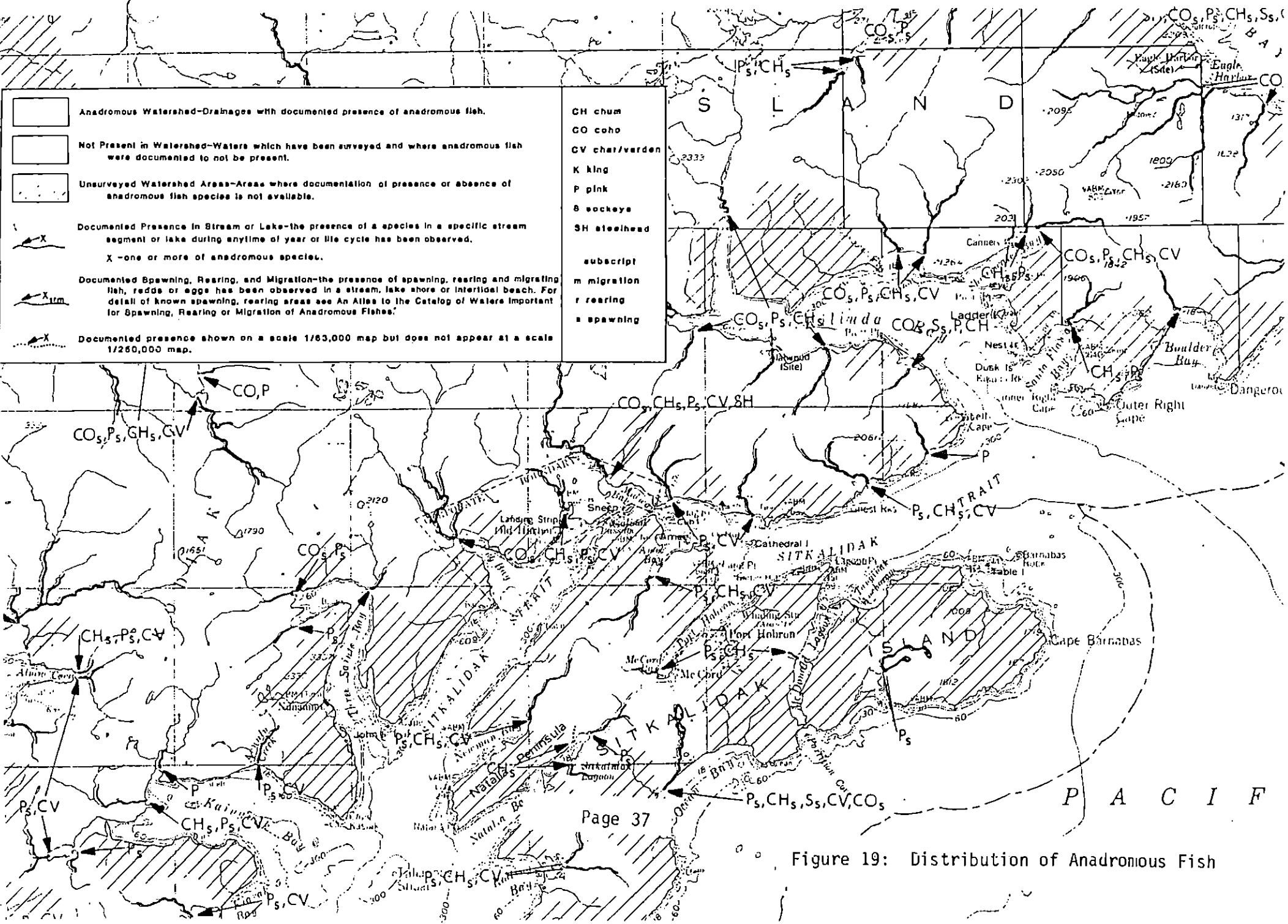


Figure 18: Distribution of Ground Fish

GENERAL DISTRIBUTION	
SF-SABLEFISH	
C-PACIFIC COD	
PK-POLLOCK	KNOWN CONCENTRATION AREAS
PP-PACIFIC PERCH	
Y-YELLOWFIN SOLE	KNOWN SUMMER CONCENTRATIONS
s-SPAWNING	



OHNC RIGHT OF FIRST REFUSAL

Extra copy for Larry
S. D. R. H. H.

JAMIN, EBELL, BOLGER & GENTRY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

300 MUTUAL LIFE BUILDING

605 FIRST AVENUE

SEATTLE, WASHINGTON 98104

TELEPHONE: (206) 622-7634

FACSIMILE: (206) 623-7521

REPLY TO SEATTLE OFFICE

ANCHORAGE OFFICE:
800 1 STREET, SUITE 700
ANCHORAGE, ALASKA 99501
TELEPHONE AND FAX:
(907) 276-6100

KODIAK OFFICE:
322 CAROLYN STREET
KODIAK, ALASKA 99518
TELEPHONE: (907) 468-8024
FACSIMILE: (907) 468-6112

ATTHEW O. JAMIN
WALTER EBELL
JOEL M. BOLGER
DIANNA R. GENTRY
ALAN L. SCHMITT
WALTER W. MASON
DUNCAN S. FIELDS
KAREN E. BENDLER

ADMITTED TO ALASKA
AND WASH. NOTARY STATES
ALL OTHERS ADMITTED TO
ALASKA BAR

June 20, 1994

VIA DHL

Ms. Dee S. Butler
U.S. Fish and Wildlife Service
Division of Realty
1011 East Tudor Road
Anchorage, AK 99503

Re: Kodiak Project
Our File No. 3765-4

Dear Dee:

In connection with the appraisal of the Old Harbor Native Corporation ("OHNC") lands, we are enclosing a list of small parcel allotments setting forth, where available, the name and address of each allottee, date of conveyance, and whether or not OHNC holds a right of first refusal on the allotment.

In preparing the list, we made two observations about the map of the Old Harbor area which was prepared by U.S. Fish and Wildlife Service, entitled "Exxon Valdez Oil Spill Large Parcels". First, by cross hatching, the map depicts certain "relinquished selections." OHNC has not yet relinquished these, although it may, as part of the reacquisition process. In the main, these sections are part of the questioned selections which are presently on appeal to the Interior Board of Land Appeals ("IBLA"). Also, the map shows sections 3, 10, 11 & 27 of T. 33 S., R. 25 W as being relinquished. According to our records, these sections were not selected by OHNC. Second, OHNC has additional selections (part of the IBLA appeal) at the head of Three Saints Bay which do not appear on the map. They are sections 3 and 10 of T. 35 S., R. 27 W. and section 35 of T. 34 S., R. 27 W.

If you have any questions or comments, please do not hesitate to contact me.

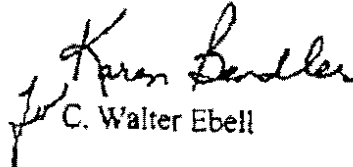
Post-it [®] brand fax transmittal memo 7571		# of pages ▶ 11
To ALAN SCHMITT	From Karen Bendler	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

Ms. Dee S. Butler
June 16, 1994
Page 2

Best regards.

Very truly yours,

JAMIN, EBELL, BOLGER & GENTRY


for C. Walter Ebell

CWE/bhb

Enclosures

cc: Old Harbor Native Corporation
Roy S. Jones, Esq.
Alan L. Schmitt, Esq.
Mr. Larry Shorett (via messenger)

List of Allotments
Old Harbor Native Corporation (OHNC)

I. OLD01A

A. —T. 33 S., R. 25 W.

1. USS 9264 - Section 13 (and Section 19 of T. 33 S., R. 24 W.)

Senafont Shugak, Sr. (Deceased)

Certificate of Allotment issued 9/8/93

OHNC holds the right of first refusal signed by 11 heirs/devisees; we have no Indian Probate Order; only about 20 acres are within the refuge.

HEIRS/DEVISEES LISTED:

Vera Kelly Shugak; Box 26, Old Harbor, AK 99643

Mildred Shugak Aposik; Box 2966, Palmer, AK 99645

Katherine Shugak Chukwuk; Box 22, Aleknagik, AK 99555

Senafont Shugak, Jr.;

Rachel Shugak; Box 670786, Chugiak, AK 99567

Mark Allen Shugak; Box 670786, Chugiak, AK 99567

Donald Raymond Shugak; Box 47009, Pedro Bay, AK 99647

Tobias Wayne Shugak; 8200 Del, Anchorage, AK 99502

Constance Van Wingerden; SRA Box 6656, Wasilla, AK 99687

Ruth Shugak Waterbury; Box 878195, Melaine #4, Wasilla, AK 99687

Rebecca Shugak Jensen; Box 47037, Pedro Bay, AK 99647

2. USS 8987, Lot 1 - Section 14

Raymond Kelly, Sr. (Deceased)

Certificate of Allotment issued 6/5/90

3. USS 8987, Lot 2 - Sections 13, 14 and 23

Annie Pestrikoff

Contested by BLM. Hearing scheduled for 8/4/94

4. USS 8987, Lot 3 - Sections 23 and 24

Peter Alexanderoff (Deceased)

Certificate of Allotment issued 5/12/93

OHNC holds the right of first refusal; Wilfred Alexanderoff appears to be the sole heir/devisee; we have no Indian Probate Order.

HEIR/DEVISEE:

Wilfred Alexanderoff; Box 95, Old Harbor, AK 99643

5. USS 8987, Lot 4 - Section 24
Gladys G. Inga (Deceased?)
Certificate of Allotment issued 2/18/94
OHNC holds the right of first refusal.
NO HEIRS/DEVISEES LISTED.

—6. USS 8987, Lot 5 - Section 24
Florence Christiansen
Certificate of Allotment issued 2/1/93
OHNC holds the right of first refusal.
Is interested in selling.

B. T. 33 S., R. 24 W.

1. USS 8987, Lot 6 - Sections 19 and 30
Andy Christiansen (Deceased)
OHNC holds the right of first refusal; Ralph Christiansen appears to be sole heir/devisee; we have no Indian Probate Order; Ralph Christiansen appears to be deceased, as well; there is a quitclaim deed in Old Harbor awaiting Emil Christiansen's signature.

HEIRS/DEVISEES LISTED:
Ralph Christiansen (Deceased).

2. USS 9263, Lot 1 - Section 19
Lucy Shugak
Certificate of Allotment issued 3/3/94
OHNC holds the right of first refusal.
Is interested in selling.

3. USS 9263, Lot 2 - Sections 19 and 20
Larry Matfay
Certificate of Allotment issued 2/1/93
OHNC holds the right of first refusal.

4. USS 10906 - Section 20
Paul Alexanderoff
OHNC holds the right of first refusal.
Is interested in selling.

5. USS 9263, Lot 3 - Section 29
Martin Inga
Certificate of Allotment issued 11/22/93
OHNC holds the right of first refusal.
Not interested in selling.

—6. USS 9263; Lot 4 - Sections 28 and 29
Ralph Christiansen (Deceased)
Two rights of first refusal for OHNC are pending (one with an easement and one without an easement); there appear to be many heirs.

HEIRS/DEVISEES LISTED (did not sign a right of first refusal):

Florence Christiansen Pestrikoff;

211 Birch, Kodiak, AK 99615

Lydia H. Christiansen Livingston;

Donna Christiansen Nakasone;

Tanya A. Christiansen;

Mary D. Christiansen; Box 112, Old Harbor, AK 99643

David R. Christiansen; Box 102, Old Harbor, AK 99643

Mary Barbara Christiansen; Box 22, Old Harbor, AK 99643

Timothy N. Christiansen; Box 112, Old Harbor, AK 99643

Rhoda Christiansen Peterson; 304 Poplar, Kodiak, AK 99615

Wesley J. Christiansen; Box 7, Old Harbor, AK 99643

7. USS 9263, Lot 5 - Section 28

Alex Inga (Deceased)

Two rights of first refusal for OHNC are pending (one with an easement and one without); Polly Inga appears to be the sole heir/devisee; we have no Indian Probate Order.

8. USS 10836 - Section 28

Arthur Matfay

OHNC holds the right of first refusal.

II. OLD01B

A. T. 33 S., R. 24 W.

1. USS 9170, Lot 1 - Sections 26 and 27

Julia Talisuk (Deceased)

Certificate of Allotment issued 9/8/93

OHNC holds the right of first refusal; Linda Ann Liebsack appears to be sole heir/devisee; we have no Indian Probate Order.

HEIR/DEWISEE LISTED:

Linda Ann Liebsack

2. USS 9170, Lot 2 - Section 26
Martha Matfay
Certificate of Allotment issued 4/2/93
—OHNC holds the right of first refusal.

3. USS 9170, Lot 3 - Section 26
Martha Matfay
Certificate of Allotment issued 4/2/93
OHNC holds the right of first refusal.

4. USS 9170, Lot 4 - Sections 25 and 26
Irene Capjohn (Deceased)
Certificate of Allotment issued
OHNC does not hold a right of first refusal; Anna Capjohn Nestic may be sole heir/devisee; we have no Indian Probate Order.

B. T. 33 S., R. 23 W.

1. USS 9245, Lot 1 - Section 30
Frank Peterson
A right of first refusal for OHNC is awaiting Frank Peterson's signature.

2. USS 9245, Lot 2 - Sections 29 and 30
George Inga
Certificate of Allotment issued 2/19/93
OHNC holds a right of first refusal.
Interested in selling.

III. OLDO2B

A. T. 34 S., R. 23 W.

None.

B. T. 34 S., R. 24 W.

1. USS 8988 - Sections 13 and 14
Jenny Erikson
Certificate of Allotment issued 2/1/93
OHNC holds a right of first refusal.

2. USS 9308, Lot 1 - Section 21
Mary Haakenson
Certificate of Allotment issued 2/1/93
OHNC holds a right of first refusal.
Is interested in selling.

—3. USS 9308, Lot 2 - Sections 20 and 21
George Inga, Jr.
Application rejected - case closed; land will be conveyed to OHNC.

IV. OLDO2A

A. T. 34 S., R. 24 W.

1. USS 10775 - Section 20
Edward Pestrikoff, Sr. (Deceased)
OHNC holds a right of first refusal; Annie Pestrikoff appears to be sole heir/devisee;
we have no Indian Probate Order.

HEIR/DEVISEE LISTED:
Annie Pestrikoff, Box 93, Old Harbor, AK 99643

2. USS 9308, Lot 3 - Section 20
Victor Peterson
Certificate of Allotment issued 2/1/93
OHNC holds a right of first refusal.
Is interested in selling.

3. USS 9308, Lot 4 - Section 17
Mary Haakenson
Certificate of Allotment issued 2/1/93
OHNC holds a right of first refusal.
Is interested in selling.

4. USS 10884
Andrew Adonga
OHNC holds a right of first refusal.

5. USS 9308, Lot 5 - Sections 18 and 19
Harold Christiansen
Certificate of Allotment issued 9/8/93
OHNC holds a right of first refusal.
Not interested in selling.

6. USS 9308, Lot 6 - Sections 18 and 19 (and into adjoining township)
Marra Andrewvitch
Certificate of Allotment issued 4/20/93
OHNC holds a right of first refusal.

B. T. 34 S., R. 25 W.

1. USS 9308, Lot 7 - Sections 13 and 24
Julia M. Adonga (Deceased)
Certificate of Allotment issued 9/17/91
Died 2/13/73; we have no Indian Probate Order.
2. USS 9308, Lot 8 - Sections 13, 14, 23 and 24
Paul Kahutak
Certificate of Allotment issued 9/10/93
OHNC holds a right of first refusal with a 20 foot access easement
Is interested in selling.
3. USS 9308, Lot 9 - Sections 14 and 23
Sophia Simeonoff Grandmontagne (May be recently deceased)
Certificate of Allotment issued 11/22/93
OHNC holds a right of first refusal with a 20 foot access easement

NO HEIRS/DEVISEES LISTED.

4. USS 9308, Lots 10, 12 and 13 - Sections 14 and 23
Sasha Christiansen (Deceased)
OHNC holds a right of first refusal; it was signed by Lisa Ann Christiansen and Rolf Lee Christiansen who appear to be all the heirs/devisees; we have no Indian Probate Order.

HEIRS/DEVISEES LISTED:

Lisa Ann Christiansen; Gen. Del., Old Harbor, AK 99643
Rolf Lee Christiansen; Box 78, Old Harbor, AK 99643

V. OLDO4

A. T. 35 S., R. 26, W.

1. USS 8997, Lot 2 - Section 2
Fedosia Inga (Deceased)
Certificate of Allotment issued 1/20/94
Died 3/6/72; eight potential heirs according to BLM correspondence.

2. USS 8997, Lot 1 - Sections 2, 3, 10 and 11
Barbara Kelly Boskofsky
Application rejected - case closed - OHNC will get this land.

VI. OLDOS

A. —T. 35 S., R. 26, W.

1. USS 9289, Lot 3 - Sections 18 and 19
Wilfred Alexanderoff
Certificate of Allotment issued 3/22/93
OHNC holds a right of first refusal.
2. USS 9289, Lot 2 - Section 18
Carl R. Christiansen
Certificate of Allotment issued 9/8/93
OHNC holds a right of first refusal.
3. USS 9289, Lot 1 - Sections 17 and 18
Axenia Peninjohn (Deceased)
Died 7/1/77; proposed OHNC right of first refusal lists 25 potential heirs/devisees;
no Indian Probate Order.

PROPOSED HEIRS/DEVISEES LISTED:

Willie Shugak; Box 94, Old Harbor, AK 99643
Mike Shugak; 171 Ocean Park Dr. #8, Anchorage, AK 99515
Sarah Quijance Peppinger;
Joyce Quijance Moonin;
Alfred Quijance, Jr.;
Katherine Quijance Grosdidier;
Quinto Quijance; 9311 Long St., Anchorage, AK 99515
Jeanrett Quijance Santiagucl;
Enakentry Quijance;
Thaddeus Arron Quijance;
Rose Marie Quijance;
Raymond Waterbury;
Linda Ann Liebsack;
Anthony Waterbury;
Vera Kelly Shugak; Box 26, Old Harbor, AK 99643
Donald Raymond Shugak; Box 47009, Pedro Bay, AK 99647
Tobias Wayne Shugak; 8200 Del, Anchorage, AK 99502
Mildred Shugak Aposik; Box 2966, Palmer, AK 99645
Constance Shugak Van Wingerden;
Katherine Shugak Chuckwuk; Box 22, Aleknagik, AK 99555

Ruth Shugak Waterbury;

Box 878195-2260 Melaine, #4, Wasilla, AK 99687

Senafont Shugak, Sr.; Box K1B, Ivanof Bay, AK 99695

Rachel Shugak Graham;

Mark Allen Shugak; Box 670786, Chugiak, AK 99567

Rebecca Shugak Jensen; Box 47037, Pedro Bay, AK 99647

4. USS 372 - Sections 7 and 18

We are not sure what this is, but it is not a Native Allotment. By its number, the survey appears to be quite old.

5. USS 10771 - Sections 7, 8, 17 and 18

Irene Shugak (Deceased)

Died 4/13/78; OHNC holds a right of first refusal; four heirs/devisees are listed

HEIRS/DEVISEES LISTED:

Willie Shugak; Box 94, Old Harbor, AK 99643

Nina Phillips; Box 2289, Kodiak, AK 99615

Barbara Agnot Boskofsky; Box 5, Afognak, AK 99644

Roman Ronnie Agnot; Box 75, Old Harbor, AK 99643

B. T. 34 S., R. 26 W.

1. USS 8946 - Section 31

Evon Nekeffer (Deceased)

Died 10/2/81; our file contains only a 1990 case abstract.

C. T. 34. S., R. 27 W.

None.

D. T. 35 S., R 27 W.

1. USS 9113, Lots 3, 4 and 5 - Sections 10 and 11

Annie Pestrikoff

Contested by BLM. Hearing scheduled for 8/4/94.

2. USS 9113, Lot 2 - Section 11

Raymond Kelly, Sr. (Deceased)

Certificate of Allotment issued 6/5/90

Died 2/21/81; unclear regarding heirs/devisees. Attorney Mel Stephens, II received a copy of the transmittal letter for the Certificate of Allotment.

3. USS 10687, Lot 1 - Sections 23 and 24
Evon Nekeffer (Deceased)
Died 10/2/81; our file contains only a 1990 case abstract.

4. USS 10687, Lot 2 - Sections 25 and 26.
Jacob Simeonoff (Deceased)
—OHNC holds a right of first refusal; Sophie Grandmontagne appears to be sole heir/devisee; we have a copy of Indian Probate Order.

HEIR/DEWISEE LISTED:
Sophie Grandmontagne; Box 102358, Anchorage, AK 99510

5. USS 10687, Lot 3 - Sections 25 and 26
Dora T. Inga (Deceased)
Certificate of Allotment issued 10/15/93
Died 10/10/77; Tanya Inga may be the only heir/devisee; no Indian Probate Order.

POSSIBLE HEIR/DEWISEE:
Tanya Inga; Box 165, Old Harbor, AK 99643

6. USS 9327 - Section 36 (and Section 31 T. 25 S., R. 26 W.)
Sophia Ignatin
Certificate of Allotment issued 5/12/93
OHNC holds a right of first refusal.

APPRAISERS' EXPERIENCE DATA

SHORETT & RIELY

REAL ESTATE APPRAISERS & CONSULTANTS

121 STEWART STREET, SUITE 200, SEATTLE, WASHINGTON 98101-1059

SEATTLE	(206) 441-4900
Seattle Facsimile	(206) 448-5509
ANCHORAGE	(907) 276-1851
SAN JOSE	(408) 453-2533

APPRAISER'S EXPERIENCE DATA

PAUL E. BOTTGE

Moving to Washington from Alaska in 1986, Mr. Bottge attended Pacific Lutheran University, Tacoma, Washington on a Presidential Scholarship. He graduated cum laude in May of 1990 with a Bachelor of Business Administration in Finance and a minor in English Writing. He entered private appraisal practice with Shorett & Riely in February of 1992.

Mr. Bottge was Admitted to the Appraisal Institute as an MAI candidate in 1992. He has successfully completed the following Institute designated courses: Real Estate Appraisal Principles (1A-1), September 1992; Basic Valuation Procedures (1A-2), September 1992; Standards of Professional Practice (Part A), June 1993; Standards of Professional Practice (Part B), June 1993; Basic Income Capitalization (1B-A), August 1993; Advanced Income Capitalization (1B-B), August 1993.

He has met the requirements for Washington State Appraisal Certification and is a licensed General Appraiser: No 270-11 BO-TT-GP-E322C1

In addition to individuals and law firms, a partial list of clients for whom appraisal and consulting reports have been prepared follows:

Prudential Realty Group
West Coast Hotels
American Telephone & Telegraph
Manufactures Life Insurance
Bank of America
Seattle First National Bank
Port of Friday Harbor
City of Auburn Parks Department
Fred Hutchinson Cancer Research Center

Lowe Enterprises, Inc.
Allstate Insurance Company
The Dial Corporation
Seattle Commons
US Bancorp
West One Bank
Port of Grays Harbor
Federal Way School District

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APPRAISER'S EXPERIENCE DATA

LARRY K. SHORETT, MAI, CRE
State of Washington Certified Real Estate Appraiser General
No. 270-11 SH-OR-EL-K705N2
State of Alaska Certified Real Estate Appraiser General
No. AA170

Graduated from the University of Washington in 1953 with Bachelor's Degree in Business Administration. Employed in 1952 by National Bank of Commerce of Seattle, Washington, and in 1956 by the Equitable Life Assurance Society of the United States as a staff appraiser in the Commercial Mortgage Department. Entered private appraisal practice in 1964. Since 1956 have appraised single family residences, special purpose properties, apartments, hotels, commercial buildings, industrial properties, office buildings, shopping centers and unimproved land. Have completed appraisal assignments and market studies on properties located in the states of Washington, Oregon, Idaho, Montana, California, Wisconsin, Arizona, New Mexico, Pennsylvania, Hawaii, Alaska and the Provinces of British Columbia and Alberta. All appraisals, except of single family residences, are narrative type and include three approaches to value. Have also been employed as consultant for numerous firms and individuals and have prepared numerous market and demand studies for these clients.

Elected to membership in American Institute of Real Estate Appraisers (now known as the Appraisal Institute) in 1963, Certificate NO. 3450, and served as President, Washington-B.C. Chapter No. 8 of Appraisal Institute in 1971. Also a member of the American Society of Real Estate Counselors.

As of the date of this report, Mr. Larry Shorett has completed the requirements of the continuing education program of the Appraisal Institute.

Appraisals, consultations, market studies and other work have been done for the following (Partial List):

Seafirst Bank
Wells Fargo Bank
The Bank of California
Puget Sound Mutual Savings Bank
Security First National Bank of Los Angeles
City Bank, New York
The Puget Sound National Bank
Key Bank
Standard Chartered Bank

APPRAISER'S EXPERIENCE DATA - cont'd

LARRY K. SHORETT, MAI, CRE

Union Bank

First National State Bank of New Jersey -

The Equitable Life Assurance Society

(Staff and Fee Basis)

Prudential Insurance Company of America

Jefferson Standard Life Insurance Company

Mutual of New York (MONY)

United States Life Insurance Company

American National Insurance Company

Northern Life Insurance Company

Washington Mutual Savings Bank

U.S. Bank

The Franklin Life Insurance Company

Northwestern National Life Insurance Company

United Central Life Insurance Company

Kings County Savings Bank, Brooklyn, New York

Greenwich Savings Bank, New York

Washington Preferred Life Insurance Company

Lincoln Savings Bank, Brooklyn, New York

Acacia Mutual Life Insurance Company

American Western Life Insurance Company

Northwest Guaranty Savings & Loan Association

Ben Franklin Savings & Loan Association, Portland, Oregon

Pacific First Federal

Metropolitan Federal Savings

National Bank of Alaska

First Federal Savings & Loan Association, Bremerton, Washington

Security Pacific Bank

Federal Housing Administration

Federal Deposit Insurance Corporation

Federal Savings & Loan Insurance Corporation

Small Business Administration

U.S. Government (Urban Renewal & Other Agencies)

Cities of Seattle, Tacoma, Renton, Everett, Kent

Eugene (Oregon), Ketchikan (Alaska)

Mortgage Companies, Attorneys, Architects, Corporations, & Individuals

Approved Appraiser for General Services Administration; State of Washington Department of Highways;
Ports of Seattle, Edmonds and Friday Harbor; and State of Washington Department of Natural Resources.

Court Experience:

Thurston County Superior Court

King County Superior Court

Snohomish County Superior Court

Federal Court

Shorett & Riely

Real Estate Appraisers & Consultants

Seattle - Anchorage - San Jose

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APPRAISER'S EXPERIENCE DATA

LARRY K. SHORETT, MAI, CRE

State of Washington Certified Real Estate Appraiser General

No. 270-11 SH-OR-EL-K705N2

State of Alaska Certified Real Estate Appraiser General

No. AA170

Graduated from the University of Washington in 1953 with Bachelor's Degree in Business Administration. Employed in 1952 by National Bank of Commerce of Seattle, Washington, and in 1956 by the Equitable Life Assurance Society of the United States as a staff appraiser in the Commercial Mortgage Department. Entered private appraisal practice in 1964. Since 1956 have appraised single family residences, special purpose properties, apartments, hotels, commercial buildings, industrial properties, office buildings, shopping centers and unimproved land. Have completed appraisal assignments and market studies on properties located in the states of Washington, Oregon, Idaho, Montana, California, Wisconsin, Arizona, New Mexico, Pennsylvania, Hawaii, Alaska and the Provinces of British Columbia and Alberta. All appraisals, except of single family residences, are narrative type and include three approaches to value. Have also been employed as consultant for numerous firms and individuals and have prepared numerous market and demand studies for these clients.

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Security First National Bank of Los Angeles

City Bank, New York

The Puget Sound National Bank

Key Bank

Standard Chartered Bank

Union Bank
First National State Bank of New Jersey
The Equitable Life Assurance Society
(Staff and Fee Basis)
Prudential Insurance Company of America
Jefferson Standard Life Insurance Company
Mutual of New York (MONY)
United States Life Insurance Company
American National Insurance Company
Northern Life Insurance Company
Washington Mutual Savings Bank
U.S. Bank
The Franklin Life Insurance Company
Northwestern National Life Insurance Company
United Central Life Insurance Company
Kings County Savings Bank, Brooklyn, New York
Greenwich Savings Bank, New York
Washington Preferred Life Insurance Company
Lincoln Savings Bank, Brooklyn, New York
Acacia Mutual Life Insurance Company
American Western Life Insurance Company
Northwest Guaranty Savings & Loan Association
Ben Franklin Savings & Loan Association, Portland, Oregon
Pacific First Federal
Metropolitan Federal Savings
National Bank of Alaska
First Federal Savings & Loan Association, Bremerton, Washington
Security Pacific Bank
Federal Housing Administration
Federal Deposit Insurance Corporation
Federal Savings & Loan Insurance Corporation
Small Business Administration
U.S. Government (Urban Renewal & Other Agencies)
Cities of Seattle, Tacoma, Renton, Everett, Kent
Eugene (Oregon), Ketchikan (Alaska)
Mortgage Companies, Attorneys, Architects, Corporations, & Individuals

Approved Appraiser for General Services Administration; State of Washington Department of Highways; Ports of Seattle, Edmonds and Friday Harbor; and State of Washington Department of Natural Resources.

Court Experience:

Thurston County Superior Court
King County Superior Court
Snohomish County Superior Court
Federal Court

The U.S. Department of the Interior, "Acquisition of Inholdings in Alaska National Wildlife Refuges" Draft Legislative environmental Impact Statement, July, 1988, provides a description of the complex negotiations that occurred to arrive at the exchange values. This is summarized as follows:

1. The Fish and Wildlife Service conducted value appraisals on a large pool of Native corporation lands that might be subject to exchange. The results of these appraisals were provided to the Assistant Secretary and the affected Native Corporations. These value appraisals were based on an assessment of the property's highest and best economic use considering the willingness of a knowledgeable buyer to risk investment.
2. Following review of the Service appraised values, the Native corporations independently conducted land valuations and provided the appraisal products to the Assistant Secretary. These products took a variety of approaches, but all represented an attempt to assign value based on natural resource attributes. For most of the lands in question, the Native corporation's appraisals resulted in significantly higher valuations than those ascribed through Service appraisals.
3. Following review of the Native corporation value proposals, the Assistant Secretary requested the Service to develop a land classification system that could be applied to the exchange participant's lands in an effort to characterize the contribution of the inholdings to refuge purposes. The following classification scheme was used for this purposes:

Class I: Resource values/public benefits are world class and/or land acquisition would be highly responsive to recognized resource and public needs and the mission and objectives of the Fish and Wildlife Service and National Wildlife Refuge System.

Class II: Resource values/public benefits are of international (i.e. continental) significance, and/or land acquisition would be very responsive to recognized resource and public needs and the mission and objectives of the Fish and Wildlife Service and National Wildlife Refuge System.

Class III: Resource values/public benefits are of national significance, and/or land acquisition would be responsive to potential resource and public needs and the mission of the Fish and Wildlife Service and National Wildlife Refuge System.

Class IV: Resource values/public benefits are of regional significance, and/or land acquisition would be responsive to potential resource and public needs and the mission/objectives of the National Wildlife Refuge System.

4. The Service then subdivided each Native corporation's land exchange proposal into tracts of similar character and assigned a classification to each tract. This information was provided to the Native corporations and each was afforded an opportunity to negotiate the configuration and classification of their respective proposals. The service made some minor changes as a result of these negotiations and some Native corporations modified the configuration of their proposals to secure higher classifications. The final land exchange proposals and associated classifications were then provided to the Assistant Secretary and the exchange participants for use in negotiations.
5. The Assistant Secretary, following a review of Congressional precedents prior Service acquisitions of habitat of similar character, the exchange participants value analyses, and Service value appraisals, assigned a value to each classification. The negotiating team was advised of this information for each exchange proposal being tendered.
6. Final agreement on the value of lands offered in exchange was ultimately reached through a series of face-to-face negotiations between the Assistant Secretary and each Native corporation. Discounts in value to be applied in consideration of "22(g)" restrictions and the retention of "subsistence access easements" were also negotiated.

Conclusion

The exchange proposals evolved over a several year period. Comprehensive exchange agreements were signed in 1987, but the deal was contingent on opening the ANWR area up to oil exploration, and this did not materialize. An added dimension to the ANWR proposals, outside of negotiations between the government and Alaska Native Corporations, involves option and contingency agreements entered into by Native corporations and various oil companies. These deals typically involved some sort of non-refundable option payment on the side of the oil company and a contingent agreement to purchase from the Native corporations the subsurface ANWR rights to be obtained from the government, as well as royalties on any oil and gas actually recovered. In the case of OHNC (for example) an agreement with Texaco to buy their selected ANWR tract was negotiated at the exchange value, less option payment, plus 14% royalties on oil production on the OHNC ANWR tract and one and a half percent royalties on all Texaco ANWR future production. Actual consideration to be received by the Native corporations in the ANWR proposal, therefore, does not necessarily directly correlate with the exchange values negotiated with the government. There were certain incentives for Native corporations to consummate an exchange with the government so as to initiate beneficial contingency agreements with the oil companies.

ADDENDUM

**U.S. FISH AND WILDLIFE
SERVICE TASK ORDER**

TASK ORDER (DELIVERY ORDER)

CONTRACT NO:
CONTRACTOR: Black-Smith & Richards, Inc.
2602 Fairbanks
Anchorage, Alaska 99503
(907) 274-4654

TASK ORDER NO:
DATE OF TASK ORDER:

TASK ORDER SCOPE OF SERVICES FOR THE U.S. FISH AND WILDLIFE SERVICE (Service): Contractor shall subcontract for a preliminary title commitment for seven tracts of land located in the Kodiak National Wildlife Refuge (Refuge) and belonging to Old Harbor Native Corporation (Old Harbor). Reference the attached legal descriptions for tracts requiring title research. Title evidence should also contain sufficient portions of the charter or other records of Old Harbor to determine the power of Old Harbor to hold and convey real estate, the validity of such conveyances, and that Old Harbor is a corporation in good standing.

A single, narrative, market value appraisal is required to value the surface estate of the seven tracts described herewith. Old Harbor's interim conveyance document and tract map are attached. That data common to all the tracts, e.g., area and neighborhood data, comparable sales, etc., may be stated once in the appraisal; however, the contractor shall provide a separate section in the report for the analysis of each tract, which shall include information specific to that tract and its final estimate of value. Valuation of the tracts shall consider all exceptions, reservations, and restrictions identified in the interim conveyance document. The conveyance document indicates that the tracts are subject to § 22(g) of the Alaska Native Claims Settlement Act (Act), which states that ". . . the patent shall reserve to the United States the right of first refusal if the land is ever sold by the Village Corporation . . ." and that ". . . the lands remain subject to the laws and regulations governing use and development of such Refuge." (See attachment.) The Service has not promulgated regulations to provide guidance on § 22(g). Bureau of Land Management regulations speak to § 22(g) in 43 CFR § 2650.4-6(b). (See attachment.) The Contractor shall conduct an appraisal in light of the above, considering the tracts' values as encumbered with § 22(g) but identifying the measurable impact on value, if any, of the encumbrance. All other federal, state and local laws and/or regulations, if any, that may affect the property must be considered in the appraisal, as well as any state management plans. Any permits, leases, memoranda of understanding, etc., between Old Harbor and a second party must be considered in valuing the properties.

Old Harbor has some selected remaining entitlement in the Refuge (indicated by the color gray on the attached map). The selected area (approximately 905 acres) is to be included as part of tract OLD02B for valuation purposes. Consider the selected lands to have marketable title. The aggregate acreage stated in the attached legal description of this tract includes the selected lands.

Before transfer of the property, the U.S. Fish and Wildlife Service (Service) will conduct contaminants surveys of the tracts, and Old Harbor will be responsible for cleanup, if necessary, of any contamination occurring after conveyance of the subjects to Old Harbor. Appraise the tracts as if contaminant-free.

Old Harbor wishes to reserve a subsistence easement on all the tracts. The attached Subsistence Reservation describes the rights to be retained by Old Harbor. Estimate the value of each tract both with and without the reservation.

Old Harbor is offering conservation easements in tracts OLD03 and OLD04. The conservation easement areas are described in the attached OLD03 and OLD04 legal descriptions and are depicted on the tract map. Perform a before and after appraisal of tracts OLD03 and OLD04 to estimate the value of each easement. To avoid delay, proceed with the appraisal of the before condition of each tract. The conservation easement document will be provided to the Contractor following review and approval of document language by the Service's Regional Solicitor at which time each tract's after condition can be appraised.

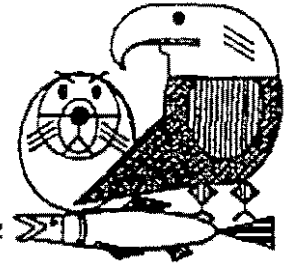
EVOS APPRAISAL SPECIFICATIONS

Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 "G" Street, Anchorage, AK 99501

Phone: (907) 278-8012 Fax: (907) 276-7178



April 21, 1994

UNLESS SPECIFICALLY STATED OTHERWISE, THE FOLLOWING SPECIFICATIONS APPLY TO BOTH FEE SIMPLE LAND APPRAISALS AND PARTIAL ESTATE INTEREST APPRAISALS.

C.3 GENERAL SPECIFICATIONS

A. The Contractor shall furnish all materials, supplies, tools, equipment, personnel, travel and shall complete all requirements of this contract including performance of the professional services listed herein.

Four copies of the Draft Appraisal Report shall be submitted in a three ring loose-leaf binder. The Contractor will furnish one original and three copies of the final appraisal. The report shall provide an estimate of cash fair market value for the fee simple estate free of all assessments, and shall conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as published by The Appraisal Foundation, and the Uniform Appraisal Standards for Federal Land Acquisitions, 1992 Edition, (ISBN 0-16-038050-2)(UASFLA).

The Narrative Appraisal Report shall conform to recognized appraisal format, principles, and practices applicable to estimating cash fair market value, as required in the UASFLA.

B. Narrative Appraisal Report.

The Contractor shall make a detailed field inspection and identification of the item(s) of property as specified in each Task Order, and shall make such investigations and studies as are appropriate and necessary to enable the Contractor to derive sound conclusions and to prepare the appraisal report.

C. Examination Notice.

The Contractor shall provide the property owner and the governmental representative a minimum of 10 days advance notice of the examination date and shall give the owner, or his designated representative, and the Government an opportunity to accompany the Contractor during his inspection of the property. These notices shall be documented in the Contractor's transmittal letter of the appraisal report. The Contractor shall certify that the signature of the report has personally visited the subject property(s) and all of the comparable transactions used in the comparative analysis.

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture, and Interior

D. Updating of Report.

Upon the request of the Government, the Contractor shall during a two-year period following the valuation date of the appraisal report show value as of a specified date. The Contractor will furnish one original and three copies of the updated report, which shall include sales data or other evidence to substantiate the updated conclusion of value if a change in value occurs.

E. Testimony.

Upon the request of the United States Attorney or the Department of Justice, or the Alaska Attorney General, the Contractor shall testify in any proceedings, as to the value as of the valuation date of any and all property included in the appraisal report.

Item (F) is applicable to partial estate interest appraisals only.

F. Estate to be Appraised.

1. When a partial estate interest is appraised, it will conform to UASFLA and will incorporate a before and after appraisal meeting agency standards as described in the task order.

2. After the market value of the fee estate has been determined, the appraiser may be requested to determine the contributory value of the various estates. The contributory value of the various estates must equal the market value of the fee estate.

C.4 TECHNICAL SPECIFICATIONS

4.1 REPORT

A. Format.

The report shall be typewritten on bond paper sized 8 1/2 by 11 inches with all parts of the report legible and shall be bound with a durable cover and labeled on the face. The label will identify the appraised property, the contract number, appraiser's name and address, and the date of the appraisal. All pages of the report, including the exhibits, shall be numbered.

B. Contents.

The report shall be divided into tabulated parts:

- Part I - Introduction
- Part II - Factual Data
- Part III - Analyses and Conclusions
- Part IV - Addenda

The content of the report shall, as a minimum, contain the following:

1. PART I - INTRODUCTION

- a. Title Page shall include (1) the borough name(s) and general location(s) of the property; (2) that the appraisal is for the lead agency identified in the task order; (3) name and address of individual and the firm or corporation making the appraisal report; (4) the report date.
- b. Table of Contents shall be arranged in accordance with the sequence of topical headings with corresponding page numbers.
- c. Summary of Facts and Conclusions shall be a brief resume of the essential highlights of the report in order to offer a convenient reference to basic facts and conclusions. Items which shall be included are (1) name of project and agency; (2) owner of record; (3) location or legal description; (4) name of appraiser; (5) dates of field work; (6) date of inspection; (7) effective date of appraisal; (8) interest under appraisement; (9) size; (10) highest and best use; (11) appraised values.
- d. Statement of Assumptions and Limiting Conditions. The Contractor shall include in the report a statement of assumptions and limiting conditions related to the appraisal of the property.
- e. References. The Contractor shall list the sources of data incorporated in the report, such as records, documents, technicians, or other persons consulted along with a statement of their qualifications and identification of their contribution to the report.

2. PART II - FACTUAL DATA

- a. 1. Purpose of Appraisal for Partial Estate Interest Appraisal. The Contractor shall state that the purpose is to estimate total compensation for the estate to be acquired considering damages and/or benefits to the remainder. It shall include the function of the appraisal and a description of the estates appraised in both the before and after conditions.
- 2. Purpose of Appraisal for Fee Simple Land Appraisal. The Contractor shall state that the purpose is to estimate fair market value for the property. It shall include the function of the appraisal, and a definition of all values required and property rights appraised.
- b. Definition of Fair Market Value. The definition is that as described in the UASFLA and expanded upon in USPAP.
- c. Estate Appraised. Describe the Estate to be appraised and the legal description of the subject property.

d. Area and Neighborhood Data. The report shall include a concise discussion of market area, trends in use, and neighborhood and area analysis. This data (social, economic, and political) shall provide the basic information leading to a conclusion of highest and best use and shall include only information that directly affects the value of the property being appraised.

e. Property Data. The report shall include a narrative description of significant land features and all improvements. This section shall show the availability and suitability or adaptability of the property for the highest and best use. The property data shall include, as a minimum, the following:

1. A description of the land, giving dimensions, size, shape, access status and characteristics, land types, topography, timber, livestock forage, mineral character, and other characteristics that might affect value. If there is an indication that timber or mineral deposits have commercial value, this should be stated. If part of the property is assigned higher value than other portions, prepare a map delineating the various land classes.

2. A discussion of outstanding rights or possessory interests (easements, permits, leases, adverse possession, etc.) describing the type, area, condition, terms, rates, and their effect on value.

3. A description of all improvements, discuss each with reference to its physical condition, present use, obsolescence, and its contribution to the highest and best use.

4. A statement of the current assessed value and dollar amount of property taxes and discuss their effect on value.

5. A description of the zoning and other restrictions for the subject property and discuss their effect on value.

6. A discussion of the effect on value of reservations and covenants described in the estate.

7. Distinguish between any real property and personal property values.

8. A discussion of any environmentally threatening factors that may affect the property such as toxic waste, physical hazards, or noxious materials.

3. PART III - ANALYSES AND CONCLUSIONS

a. Analyses of Highest and Best Use. State the highest and best use or combination of uses that can be made of the property (land and improvements) for which there is a current private open market. Give evidence of the demand for such use. If the highest and best use is different than the present use, discuss how the property is available, suitable, adaptable, and in demand for the new use. Be cautious in identifying highly speculative uses that are contingent on occurrences that are not demonstrated in the marketplace within

which the subject might compete. Investment for profit or speculation in and of themselves are not acceptable highest and best uses without the identification of the physical interim use and future use that is being anticipated. Highest and best use cannot be predicated on a demand created solely by the project for which the property is acquired (e.g., rock quarry, when the only market is a highway project for which the property was acquired). A proposed highest and best use cannot be the use for which the government is acquiring the property (e.g., missile test range, airfield, park), unless there is a prospect and demand for that use by others than the government.

b. Data Analysis. This section, divided into topical headings, shall contain the appraiser's discussion and analysis of market trends and elements of value. The text may refer to factual data included in the Addenda to the report.

The appraiser shall specifically state his conclusion, the factual data calculations, and the process of reasoning that led him/her to that conclusion.

The following items, as a minimum, shall be discussed in this section:

1. Cash Versus Contract Sales. All value estimates made in the appraisal report will be on the basis of cash or cash equivalence. The effect of financing on market value will be considered and the conclusions documented in this section. Cash equivalent is defined as: That price that would have been in effect, had the terms been all cash.

2. Price-time Trends.

3. Physical Characteristics. The effect on value of elements such as size, location, access characteristics and status, road or highway frontage, restrictive covenants, zoning, utilities, view, vegetative cover, water frontage, mineral character and potential, and other elements of value as demonstrated in the market will be explored and analyzed.

c. Estimate of Value. The appraiser's estimates of value shall be developed in a logical sequence using accepted approaches to value supported by confirmed factual data.

1. Approaches to Value. Value shall be based upon the properties' highest and best use, which may differ from present use, and shall be supported by confirmed transactions of comparable lands having similar highest and best uses. In all cases, the three approaches to value (cost, income, and direct sales comparison) shall be considered, and used, if applicable. At a minimum, the appraisal report shall contain a direct sales comparison approach which analyzes and compares the subject to all appropriate comparable sales, ending in a subject property value indication based on each sale. All such direct comparison indications shall then be correlated to a final estimate of value.

2. Comparable Sales. The appraiser shall personally visit, investigate, list in the report, and be prepared to testify with respect to all sales which may be pertinent to the valuation of the subject. The sales considered and not actually used by the appraiser shall be listed in a table in the Addenda. This list shall cite pertinent facts such as date, size, buyer and seller, price, terms, location, etc., and include a remark as to why each sale was not used in the estimate of value. All comparable sales used in the valuation discussion shall meet the test of market value. All transactions used shall be verified with parties knowledgeable of the sale, (grantor, grantee, broker). Include date of confirmation, the name of the party with whom the sale was confirmed, and the name of the person confirming the sale.

The appraiser shall examine all prices and terms of comparable sales as to their equivalency to cash. Where comparable sales prices are adjusted because of terms or for other reasons, the amount of the adjustment shall be supported by presentation of factual evidence and the appraiser's reasoning.

The sale price of comparable sales used in this appraisal report shall be adjusted for appreciation or depreciation, if any, for the period of time between the sale date and the valuation date (Market condition). The amount of the adjustment shall be clearly stated. The basis for the adjustment in the form of an analysis of available pertinent market evidence shall be presented. Sales and resales of unaltered properties similar to the comparables and in the same market area are preferred indicators of market condition. To be useful, such sales and resales must have occurred during the approximate period for which other comparables are being adjusted. Raw statistics on broad classes of property and covering large geographic areas will not suffice as a basis for the above described adjustments.

When using the direct sales comparison approach, the appraiser shall, for each sale listed, discuss: parties to the transaction, date of the transaction, acreage, legal description of the property, interest conveyed, consideration, conditions of payment (cash or terms--contract sales will be discussed and conclusions made as to their cash equivalence), improvements (kind and whether they contribute to highest and best use), personal property, any outstanding rights and reservations and their effect on value, and physical description--topography, cover, etc. Each comparable site should be described in narrative form in sufficient detail to indicate how it compares to the subject property in elements affecting value. Buyer and seller motivation of the comparable transaction must be discussed. The potential for development as of the date of purchase shall be explored and presented.

When adjustments are made to comparable sales, the basis for the adjustments shall be shown in sufficient detail and supported by all available market evidence to allow the reviewer to judge their validity and acceptability. The data will be presented in narrative form as well in comparison grids or

tables. When the value of the subject property and comparables are highly similar, lump sum adjustments are acceptable, although the elements of dissimilarity affecting value shall be listed. If quantified adjustments are made, they shall be directly supported by verified market evidence.

3. In the direct sales comparison approach, the last sale of the subject property shall be listed. If it is a valid sale, it shall be qualified and given appropriate consideration in the value conclusion.

4. In the income and cost approaches, all cost and income estimates shall be supported by comparative costs or rental data for similar properties. The methods used to determine capitalization rates, accrued depreciations, and depreciation rates shall be discussed and computations and comparisons shown. Comparison charts (such as rental comparisons, constructions cost comparisons, etc.) shall be developed where feasible.

Items 5 through 8 are applicable only to partial estate interest appraisals:

5. In accordance with established legal principles and procedures, the before value of the property shall be estimated as of the date of the appraisal without allowance of enhancement and/or diminution in value due to the project.

6. In the before acquisition appraisal, sales occurring after the date of the project shall be used in estimating value only if there is no project-related enhancement and/or diminution. In the after acquisition appraisal, applicable sales occurring up to the date of the appraisal shall be used with full consideration given to the effects of the acquisition and the project in the estimate of value.

7. In the after acquisition appraisal, the estimate of value shall be developed by comparison with sales of properties encumbered by similar easements. If this cannot be done, the appraiser shall develop the estimate by direct comparison or other use of sales which give evidence of the value attributable to the subject's utility in its encumbered state.

8. The after acquisition appraisal shall, as a minimum, contain the following:

- a. A brief description of the partial estate interest acquired.
- b. A description of the property rights acquired and a discussion of all the restrictions on the grantor and effect, if any, on the value of the subject.
- c. A discussion of the appraiser's interpretation of the property rights acquired.

d. A comprehensive description of the remainder in the after acquiring condition.

e. A discussion of the effect of the acquiring and the project on the remainder, showing highest and best use in the after condition and describing how benefits or damages occur.

d. Correlation and Final Value Estimate. The appraiser shall interpret the foregoing estimate and shall state his/her reasons why one or more of the conclusions reached in the estimate of value section are the best indicators of market value of the subject. The indicated value estimates derived through more than one approach to value will be correlated to reach the final estimate of value. If only the direct sales comparison approach is used, the indications given by the various sales will be correlated to reach the final estimate, showing which sale or sales were considered most comparable and provided the best value indicators. Where the "before and after" method is used to estimate just compensation, separate correlations are needed for the "before estimate" and the "after estimate".

The following item is applicable to partial estate interest appraisals only:

e. Estimate of Total Compensation. The appraiser's estimate of total compensation shall be derived as the difference between the estimated market value before the acquiring and the estimated market value of the property after the acquiring and as affected by the project. The method automatically takes into account diminution in value of and any benefits to the remainder.

This shall be shown as follows:

Value Before	\$ _____
Value After	\$ _____
Estimate of Just Compensation	\$ _____

The estimate of just compensation shall be summarized as follows:

Value of Part Acquired	\$ _____
Damages	\$ _____
Benefits	\$ _____
Estimated Total Just Compensation	\$ _____

The sum of the value of the part acquired and damages, less the benefits, must equal the difference between the before and after values.

- f. A Certification Statement will be included that is consistent with USPAP and UASFLA.

4. PART IV - ADDENDA

All maps shall be originals of high quality with properties depicted in color (i.e. subject - red; comparable - green). They shall be of sufficient detail, with legend, scale, and north arrow, in order that properties may be readily located on the ground using the maps.

The addenda shall include:

- a. Area Map - Small scale map showing the general location of the subject neighborhood.
- b. Neighborhood Map - Shall show the subject property and its immediate vicinity. The area and neighborhood maps may be combined if appropriate.
- c. Subject Property Map or Plat - A large scale map that clearly shows the dimensions and topography of the subject property.
- d. Comparable Sales Location Map - This shall show the location of sales used in estimating market value of the subject property in relationship to the subject.
- e. Comparable Sales Form - For all transactions used in the appraisal, show all of the pertinent information concerning each comparable. At a minimum, each verification will display the names of the state and geographic location, recording district, community area, grantor, grantee, estate purchased, instrument, tax parcel number, book/page, date, size, price, unit price, date of verification by whom and with whom, terms, legal description, access, utilities, zoning, highest and best use, current use, improvements, vegetation, topography, and soils. There should also be a remarks section.
- f. Full legal description of subject property as presented in the preliminary title report.
- g. Statement of the date(s) the subject property was inspected with the property owner or its representative and the governmental representative (or a statement that the property owner or the governmental representative(s) was invited but declined to accompany appraiser on the inspection).
- h. Photographs - The Contractor shall provide representative original color photographs of the subject property and all comparables in each copy of the final report. Photographs may be provided as a separate exhibit in the

addenda or included along with the narrative description of the subject property and sales. The following information shall be shown with each photograph:

1. Identification of scene in photograph (direction of view, etc.). The direction of view may be indicated on a map. If the photograph was taken from a distance such as an aerial or high vantage point, the approximate property boundaries must be clearly shown on the photograph. The boundaries of an area being appraised must be identified on one or more photographs of the subject, as appropriate.

2. The name of the individual taking the photograph.

3. The date the photograph was taken.

- i. Other Material - The appraiser shall include all other pertinent documents provided by the Contracting Officer or representative, plus appropriate charts, maps, etc.

- j. Qualifications of Appraiser - The qualifications of the appraiser shall be included in the report as evidence that the responsible person is qualified to make such an appraisal.

LEGAL DESCRIPTIONS

OLD01A

Seward Meridian, Alaska,

T.33S., R.24W.,

Sec. 19 (fractional), excluding U.S. Survey 8987 Lots 5 and 6,
and U.S. Survey 9263 Lots 1 and 2;

Sec. 20 (fractional), excluding U.S. Survey 9263 Lot 2 and U.S. Survey 10906;

Sec. 21 (fractional);

Sec. 28 (fractional), excluding U.S. Surveys 9263 Lots 3, 4 and 5, U.S. Survey
10836;

Sec. 29 (fractional), excluding U.S. Surveys 9263 Lots 3 and 4, and U.S.
Survey 10906;

Sec. 30, excluding U.S. Survey 8987 Lot 6, and U.S. Survey 9263 Lot 1.

Containing approximately 1,303 acres conveyed.

T33S., R.25W.,

Sec. 13 (fractional), excluding U.S. Survey 8987 Lot 2, U.S. Survey 9264;

Sec. 14 (fractional), excluding U.S. Survey 8987 Lots 1 and 2;

Sec. 23 (fractional), excluding U.S. Survey 8987 Lots 2 and 3;

Sec. 24 (fractional), excluding U.S. Survey 8987 Lots 3, 4 and 5;

Secs. 25, 26, 35 and 36.

Containing approximately 4,206 acres conveyed.

Aggregating approximately 5,509 acres conveyed.

OLD01B

Seward Meridian, Alaska.

T.33S., R.23W.,

Sec. 19 (fractional);

Sec. 29 (fractional), excluding U.S. Survey 9245 Lot 2;

Sec. 30 (fractional), excluding U.S. Survey 9245 Lots 1, 2 and 3.

Containing approximately 457 acres conveyed.

T.33S., R.24W.,

Sec. 24 (fractional);

Sec. 25 (fractional), excluding U.S. Survey 9170 Lot 4;

Sec. 26 (fractional), excluding U.S. Survey 9170 Lots 1 thru 4;

Sec. 27 (fractional), excluding U.S. Survey 9170 Lot 1.

Containing approximately 1,418 acres conveyed.

Aggregating approximately 1,875 acres conveyed.

OLD02A

Seward Meridian, Alaska,

T.34S., R.24W.,

Sec. 17, excluding U.S. Survey 9308 Lot 4;

Sec. 18, excluding U.S. Survey 10884 and U.S. Survey 9308 Lots 5 and 6;

Sec. 20 (fractional), excluding U.S. Survey 9308 Lots 3 and 4, U.S. Survey 10775 and U.S. Survey 10884.

Containing approximately 1,221 acres conveyed.

T.34S., R.25W.,

Secs. 1 and 2;

Secs. 11 and 12;

Sec. 13, excluding U.S. Survey 9308 Lots 6, 7 and 8;

Sec. 14 (fractional), excluding U.S. Survey 9308 Lots 8, 9 and 10.

Containing approximately 3,555 acres conveyed.

Aggregating approximately 4,776 acres conveyed.

OLD02B

Seward Meridian, Alaska,

T.34S., R.23W.,

Secs. 4 (fractional) (selected);

Secs. 8 and 9 (fractional) (selected);

Sec. 18 (fractional) (conveyed).

Containing approximately 185 acres conveyed and 905 acres selected.

T.34S., R.24W.,

Sec. 13 (fractional), excluding U.S. Survey 8988;

Sec. 14, excluding U.S. Survey 8988;

Sec. 21 (fractional), excluding U.S. Survey 9308 Lot 1;

Secs. 22 thru 24 (fractional).

Containing approximately 1,875 acres conveyed.

Aggregating approximately 2,060 acres conveyed and 905 acres selected.

OLD03

Seward Meridian, Alaska,

T.34S., R.25W.,

Secs. 3 through 8;

Sec. 9 (fractional);

Sec. 10;

Secs. 15 and 16 (fractional);

Sec. 17, excluding U.S. Survey 4793;

Sec. 18;

Sec. 19, excluding U.S. Survey 4793;

Sec. 20, excluding U.S. Survey 4793;

Sec. 21 (Kodiak Island, fractional), U.S. Survey 4793;

Sec. 30, excluding U.S. Surveys 474 and 4793;

Sec. 31 (fractional).

Aggregating approximately 8,650 acres conveyed.

Conservation Easement

T.34S., R.25W.,

Sec. 9 (fractional);

Secs. 15-16 (fractional).

Containing approximately 1,465 acres conveyed.

OLD04

Seward Meridian, Alaska,

T.34S., R.26W.,

Secs. 21 and 22;

Secs. 25 through 27 (fractional);

Sec. 28;

Secs. 35 and 36 (fractional).

Containing approximately 3,795 acres conveyed.

T.35S., R.26W.,

Sec. 2 (fractional), excluding U.S. Survey 8997 Lot 2;

Secs. 10 and 11 (fractional);

Sec. 15 (fractional).

Containing approximately 795 acres conveyed.

Aggregating approximately 4,590 acres conveyed.

Conservation Easement

T.34S., R.26W.,

Secs. 26 and 27 (fractional);

Containing approximately 765 acres conveyed.

Seward Meridian, Alaska,

T.34S., R.26W.,

Secs. 29 and 30;

Sec. 31 (fractional), excluding U.S. Survey 8946.

Containing approximately 1,736 acres conveyed.

T.35S., R.26W.,

Sec. 6 (fractional);

Sec. 7 (fractional), excluding U.S. Survey 10771 and U.S. Survey 372;

Sec. 18 (fractional), excluding U.S. Survey 9289 Lots 1 thru 3 and U.S. Survey 372;

Sec. 19 (fractional), excluding U.S. Survey 9289 Lot 3;

Secs. 20 and 21 (fractional);

Secs. 29 and 30 (fractional);

Sec. 31 (fractional), excluding U.S. Survey 9327.

Containing approximately 1,533 acres conveyed.

T.36S., R.26W.,

Secs. 6 and 7 (fractional).

Containing approximately 152 acres conveyed.

T.34S., R.27W.,

Sec. 36 (fractional).

Containing approximately 475 acres conveyed.

T.35S., R.27W.,

Sec. 13 (fractional);

Sec. 24 (fractional), excluding U.S. Survey 10687 Lots 1 and 2;

Sec. 25 (fractional), excluding U.S. Survey 10687 Lots 2 and 3.

Containing approximately 548 acres conveyed.

Aggregating approximately 4,444 acres conveyed.

INTERIM CONVEYANCE DOCUMENTS

INTERIM CONVEYANCE

WHEREAS

Old Harbor Native Corporation

is entitled to a conveyance pursuant to Secs. 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 702, 715; 43 U.S.C. 1601, 1613(a), 1621(j) (Supp. V, 1975)), of the surface estate in the following described lands:

LANDS OUTSIDE THE KODIAK NATIONAL WILDLIFE REFUGE (PLO 1634)

Seward Meridian, Alaska (Unsurveyed)

T. 33 S., R. 23 W.
Sec. 7 (fractional), all.

Containing approximately 10 acres.

T. 33 S., R. 24 W.
Secs. 6 and 7 (fractional), all;
Sec. 18 (fractional), that portion outside PLO 1634.

Containing approximately 659 acres.

T. 33 S., R. 25 W.
Sec. 13 (fractional), that portion outside PLO 1634
and excluding Native allotment AA-7484 Parcel B.

Containing approximately 180 acres.

T. 34 S., R. 23 W.
Secs. 31, 32 and 33 (fractional), all.

Containing approximately 720 acres.

T. 34 S., R. 24 W.
Sec. 29 (fractional), all;
Sec. 30 (fractional), excluding Alaska Native Claims
Settlement Act Sec. 1(e) application AA-12838;
Secs. 31, 33, 34 and 35 (fractional), all.

Containing approximately 631 acres.

T. 34 S., R. 25 W.
Sec. 21 (fractional), that portion outside PLO 1634
and excluding U.S. Survey 4793;
Sec. 22 (fractional), all;
Sec. 23 (fractional), that portion outside PLO 1634;
Secs. 25, 26 and 27 (fractional), all;
Sec. 28 (fractional), excluding Native allotment
AA-7510 Parcel A;
Sec. 29 (fractional), excluding Amended U.S. Survey 4656
and U.S. Survey 4793;
Sec. 32 (fractional), all;
Sec. 33 (fractional), excluding Native allotment
AA-7510 Parcel A and U.S. Survey 4953 (Soldier's
Additional Homestead A-067809);
Sec. 34, all;

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Sec. 35 (fractional), all;
Sec. 36, all.

Containing approximately 4,323 acres.

T. 35 S., R. 23 W.

Secs. 1 to 4 (fractional), inclusive, all;
Sec. 5, all;
Sec. 6 (fractional), all;
Secs. 7 to 11, inclusive, all;
Secs. 12, 13 and 14 (fractional), all;
Secs. 15 to 18, inclusive, all;
Secs. 19 to 23 (fractional), inclusive, all;
Secs. 26 to 30 (fractional), inclusive, all.

Containing approximately 10,868 acres.

T. 35 S., R. 24 W.

Secs. 1 to 6 (fractional), inclusive, all;
Sec. 7 (fractional), excluding U.S. Survey 1743;
Secs. 8 and 9, all;
Secs. 10 and 11 (fractional), all;
Sec. 12, all;
Sec. 13 (fractional), all;
Sec. 14, all;
Sec. 15 (fractional), all;
Secs. 18 to 20, inclusive, all;
Secs. 21 and 22 (fractional), all;
Sec. 23, all;
Secs. 24 to 28 (fractional), inclusive, all;
Secs. 29 and 30, all;
Secs. 31, 32, 33 and 34 (fractional), all.

Containing approximately 15,479 acres.

T. 35 S., R. 25 W.

Sec. 1 (fractional), all;
Secs. 2, 3 and 4, all;
Secs. 5, 6 and 7 (fractional), all;
Secs. 8, 9 and 10, all;
Secs. 11 and 12 (fractional), all;
Sec. 13 (fractional), excluding U.S. Survey 2897;
Sec. 14 (fractional), excluding U.S. Survey 2897;
Secs. 15, 16 and 17, all;
Sec. 18 (fractional), all;
Secs. 19, 20, 21 and 22, all;
Sec. 23 (fractional), excluding U.S. Survey 2897;
Sec. 24, excluding U.S. Survey 2897;
Secs. 25, 26 and 27, all;
Secs. 28 to 33 (fractional), inclusive, all;
Secs. 34 and 35, all;
Sec. 36 (fractional), all.

Containing approximately 20,585 acres.

T. 35 S., R. 26 W.

Sec. 13 (fractional), all;
Secs. 23 to 27 (fractional), inclusive, all;
Secs. 35 and 36 (fractional), all.

Containing approximately 2,310 acres.

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T. 36 S., R. 26 W.

Secs. 1, 2 and 3 (fractional), all;
 Secs. 10 to 15 (fractional), inclusive, all;
 Secs. 23, 24 and 25 (fractional), all;
 Secs. 35 and 36 (fractional), all.

Containing approximately 2,715 acres.

Aggregating approximately 58,480 acres outside PLO 1634.

LANDS WITHIN THE KODIAK NATIONAL WILDLIFE REFUGE (PLO 1634)

Seward Meridian, Alaska (Unsurveyed)

T. 33 S., R. 23 W.

Secs. 19, 29 and 30 (fractional), all.

Containing approximately 696 acres.

T. 33 S., R. 24 W.

Sec. 18 (fractional), that portion within PLO 1634;
 Secs. 19, 20 and 21 (fractional), all;
 Sec. 24 (fractional), all;
 Sec. 25 (fractional), excluding Native allotment
 AA-7128 Parcel B;
 Sec. 26 (fractional), excluding Native allotment
 AA-7128 Parcel B;
 Secs. 27, 28 and 29 (fractional), all;
 Sec. 30, all.

Containing approximately 3,975 acres.

T. 33 S., R. 25 W.

Sec. 13 (fractional), that portion within PLO 1634
 and excluding Native allotment AA-7484 Parcel B;
 Sec. 14 (fractional), excluding Native allotments
 AA-7483 Parcel B and AA-7484 Parcel B;
 Sec. 23 (fractional), excluding Native allotments
 AA-7327 and AA-7484 Parcel B;
 Sec. 24 (fractional), all;
 Secs. 25, 26, 35 and 36, all.

Containing approximately 4,270 acres.

T. 34 S., R. 23 W.

Sec. 18 (fractional), all.

Containing approximately 185 acres.

T. 34 S., R. 24 W.

Sec. 13 (fractional), all;
 Secs. 14, 17 and 18, all;
 Secs. 19 to 24 (fractional), inclusive, all.

Containing approximately 4,090 acres.

T. 34 S., R. 25 W.

Secs. 1 to 8, inclusive, all;
 Sec. 9 (fractional), all;
 Secs. 10, 11 and 12, all;
 Sec. 13, excluding Native allotment AA-7496;
 Secs. 14, 15 and 16 (fractional), all;
 Sec. 17, excluding U.S. Survey 4793;
 Sec. 18, all;

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Sec. 19, excluding Amended U.S. Survey 4656;
Sec. 20 (fractional), excluding Amended U.S.
Survey 4656 and U.S. Survey 4793;
Sec. 21 (fractional), that portion within PLO 1634
and excluding U.S. Survey 4793;
Sec. 23 (fractional), that portion within PLO 1634
and excluding Alaska Native Claims Settlement Act
Sec. 3(e) application AA-14288;
Sec. 24 (fractional), excluding Native allotment
AA-7496;
Sec. 30 (fractional), excluding Amended U.S.
Survey 4656, U.S. Survey 4793 and U.S.
Survey 474;
Sec. 31 (fractional), excluding Amended U.S. Survey 4656.

Containing approximately 12,084 acres.

T. 34 S., R. 26 W.

Secs. 21 and 22, all;
Secs. 25, 26 and 27 (fractional), all;
Secs. 28, 29 and 30, all;
Sec. 31 (fractional), excluding Native allotment
AA-7142 Parcel B;
Secs. 35 and 36 (fractional), all.

Containing approximately 5,531 acres.

T. 34 S., R. 27 W. (Partially Surveyed)

Sec. 36 (fractional), all.

Containing approximately 475 acres.

T. 35 S., R. 26 W.

Sec. 2 (fractional), excluding Native allotments
AA-7516 Parcel A and AA-7510 Parcel B;
Sec. 6 (fractional), all;
Sec. 7 (fractional), excluding U.S. Survey 372;
Sec. 10 (fractional), excluding Native allotment
AA-7516 Parcel A;
Sec. 11 (fractional), excluding Native allotment
AA-7516 Parcel A;
Sec. 15 (fractional), all;
Sec. 18 (fractional), excluding U.S. Survey 372;
Secs. 19, 20 and 21 (fractional), all;
Secs. 29 and 30 (fractional), all;
Sec. 31 (fractional), excluding Native allotment
AA-7509.

Containing approximately 2,719 acres.

T. 35 S., R. 27 W.

Sec. 13 (fractional), all;
Sec. 24 (fractional), excluding Native allotment
AA-7142 Parcel A;
Sec. 25 (fractional), excluding Native allotment
AA-7509.

Containing approximately 645 acres.

T. 36 S., R. 26 W.

Secs. 6 and 7 (fractional), all.

Containing approximately 155 acres.

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Aggregating approximately 14,825 acres within PLO 1634.

Total aggregated acreage, approximately 93,105 acres.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES OF AMERICA, unto the above-named corporation the surface estate in the land above-described, TO HAVE AND TO HOLD the said estate with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said corporation, its successors and assigns, forever;

EXCEPTING AND RESERVING TO THE UNITED STATES from the lands so granted:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)).
2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6687-EE, are reserved to the United States and subject to further regulation thereby:
 - a. (EIN 7 E, D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 6 D9, E on the shore of Kiliuda Bay north-westerly along the right bank of an unnamed stream to public land in Sec. 15, T. 33 S., R. 25 W., Seward Meridian and continuing on in the same manner to public lands farther north. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
 - b. (EIN 9a D1, D9, C6, C4) An easement for a proposed access trail twenty-five (25) feet in width from the south shore of Kiliuda Bay in Sec. 30, T. 33 S., R. 23 W., Seward Meridian, southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
 - c. (EIN 9b D9) An easement for a proposed access trail twenty-five (25) feet in width from the south shore of Kiliuda Bay in Sec. 28, T. 33 S., R. 24 W., Seward Meridian, southwest to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
 - d. (EIN 10 D9) An easement for a proposed access trail twenty-five (25) feet in width from the north shore of Sitchalidak Strait in Sec. 13, T. 34 S., R. 24 W., Seward Meridian, northwest to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

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- a. (EIN 11 D9) An easement for a proposed access trail twenty-five (25) feet in width from the north shore of Sitkalidak Strait in Sec. 20, T. 34 S., R. 24 W., Seward Meridian northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- f. (EIN 12 D9, L) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of an unnamed stream from its outlet at the head of Midway Bay extending 1 1/2 miles upstream to the eastern border of Sec. 8, T. 34 S., R. 25 W., Seward Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.
- g. (EIN 13 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 16, T. 34 S., R. 25 W., Seward Meridian at the outlet of an unnamed stream flowing into Midway Bay. The site has an additional twenty-five (25) foot wide easement on the bed of the unnamed stream along the entire stream waterfront. The site is for camping, staging and vehicle use.
- h. (EIN 15 D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 17 D9 on the shore of Barling Bay northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- i. (EIN 17 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 27, T. 34 S., R. 26 W., Seward Meridian on the shore of Barling Bay. The site is for camping, staging and vehicle use.
- j. (EIN 18a D1, D9, C6, C4) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 17 D9 on the shore of Barling Bay southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- k. (EIN 18b D1, D9, C6, C4) An easement for a proposed access trail twenty-five (25) feet in width from the shore of Three Saints Bay in Sec. 6, T. 35 S., R. 26 W., Seward Meridian northeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- l. (EIN 18c D1, D9, C6, C4) An easement for a proposed access trail twenty-five (25) feet in width from the shore of Three Saints Bay in Sec. 18, T. 35 S., R. 26 W., Seward Meridian northeast to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

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Date

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- m. (EIN 18d D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 17 D9 on the shore of Barling Bay westerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- n. (EIN 20 C5, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.
- o. (EIN 27 D1, D9, C6, C4) An easement for a proposed access trail twenty-five (25) feet in width from streamside EIN 12 D9, L in Sec. 8, T. 34 S., R. 25 W., Seward Meridian northerly along the left bank of an unnamed stream to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- p. (EIN 29 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.
- q. (EIN 30a E) A one (1) acre site easement upland of the ordinary high water mark in Secs. 14 and 23, T. 35 S., R. 25 W., Seward Meridian on the shore of McCord Bay. The site is for camping, staging and vehicle use.
- r. (EIN 30b E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 33, T. 35 S., R. 25 W., Seward Meridian on the shore of Sitkalida Lagoon. The site is for camping, staging and vehicle use.
- s. (EIN 30c E) An easement for an existing access trail fifty (50) feet in width from site EIN 30a E on the shore of McCord Bay southwesterly to site EIN 30b E on the shore of Sitkalida Lagoon and continuing on southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

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- c. (EIN 31 E) An easement for an existing access trail fifty (50) feet in width from site EIN 30a E on the shore of McCord Bay southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- u. (EIN 32a E) A one (1) acre site easement upland of the ordinary high water mark at Nunamiut, Sec. 24, T. 35 S., R. 27 W., Seward Meridian on the shore of Three Saints Bay. The site is for camping, staging and vehicle use.
- v. (EIN 32b E) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 32a E on the shore of Three Saints Bay westerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the Departmental easement policy announced March 1, 1978 and published as final rulemaking on November 27, 1978, 43 FR 35326. Conformance will be made at a later date in accordance with the terms and conditions of the agreement dated November 12, 1976, between the Secretary of the Interior; Koniag, Inc., Regional Native Corporation; Old Harbor Native Corporation and other Koniag village corporations.

THE GRANT OF THE ABOVE-DESCRIBED LANDS IS SUBJECT TO:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;
3. Grazing lease A-050255 to Kenneth Arndt on Sitkalidak Island (excluding U.S. Surveys 2897 and 1743) under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a, 471c);
4. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (Supp. V, 1975)), that (a) the portion of the above-described lands which has been withdrawn by PLO 1634 on May 9, 1958, and is now a part of the Kodiak National Wildlife Refuge, remains subject to the laws and regulations governing use and development of such Refuge, and that (b) the United States reserve from the conveyance the right of first refusal if the said portion of land in such Refuge, or any part thereof, is ever sold by the above-named village corporation;
5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703;

Interim Conveyance No. 165

Date March 1973

43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantees hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

6. The terms and conditions of the agreement dated November 12, 1976, between the Secretary of the Interior; Koniag, Inc., Regional Native Corporation; Old Harbor Native Corporation and other Koniag village corporations. A copy of the agreement is hereby attached to and made part of this conveyance document.

IN WITNESS WHEREOF, the undersigned authorized officer of the Bureau of Land Management has, in the name of the United States, set his hand and caused the seal of the Bureau to be hereunto affixed this eighth day of March, 1979, in Anchorage, Alaska.

UNITED STATES OF AMERICA

Wm D Arnold
Assistant to the State Director
for ANCSA

65 PAGE 701
BUREAU OF LAND MANAGEMENT

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RELEASE OF INTEREST

Old Harbor Native Corporation

On March 8, 1979, Interim Conveyance No. 165 was issued to Old Harbor Native Corporation pursuant to Secs. 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), 1621(j) (Supp. V, 1975)), for the surface estate of those lands listed therein, such conveyance having been granted by the United States of America, unto the above-named corporation with certain reservations of interests made to the United States; now hereto comes the United States of America and releases forever the below-listed interests, or portions thereof formerly reserved and numbered in Interim Conveyance No. 165, as public easements designated pursuant to Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), and described as follows:

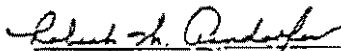
- f. (EIN 12 D9, L) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of an unnamed stream from its outlet at the head of Midway Bay extending 14 miles upstream to the eastern border of Sec. 3, T. 34 S., R. 25 W., Seward Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.
- g. (EIN 20 C5, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as anchoring of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be

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exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

UNITED STATES OF AMERICA



Robert W. Arndorfer
Deputy State Director for Conveyance
Management

AA-6687-EE
AA-6687-A.

65-703

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF ALASKA)
Municipality of Anchorage) ss:

On this 29th day of November, 1982, before me, a
Notary Public, in and for the said Municipality and State, came
Robert W. Anderson, to me personally known to be the
identical person described in and who executed the within and
foregoing instrument and acknowledged to me that he
executed the same to be his free and voluntary act
and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed
my official seal on the day and year first above written.



(SEAL)

Thandi A. Pedersen
Notary Public in and for the
State of Alaska
Residing at 3607 W. 4th Ave. Anchorage, Alaska
My commission expires: May 12, 1986

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2: Conrad, C. R.
1002... Rp. 742 E. 1st, Hk.

SCHEDULE "A" TITLE REPORT AND CORRESPONDENCE

JAMIN, EBELL, BOLGER, & GENTRY

A PROFESSIONAL CORPORATION

JOEL H. BOLGER*
C. WALTER EBELL*
DIANNA R. GENTRY
MATTHEW D. JAMIN
ALAN L. SCHMITT

ATTORNEYS AT LAW
323 CAROLYN STREET
KODIAK, ALASKA 99615

TELEPHONE: (907) 486-6024
FACSIMILE: (907) 486-6112

REPLY TO KODIAK OFFICE

ANCHORAGE OFFICE:
1200 I STREET, SUITE 704
ANCHORAGE, ALASKA 99501
TELEPHONE AND FAX
(907) 278-6100

SEATTLE OFFICE:
300 MUTUAL LIFE BUILDING
805 FIRST AVENUE
SEATTLE, WASHINGTON 98104
TELEPHONE: (206) 622-7634
FACSIMILE: (206) 623-7521

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

July 7, 1994

SENT VIA FAX NO. (206) 448-5509,
AND U.S. MAIL

Larry K. Shorett
SHORETT & RILEY
121 Stewart Street, Suite 200
Seattle, WA 90101

RE: Preliminary Commitment for Title Insurance

Dear Larry:

I have had the opportunity to review the 11 pages which you faxed to me on July 5. As a preliminary matter, I checked the legal description of the land as contained in paragraph 4 of Schedule A of the document. It appears to be correct, except that the selected but unconveyed lands are not listed. The lands which have been omitted are as follows:

T 33 S, R 25 W: §3, 10, 11, 27, 29, 30, 31 & 32

T 34 S, R 26 W: §4, 9 & 16

T 34 S, R 27 W: §35

T 35 S, R 27 W: §2, 3, 10 & 11.

Regarding the exceptions listed on Schedule B, I can provide you with the following information. This will be done to coincide with the paragraph numbers used on the title report.

1. There are no taxes or assessments on Old Harbor's lands. They have specifically been exempted from taxation by Section 907(d)(ii) of P.L. 100-241. This is not of concern.

2. This is a standard exception. I have no personal knowledge of any matters which would be covered by this. If you noted anything during your tour of the lands, perhaps we should discuss this further.

July 7, 1994

Re: Preliminary Commitment for Title Insurance

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3. The title report does not describe the easements which I mentioned in my June 27, 1994 letter to Diane Black-Smith. I believe you have a copy of that letter and the two Settlement and Release Agreements which were sent with it. If not, please let me know.

4. This is a standard exception. I have no reason to believe there are any major concerns in this regard.

5. I am not aware of any matters which would be covered by this exception.

6. I am not aware of any liens.

7. We have been informed that OHNC will receive a patent to its lands once all of the allotment issues have been resolved. This should happen within the next 12 to 24 months.

8. This is a repeat of number four.

9.

a. I am aware of no other existing rights covered by this subparagraph.

b. OHNC has completed its 14(c) process and, other than conveyances to the City of Old Harbor, there were no claims. This is not an issue.

10. We are not aware of any recent interpretations of Section 22(g). It continues to be the belief of OHNC that it may make full use of its lands.

11.

a. This is not applicable as there is no marketable timber on OHNC's lands.

b. Also not applicable.

12. I am not aware of any other adverse claims of right, title or interest created or conveyed by the Secretary of the Department of the Interior. It is particularly noteworthy, however, that title to the subsurface of these lands was retained by the United States. This was controlled by Section 14(f) of ANCSA.

July 7, 1994

Re: Preliminary Commitment for Title Insurance

Page 3

13. A review of 43 USC §932 shows that it was repealed by P.L. 94-579 effective October 21, 1976. (The reference to "1721 CLA 1933" is not a citation with which I am familiar and it does not appear in A Uniform System of Citation.) Since Interim Conveyance 165 came after October 21, 1976, and there appears to be no contrary authority, it is my opinion that these easements are not of concern. Even if they were, it would seem that any comparable sales would likewise be so affected.

14. I am not aware of any claims covered by this exception.

15. - 24. These paragraphs pertain to native allotments which we could connect with the various small parcels. However, we would actually need to see the various documents referred to in these paragraphs. I do not believe this should be a cause for concern.

25. I believe this relates to the Berns' home located on the "outskirts" of the City of Old Harbor. It should be a relatively small parcel of land. I will actually need to review the deed to comment further.

26. & 27. These are native allotments and my comments regarding paragraphs 15 - 24 would apply here, as well.

28. - 33. This pertains to the airport. A section of the airport land was formerly owned by OHNC. As part of the construction planning process, OHNC was required to deed the land to the City of Old Harbor. The City then deeded it to the State Department of Transportation and Public Facilities. Please let me know if you have any other questions in that regard.

34. & 35. These are native allotments which would be covered by my previous comments.

36. I believe this would be the land for the City's landfill. You may have noticed this on your tour of OHNC's lands. This was in partial satisfaction of OHNC's 14(c) obligation.

37. - 39. No comment.

July 7, 1994

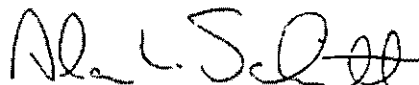
Re: Preliminary Commitment for Title Insurance

Page 4

I hope this is helpful. If you need more information, please
fee free to call.

Sincerely yours,

JAMIN, EBELL, BOLGER & GENTRY

A handwritten signature in dark ink, appearing to read "Alan L. Schmitt". The signature is stylized with a large initial "A" and a long, sweeping underline.

Alan L. Schmitt

ALS:js

cc: C. Walter Ebell, Esq.

3765\04L.010

TRANSALASKA TITLE INSURANCE AGENCY, INC.
COMMITMENT FOR TITLE INSURANCE

SCHEDULE A

Order No. 594-563

1. Commitment Date: May 23, 1994 at 8:00 A.M.

2. Policy or Policies to be issued:

	Amount	Premium
Owners' Standard Coverage	\$Undisclosed	\$250.00

3. Title to the property described herein is vested on the date shown above in:

OLD HARBOR NATIVE CORPORATION

4. The land referred to in this Commitment is described as follows:

Section 19 (fractional), excluding U.S. Survey 8987 Lots 5 and 6 and U.S. Survey 9263 Lots 1 and 2;

Section 20 (fractional), excluding U.S. Survey 9263 Lot 2 and U.S. Survey 10906;

Section 21 (fractional);

Section 28 (fractional), excluding U.S. Survey 9263 Lots 3, 4 and 5, U.S. Survey 10836;

Section 29 (fractional), excluding U.S. Survey 9263 Lots 3 and 4, and U.S. Survey 10906;

Section 30, excluding U.S. Survey 8987 Lot 6 and U.S. Survey 9263 Lot 1

All located in Township 33 South, Range 24 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 13 (fractional), excluding U.S. Survey 8987 Lot 2 and U.S. Survey 9264

Section 14 (fractional), excluding U.S. Survey 8987 Lots 1 and 2;

Section 23 (fractional), excluding U.S. Survey 8987 Lots 2 and 3;

Section 24 (fractional), excluding U.S. Survey 8987 Lots 3, 4 and 5;

Sections 25, 26, 35 and 36

All located in Township 33 South, Range 25 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 19 (fractional);
Section 29 (fractional), excluding U.S. Survey 9245 Lot 2;
Section 30 (fractional), excluding U.S. Survey 9245 Lots 1, 2 and 3

All located in Township 33 South, Range 23 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 24 (fractional);
Section 25 (fractional), excluding U.S. Survey 9170 Lot 4;
Section 26 (fractional), excluding U.S. Survey 9170 Lots 1 through 4;

Section 27 (fractional), excluding U.S. Survey 9170 Lot 1
All located in Township 33 South, Range 24 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 17, excluding U.S. Survey 9308 Lot 4;
Section 18, excluding U.S. Survey 10884 and U.S. Survey 9308 Lots 5 and 6;

Section 20 (fractional), excluding U.S. Survey 9308 Lots 3 and 4, U.S. Survey 10775 and U.S. Survey 10884

All located in Township 34 South, Range 24 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Sections 1 and 2;
Sections 11 and 12;
Section 13, excluding U.S. Survey 9308 Lots 6, 7 and 8;
Section 14 (fractional), excluding U.S. Survey 9308 Lots 8, 9 and 10

All located in Township 34 South, Range 25 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 4 (fractional);
Sections 8 and 9 (fractional);
Section 18 (fractional)
All located in Township 34 South, Range 23 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 13 (fractional), excluding U.S. Survey 8988;
Section 14, excluding U.S. Survey 8988;
Section 21 (fractional), excluding U.S. Survey 9308 Lot 1;
Section 22 through 24 (fractional)
All located in Township 34 South, Range 24 West, Seward
Meridian, Kodiak Recording District, Third Judicial District,
State of Alaska.

Sections 3 through 8;
Section 9 (fractional);
Section 10;
Section 15 and 16 (fractional);
Section 17, excluding U.S. Survey 4793;
Section 18;
Section 19; excluding U.S. Survey 4793;
Section 20; excluding U.S. Survey 4793;
Section 21 (fractional), U.S. Survey 4793;
Section 30, excluding U.S. Surveys 474 and 4793;
Section 31 (fractional)
All located in Township 34 South, Range 25 West, Seward
Meridian, Kodiak Recording District, Third Judicial District,
State of Alaska.

Section 9 (fractional);
Sections 15 through 16 (fractional)
All located in Township 34 South, Range 25 West, Seward
Meridian, Kodiak Recording District, Third Judicial District,
State of Alaska.

Sections 21 and 22;
Section 25 through 27 (fractional);
Section 28;
Sections 35 and 36 (fractional)
All located in Township 34 South, Range 26 West, Seward
Meridian, Kodiak Recording District, Third Judicial District,
State of Alaska.

Section 2 (fractional), excluding U.S. Survey 8997 Lot 2;
Sections 10 and 11 (fractional);
Section 15 (fractional)
All located in Township 35 South, Range 26 West, Seward
Meridian, Kodiak Recording District, Third Judicial District,
State of Alaska.

Sections 26 and 27 (fractional)

TransAlaska Title Insurance Agency, Inc.

File No. 594-563

Page 4:

All located in Township 34 South, Range 26 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Sections 29 and 30;

Section 31 (fractional), excluding U.S. Survey 8946

All located in Township 34 South, Range 26 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 6 (fractional);

Section 7 (fractional), excluding U.S. Survey 10771 and U.S. Survey 372;

Section 18 (fractional), excluding U.S. Survey 9289 Lots 1 through 3 and U.S. Survey 372;

Section 19 (fractional), excluding U.S. Survey 9289 lot 3;

Sections 20 and 21 (fractional);

Sections 29 and 30 (fractional);

Section 31 (fractional), excluding U.S. Survey 9327

All located in Township 35 South, Range 26 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 6 and 7 (fractional)

All located in Township 36 South, Range 26 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 36 (fractional)

All located in Township 34 South, Range 27 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

Section 13 (fractional);

Section 24 (fractional), excluding U.S. Survey 10687 Lots 1 and 2;

Section 25 (fractional), excluding U.S. Survey 10687 Lots 2 and 3

All located in Township 35 South, Range 27 West, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

AK Commitment (6/93)

SCHEDULE B - SECTION 1

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay the premiums, fees and charges for the policy.
- (c) Documents satisfactory creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) Disclose in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.

AK Commitment (6/93)

SCHEDULE B - SECTION 2

Exceptions

Any standard policy we issue will contain the following exceptions:

PART ONE:

1. Taxes or assessments which are not shown as existing liens by the records or any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of person in possession thereof.
3. Easements, claims or easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or materials theretofore or hereafter furnished, imposed by law and not shown by the public records.

PART TWO

7. Any defect or invalidity of the title to said land based on the fact that no patent has been issued by the United States of America. Upon the issuance of said patent and recordation thereof in the Kodiak Recording District, said land will be subject to all the provisions and reservations contained therein.
8. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or other facts which a correct survey would disclose, and which are not shown by the public records.
9. Terms, reservations, conditions and provisions contained in the interim conveyance from the United States of America as herein noted,

Dated : March 3, 1979
Recorded : June 4, 1979
Book/Page : 44/522

- a) Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec 6(g) of the Alaska Statehood Act of July 7, 1958, (72 Stat., 339, 341; 48 U.S.C. Ch. 2 Sec. 6(g) (1976), contract, permit, right of way or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17 (b) (2) of the Alaska Native Claims Settlement Act, any valid existing right recognized by said ANCSA shall continue to have whatever right of access as is now provided by law.
 - b) Requirements of 14 (c) of the Alaska Native Claims Settlement Act of December 18, 1971.
10. Provisions contained in Section 22 (g) of the Alaska Native Claims Settlement Act of December 18, 1971, as follows:
"If a patent is issued to a village corporation for land in the National Wildlife Refuge System, the patent shall reserve to the United States the right of first refusal if the land is ever sold by the village corporation and shall contain a provision that such lands remain subject to the laws and regulations governing use and development of such refuge."
11. The provision contained in Section 22 (k) of the Alaska Native Claims Settlement Act of December 18, 1971, as follows:
- (a) The sale of any timber from such lands shall, for a period of 5 years, be subject to the same restrictions relating to the export of timber from the United States as are applicable to National Forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and
 - (b) Such lands are managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent National Forest lands for a period of 12 years.
12. Any adverse claim of right, title or interest created or conveyed by the Secretary of the Department of the Interior, including any application to such claim of right, title or interest which is pending before the Secretary of the Department of the Interior, pursuant to his powers and authority under Sec. 14 (d), (e), (f), and (h) of the Alaska Native Claims Settlement Act of December 18, 1971, including the amendments thereto, 43 U.S.C. Sec. 1601, 1613 (d), (e), (f) and (h).

13. Reservation of section line easement 33 feet in width along each side of section line as provided by 43 USC 932 and reenacted by 1721 CLA 1933.
14. Any adverse claim to any portion of said land which lies within the bed of various bodies of water, between the lines of mean high water.
15. Unrecorded Native Allotment as disclosed by Order recorded September 6, 1985 in Book 75 at Page 655.
16. The possible right, title and interest of Martha Peninjohn Nekeffer and Vera Lukovitch Marvin, as revealed by Order recorded September 6, 1985 in Book 75 at Page 655.
17. Unrecorded Native Allotment as disclosed by Order recorded March 2, 1987 in Book 85 at Page 279.
18. The possible right, title and interest of George Inga, Sophia Ignatin, Polly Tunohun, Heirs of Barbara I. Swenning, and Polly Inga, as revealed by Order recorded March 2, 1987 in Book 85 at Page 279.
19. Unrecorded Native Allotment as disclosed by Order recorded March 2, 1987 in Book 85 at Page 282.
20. The possible right, title and interest of Polly Inga, as revealed by Order March 2, 1987 in Book 85 at Page 282.
21. Unrecorded Native Allotment as disclosed by Order recorded September 3, 1987 in Book 88 at Page 44.
22. The possible right, title and interest of Vera Lukovitch Marvin, Sarah Chokwak, William Ignatin, Nick Ignatin, Phillip Peninjohn, Nick Lukovitch, and Theron J. Cole, as revealed by Order recorded September 3, 1987 in Book 88 at Page 44.
23. Unrecorded Native Allotment as disclosed by Order recorded September 3, 1987 in Book 88 at Page 54.
24. The possible right, title and interest of Tany Inga, as revealed by Order recorded September 3, 1987 in Book 88 at Page 54.
25. The possible right, title and interest of James R. Berns and Wilma Berns, as revealed by Quit Claim Deed recorded December 11, 1987 in Book 89 at Page 305.

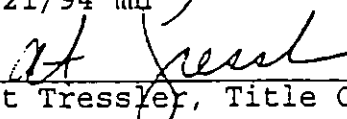
26. Unrecorded Native Allotment as disclosed by Order recorded July 5, 1989 in Book 96 at Page 877.
27. The possible right, title and interest of Sophia Grandmontagne, Alice Simeonoff Selbe, June S. Johnson, Cecilia S. Yagie, Viola S. Inga, Jacob J. Simeonoff, Jr., and LaVerna Simeonoff, as revealed by Order recorded July 5, 1989 in Book 96 at Page 877.
28. The possible right, title and interest of City of Old Harbor, Alaska, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 12.
29. The possible right, title and interest of City of Old Harbor, Alaska, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 20.
30. The possible right, title and interest of State of Alaska, Department of Transportation and Public Facilities, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 28.
31. The possible right, title and interest of State of Alaska, Department of Transportation and Public Facilities, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 38.
32. The possible right, title and interest of State of Alaska, Department of Transportation and Public Facilities, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 47.
33. The possible right, title and interest of State of Alaska, Department of Transportation and Public Facilities, as revealed by Deed recorded July 30, 1990 in Book 102 at Page 56.
34. Unrecorded Native Allotment as disclosed by Order recorded May 18, 1992 in Book 113 at Page 165.
35. The possible right, title and interest of Christine Ignatin, as revealed by Order recorded May 18, 1992 in Book 113 at Page 165.
36. The possible right, title and interest of city of Old Harbor, as revealed by Quit Claim Deed recorded July 1, 1993 in Book 120 at Page 759.

TransAlaska Title Insurance Agency, Inc.
File No. 594-563
Page 10:

37. Matters which may be disclosed by a search of the records against the names of the purchasers to be furnished later.
38. NOTE: This commitment is tentative until such time as we are advised of the final amount of insurance and/or proposed insured; in the event of cancellation, our fee is the minimum amount shown above.
39. This commitment and the chain upon which it is based is being sent in for review and approval to First American Title Insurance Company and is subject to any additions or recommendations made by them. We will advise upon receipt of their approval.

PAYMENTS MADE WILL BE CREDITED TOWARD THE FINAL BILLING

Thank you for your order. If we may be of any further assistance, please call.
6/21/94 mh


Pat Tressler, Title Officer

To: BlackSmith & Richard, Inc.
2602 Fairbanks Street
Anchorage, AK 99503
Attn: Diane Blacksmith

cc: TransAlaska - Kodiak

AK Commitment (6/93)

**KODIAK ISLAND BOROUGH
ZONING EXCERPTS**

Chapter 17.13

C-CONSERVATION DISTRICT

Sections:

- 17.13.010 Description and intent
- 17.13.020 Permitted principal uses and structures
- 17.13.030 Permitted accessory uses and structures
- 17.13.040 Conditional uses
- 17.13.050 Area requirements
- 17.13.060 Maximum lot coverage for structures
- 17.13.070 Building height limit
- 17.13.080 Setbacks from property lines
- 17.13.090 Special district regulations
- 17.13.100 Fences, parking and signs
- 17.13.110 Nonconformities

17.13.010 Description and intent. The Conservation (C) Zoning District is established for the purpose of maintaining open space areas while providing for single-family residential, and limited commercial land uses. For the conservation district, in promoting the general purposes of this title, the specific intentions of this chapter are:

- A. To encourage the use of land for single-family residential and limited commercial 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 the provisions of this chapter. (Repealed and re-enacted by Ord. 93-66 §2, 1993; Ord. 84-57-O §1(part), 1984; Ord. 82-46-O §2(part), 1982).

17.13.020 Permitted principal uses and structures. The following land uses and activities are permitted in the conservation district:

- A. All of the permitted principal uses and structures in the Natural Use (NU) Zoning District;
- B. Agricultural activities and related structures, except commercial livestock grazing;
- C. Commercial fishing activities and related structures, including mariculture activities and related structures;
- D. Commercial guiding and/or outfitting activities (e.g. hunting, fishing, photography, etc.) and related structures (e.g. lodges) containing provisions for no more than six (6) clients;
- E. Parks;
- F. Recreational activities (including recreational mining activities);
- G. Single-family dwellings/recreational cabins and associated home occupations; and
- H. Timber harvesting activities and transportation and utility facilities constructed in support of permitted timber harvesting activities. (Repealed and re-enacted by Ord. 93-66 §2, 1993; Ord. 86-27-O §3, 1986; Ord. 84-57-O §1(part), 1984; Ord. 82-46-O §2(part), 1982).

17.13.080 Setbacks from property lines.

1. Setbacks from property lines.
 - a. There is a required front yard setback of twenty-five (25) feet, except lots fronting on marine waters are exempt from any front yard setback.
 - b. There is a required side yard setback of twenty-five (25) feet.
 - c. There is a required rear yard setback of twenty-five (25) feet.
2. Setbacks from anadromous fish water bodies.
 - a. There is a required setback (preventing clearing, filling, excavation, or structural development) of fifty (50) feet from the bank vegetation of anadromous fish water bodies that are specified pursuant to AS 16.05.870(a) and 5 AAC 95.010, except in the case of timber harvesting activities, whose required setback will be regulated by AS 41.17.010-950, as amended, and the regulations enacted thereunder. This provision shall not prevent removal in the setback area associated with a habitable residential, or recreational structure of (1) up to fifty (50) percent of the trees and (2) other vegetation if a suitable ground cover (such as grass) is planted.
 - b. Water dependent facilities, in stream development activities, and fording may be located closer than fifty (50) feet, and in the water when permitted by the Alaska Department of Fish and Game under AS 16.05.870(b) and (d) and 5 AAC 95.700. Water dependent facilities are defined as uses, activities or structures which can be carried out only on, in or adjacent to water areas because the use, activity, or structure requires access to the water body (e.g. water intake facilities, micro hydro projects, docks, piers and boat watching facilities, etc.). (Ord. 93-66 §2, 1993).

17.13.090 Special district regulations.

1. Conditional uses in this zoning district are required to conform to the general district regulations unless the terms of the conditional use permit specify otherwise.
2. Approved conditional uses in this district shall conform to the following specific performance standards:
 - a. Conditional uses must minimize the impact on the natural environment and preserve, to the extent feasible and prudent, natural features. Specifically, to the extent feasible and prudent:

Conditional uses in upland habitats must retain natural vegetation coverage, natural drainage patterns, prevent excessive runoff and erosion, and maintain surface water quality and natural groundwater recharge areas; and

Conditional uses in estuaries, tideflats, and wetlands must maintain or assure water flow, natural circulation patterns, and adequate nutrient and oxygen levels.

Nothing in this provision shall require improvement to the natural condition existing prior to development.
 - b. Although a particular conditional use may constitute a minor change, the cumulative effect of numerous piecemeal changes can result in a major impairment of the environment. The particular site for which a conditional use application is made will be evaluated with the recognition that it may be part of a complete and interrelated environmental area. A conditional use shall be denied under this provision only if the weight of credible scientific evidence shows that the proposed conditional use together with all other then existing

Chapter 17.18

R1-SINGLE-FAMILY RESIDENTIAL DISTRICT

Sections:

- 17.18.010 Description and intent.
- 17.18.020 Permitted uses.
- 17.18.030 Conditional uses.
- 17.18.040 Area requirements.
- 17.18.050 Yards.
- 17.18.060 Building height limit.
- 17.18.070 Public service requirement.

17.18.010 Description and intent. The Single-family Residential (R1) Zoning District is established as a land use district for small lot single-family residential dwellings where public water and sewer services are available. For the single-family residential zoning district, in promoting the general purposes of this title, the specific intentions of this chapter are:

- A. To encourage the construction of single-family dwellings;
- B. To prohibit commercial and industrial land uses and any other use of the land which would interfere with the development or continuation of single-family dwellings in the district;
- C. To encourage the discontinuance of existing uses that are not permitted under the provisions of this chapter;
- D. To discourage any use which would generate other than normal vehicular traffic on streets serving residents on those streets; and
- E. To prohibit any use which because of its character or size, would create requirements and costs for public services, such as police and fire protection, water supply and sewerage, before such service can systematically and adequately be provided. (Ord. 83-17-O §2(part), 1983).

17.18.020 Permitted uses. The following land uses are permitted in the single-family residential zoning district:

- A. Accessory buildings;
- B. Churches;
- C. Greenhouses;
- D. Home occupations;
- E. Parks and playgrounds; and
- F. Single-family dwellings. (Ord. 86-27-O §6, 1986; Ord. 83-17-O §2(part), 1983).

17.18.030 Conditional uses. The following land uses may be allowed by- obtaining a conditional use permit from the planning and zoning commission:

- A. Hospitals; and
- B. Schools. (Ord. 86-27-O §7, 1986; Ord. 83-17-O §2(part), 1983).

Chapter 17.14

RD-RURAL DEVELOPMENT ZONING DISTRICT**Sections:**

- 17.14.010 Description and intent.**
- 17.14.020 Permitted principal uses and structures.**
- 17.14.030 Permitted accessory uses and structures.**
- 17.14.040 Conditional uses.**
- 17.14.050 Minimum lot area and width requirements.**
- 17.14.060 Maximum lot coverage for structures.**
- 17.14.070 Maximum height of structures.**
- 17.14.080 Setbacks from property lines.**
- 17.14.090 Special district regulations.**
- 17.14.100 Fences, parking, and signs.**
- 17.14.110 Nonconformities**

17.14.010 Description and intent. The Rural Development (RD) Zoning District is established for the purpose of providing opportunities for development in remote areas while at the same time recognizing the importance of the balanced utilization of natural resources. This zoning district is also designed to:

1. allow traditional commercial activities on remote land; and
2. provide a review mechanism for intensive development activities. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord. 90-03 §2(part), 1990).

17.14.020 Permitted principal uses and structures.

1. All of the permitted principal uses and structures in the Natural Use (NU) Zoning District and the Conservation (C) Zoning District.
2. Commercial guiding and/or outfitting activities (e.g. hunting, fishing, photography, etc.) and related structures (e.g. lodges) containing provisions for no more than fifteen (15) clients. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord. 90-03 §2(part), 1990).

17.14.030 Permitted accessory uses and structures.

1. All the permitted accessory uses and structures in the Natural Use (NU) zoning district and the Conservation (C) zoning district. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord. 90-03 §2(part), 1990).

17.14.040 Conditional uses.

1. All of the conditional uses in the Natural Use (NU) and Conservation (C) Zoning Districts.
2. Lodges that have provisions for more than fifteen (15) clients. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord. 90-03 §2(part), 1990).

17.14.090 Special district regulations.

1. Conditional uses in this zoning district are required to conform to the general district regulations unless the terms of the conditional use permit specify otherwise.

2. Approved conditional uses in this district shall conform to the following specific performance standards:

a. Conditional uses must minimize the impact on the natural environment and preserve, to the extent feasible and prudent, natural features. Specifically, to the extent feasible and prudent:

Conditional uses in upland habitats must retain natural vegetation coverage, natural drainage patterns, prevent excessive runoff and erosion, and maintain surface water quality and natural groundwater recharge areas; and

Conditional uses in estuaries, tideflats, and wetlands must maintain or assure water flow, natural circulation patterns, and adequate nutrient and oxygen levels.

Nothing in this provision shall require improvement to the natural condition existing prior to development.

b. Although a particular conditional use may constitute a minor change, the cumulative effect of numerous piecemeal changes can result in a major impairment of the environment. The particular site for which a conditional use application is made will be evaluated with the recognition that it may be part of a complete and interrelated environmental area. A conditional use shall be denied under this provision only if the weight of credible scientific evidence shows that the proposed conditional use together with all other then existing conditional uses in the area will have a substantial adverse impact on the interrelated environmental area if such conditional uses are operating in accordance with all required state and federal rules and regulations. Consideration shall be given to the mitigating effect of not locating the conditional use in any other area and mitigation efforts, if any, which the proposed conditional user may offer for this or any other environmental areas. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord. 90-03 §2(part), 1990).

17.14.100 Fences, parking, and signs. Fences, parking areas, and signs are permitted and unregulated when they are related to the use of the property for a permitted and/or approved conditional use. (Repealed and re-enacted by Ord. 93-67 §2, 1993; Ord 90-03 §2(part), 1990).

17.14.110 Nonconformities.

1. On nonconforming lots of record any permitted principal uses and structures and any permitted accessory uses and structures are allowed.

2. On non-conforming lots of record the commission may grant a conditional use permit for any use listed in section 17.14.040.

3. Setbacks from property lines for nonconforming lots of one half (1/2) acre or less.

i. There is a required side yard and rear yard setback of ten (10) feet.

ii. There is a required front yard setback of fifteen (15) feet except lots fronting on marine waters are exempt from any front yard setback.

Land Use Element

Introduction

Experience with development projects in all Kodiak Island villages has shown that the "urban oriented" zoning code regulations of the Kodiak Island Borough do not work well or meet the needs of remote communities. Compounding this problem is the fact that all areas within the corporate (municipal) boundaries of Kodiak Island villages were originally zoned exclusively for "urban" single-family residential development. This zoning was established in 1977, although some properties in Old Harbor have since been rezoned. Commercial, industrial and public land uses are found in almost all communities. In the case of rural Alaskan villages, these land uses are often located in close proximity to one another, on the same parcel of land, or within a single structure.

Obviously a community's zoning regulations should reflect the types of land use present in the area and those likely to be established in the future. In Old Harbor, typical land uses include residential, commercial, industrial, public use, and undeveloped natural areas. As in other rural Alaska communities, in Old Harbor these land uses are generally located in compact land areas in close proximity to one another. The result is mixed use development which must function effectively as a whole, rather than as a number of distinctly separate zoning districts.

Discussions with Old Harbor residents, Kodiak Island Borough staff and review of other village planning documents indicates the need to establish and maintain land use regulatory mechanisms that allow for the greatest flexibility in determining future land use development patterns in villages.

The land use plan for Old Harbor is intended to serve the following purposes:

To establish a plan to guide future growth and development that reflects the needs and desires of local residents.

To establish a plan for all areas within the municipal boundaries of the community that takes precedence over other plans developed for this area, including those developed by the Kodiak National Wildlife Refuge.

To establish a plan that will be consistent with the provisions of the Alaska Coastal Management Program and the Kodiak Island Borough Coastal Management Program and will assist in the implementation of these programs.

To establish a plan with realistic land use categories that can be implemented through the Kodiak Island Borough subdivision and zoning regulations.

The land use plan for Old Harbor is shown in Figures 37 and 38.

Four basic land use categories have been identified in the Old Harbor land use plan.

They are:

Industrial

Mixed Use

Residential

Habitat and Resource Protection

These land use categories are only general guides and are not intended to stand alone or in the place of more detailed and structured land use ordinances developed by the Kodiak Island Borough in close cooperation with the City of Old Harbor and local property owners.

Industrial

Future industrial development should be located near the shoreline of old town where the best marine transportation access is located. This includes the ocean dock area and the small boat harbor. Another likely area for industrial development would be near the proposed site of the new airport; however, this area is better addressed in the mixed use category.

Industrial development in the old town area may be encouraged by the better availability of utilities. Industrial development elsewhere in Old Harbor could entail the extensive construction of additional utility lines.

Mixed Use

Those areas of the existing townsite of Old Harbor that are primarily located outside of the established residential subdivisions (with some exceptions) have been identified for mixed use development. In addition, existing development areas upland from the small boat harbor are also designated for mixed use. The mixed use category is intended to include land uses similar to the ones found in old town at this time. These uses include residential, commercial, industrial, waterfront related, public, and institutional land uses.

Residential

Residential areas designated in this plan consist primarily of existing residential subdivisions that have already been developed. The residents of Old Harbor have indicated that small portions of these areas may be appropriate for other purposes, however, the areas should generally be preserved as strictly residential in character.

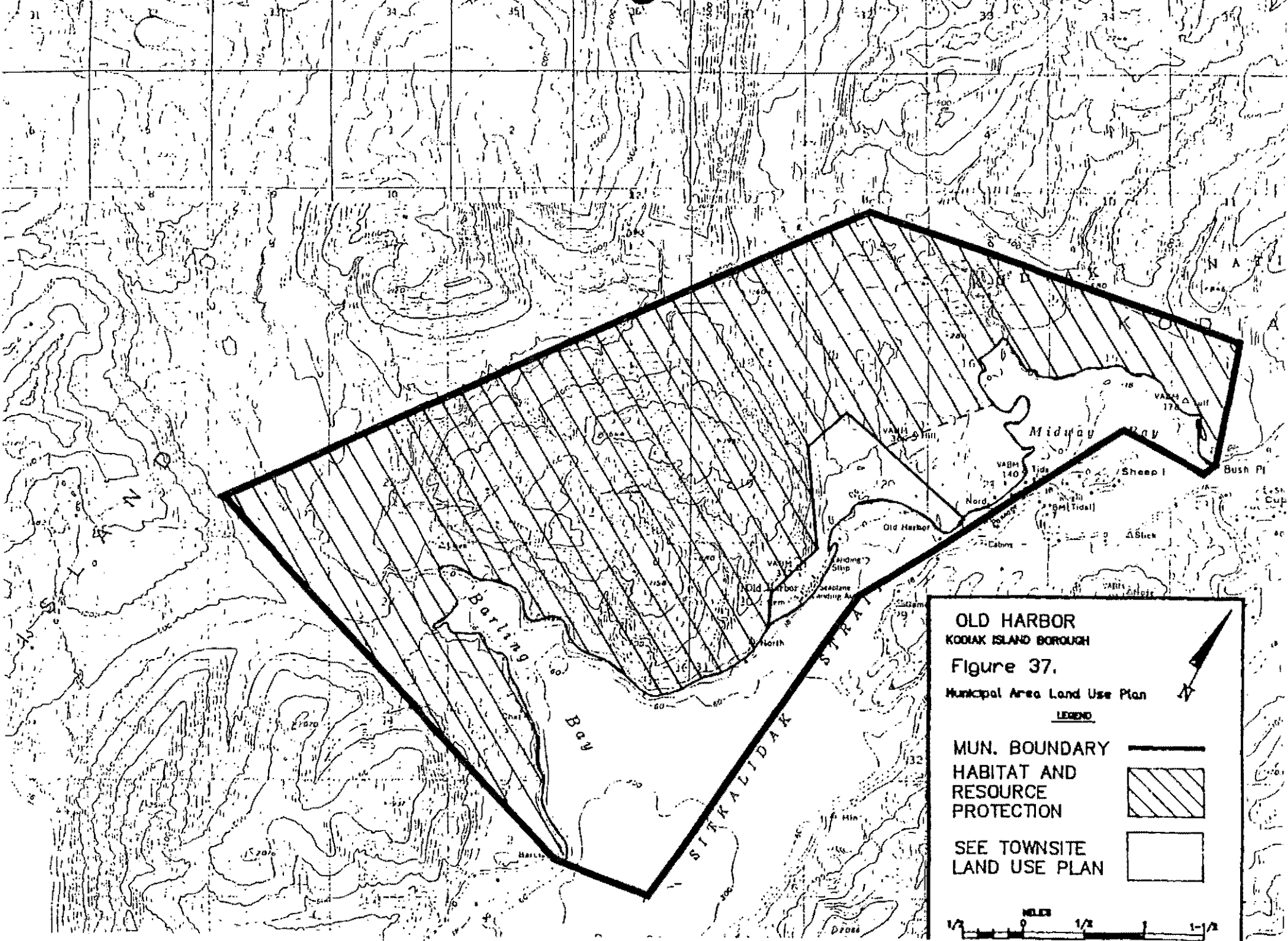
Habitat and Resource Protection

Habitat and resource protection areas are included in this plan because the corporate limits of Old Harbor contain a large land area that is unlikely to be developed in the future. This area extends 2 miles to the north, 1.75 miles to the west, and 3.5 miles to the south. These lands are primarily used for subsistence hunting and fishing activities. Residents of the community have indicated that protection of subsistence resources is a high priority. The functions of the habitat and resource protection category are as follows:

1. To protect and enhance the use of habitat and resource protection areas for subsistence hunting and fishing activities. This protection is a priority of community.
2. To protect the community's watershed and a reservoir from encroachments and potential degradation.
3. To allow for the future development of new commercial and/or industrial facilities related to the fishing or mariculture industries at selected locations. Old Harbor residents have expressed a strong desire to be

consulted and involved in the site selection process for new developments within the corporate limits.

4. . To enhance the preservation of open space for outdoor recreation and enjoyment by community residents.



OLD HARBOR
KODIAK ISLAND BOROUGH

Figure 37.

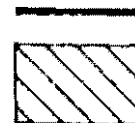
Municipal Area Land Use Plan

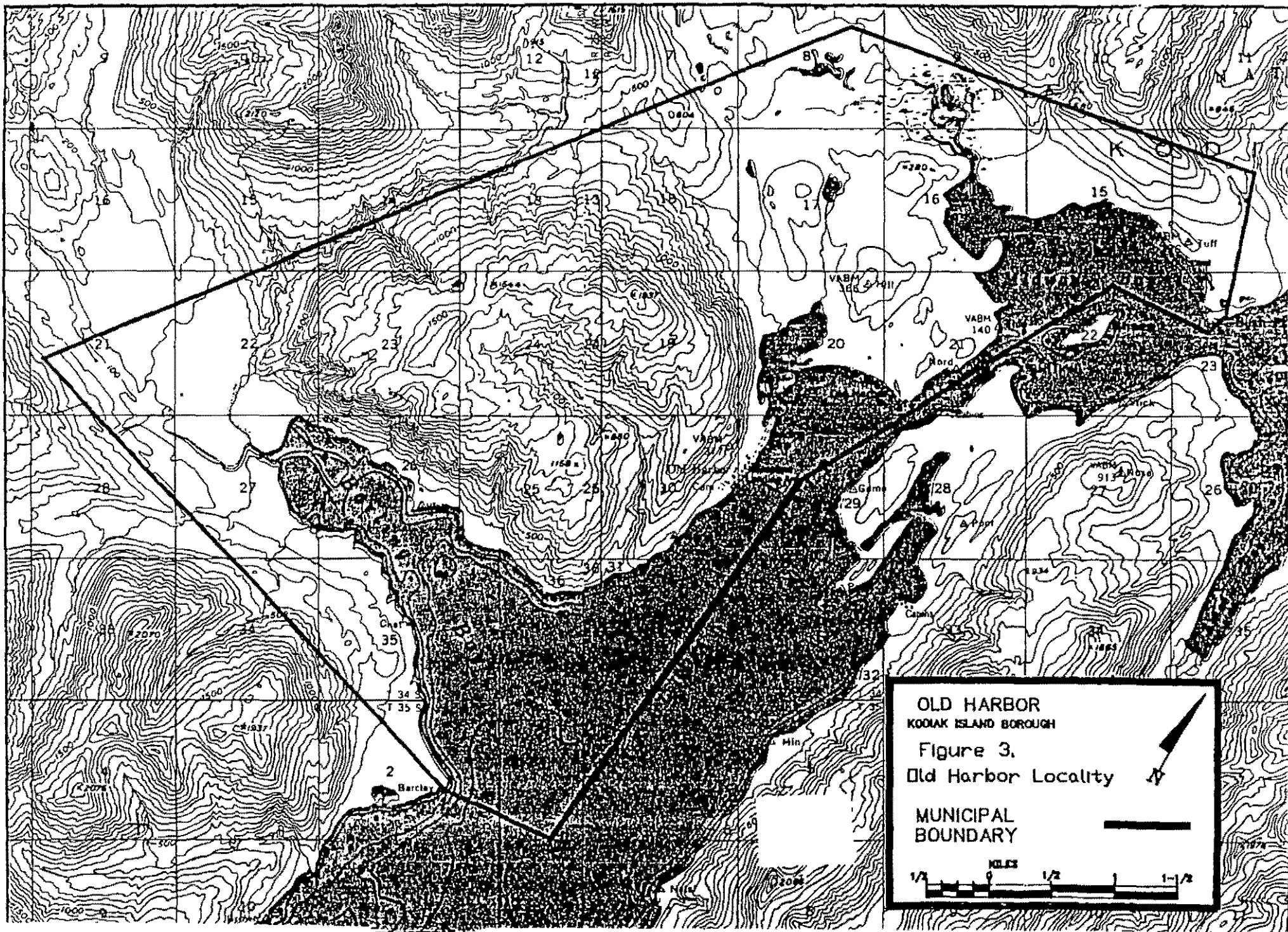
LEGEND

MUN. BOUNDARY

HABITAT AND
RESOURCE
PROTECTION

SEE TOWNSITE
LAND USE PLAN

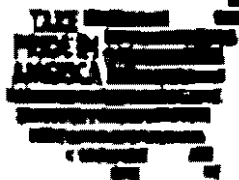




SECTION 22g BACKGROUND INFORMATION



United States Department of the Interior



FISH AND WILDLIFE SERVICE

1011 E. TUDOR RD.

ANCHORAGE, ALASKA 99503

IN REPLY REFER TO:

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MAY 30 1991

Kodiak National
Memorandum Wildlife Refuge

To: All Refuge Managers
Chief, Division of Realty

From: Regional Director
Region 7

Subject: Ability of Refuge to Exempt Section 22(g) of the Alaska Native
Claims Settlement Act

	ACT	INF
NM	_____	_____
ARAC	_____	_____
PAWA	_____	_____
PORT	_____	_____
WVWA	_____	_____
RC	_____	_____
CRP	_____	_____
NM	_____	_____
RA	_____	_____
CT	_____	_____
FILE	✓ 2019	_____

Section 22(g) of the Alaska Native Claims Settlement Act contains two requirements concerning land conveyed from within refuges that existed prior to December 18, 1971. This issue is being raised more often as public meetings are held on various issues. A consistent Service position should be presented to the public.

The first sentence of Section 22(g) requires that if the conveyed land is not sold, the United States shall have the right of first refusal. Regulation published in 43 CFR 1650.4-6 provide that the United States must exercise this right within 120 days of being advised of a bona fide offer to buy the land. If the right is not exercised, and that sale is completed, the right of first refusal terminates as to that particular land. However, if that sale is not completed, the right of first refusal remains. Also, if the terms of the bona fide offer change, the land must again be offered to the United States at those new terms.

We have intensely discussed this right of first refusal with the Regional Solicitor, the Deputy Regional Solicitor, and an Attorney Advisor. The specific issue was that a parcel of 22(g) land had been sold without providing the United States with opportunity to exercise the statutory right of first refusal. The legal advice was that if, and only if, we can show real harm to the United States, and can deposit the purchase price with the court, we may prevail in a suit to enforce the right of first refusal. If we cannot show harm and deposit the cash, the odds of prevailing are small and we could be chastised for initiating frivolous litigation. Our attorneys will not support such actions.

In specific instances, we have waived our right of first refusal when requested to do so. The Solicitor's Office has advised that it is proper to do so when we have determined that we would not purchase the land at the

Because the issue is so unsettled, we need to work with the landowners, rather than to try to regulate them, to conserve fish and wildlife resources as best we can. Accordingly, when discussing with the public or the private owners of 22(g) land, the Service position will be stated substantially as follows:

Regulations to implement Section 22(g) have not been issued. However, the statute is clear that there are restrictions on how that private land can be used and developed. Unlike the right of first refusal, this part of 22(g) runs with the land. Regardless of whether or how often the land is sold, or whether its title is transferred by gift, inheritance, or by other means, this use and development covenant remains in force.

As in the past, we hope to be reasonable in implementing this covenant. We have issued letters of non-objection for establishment of a village sanitary land fill on 22(g) land. After discussions that resulted in modification of the project to better protect refuge resources, we issued a letter of non-objection for construction of an airport on 22(g) lands. However, we opposed a recreational subdivision and commercial recreational development on another parcel of 22(g) land, and we advised that we would take whatever action would be necessary to stop that use and development in that location. That project has not been initiated.

While we cannot advise exactly what types of use and development can take place on 22(g) lands, it is obvious to us that a lot more can be done on the 22(g) lands than we would or could allow on refuge lands. We will place a high priority on working with owners of 22(g) land who are developing specific use and development projects, or who are developing comprehensive land use plans.

I expect that you will assure that all staff members who communicate with the public concerning this issue will conform to the intent of this memorandum.

Walt Stigley

FILED

NOV 30 1984

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NATIONAL AUDUBON SOCIETY, BERING)
SEA FISHERMENS' ASSOCIATION,)
TRUSTEES FOR ALASKA, THE WILDER-)
NESS SOCIETY, DEFENDERS OF WILD-)
LIFE, NATIONAL WILDLIFE REFUGE)
ASSOCIATION, FRIENDS OF THE EARTH,)
NATURAL RESOURCES DEFENSE COUNCIL,)
INC.,)

Plaintiffs,)

v.)

NO. A 83-425 Civil)

WILLIAM P. CLARK, WILLIAM P.)
HORN, ROBERT JANTZEN, KEITH)
SCHREINER, COOK INLET REGION,)
INC., CALISTA CORPORATION, SEA)
LION CORPORATION, MALCOLM BALD-)
RIDGE, JOHN V. BYRNE,)

Defendants.)

NATIONAL AUDUBON SOCIETY,)
TRUSTEES OF ALASKA, THE WILDERNESS)
SOCIETY, DEFENDERS OF WILDLIFE,)
NATIONAL WILDLIFE REFUGE ASSOC.,)
FRIENDS OF THE EARTH, NATURAL)
RESOURCES DEFENSE COUNCIL, INC.,)

Plaintiffs,)

v.)

NO. A 84-401 Civil)

COOK INLET REGION, INC., CALISTA)
CORPORATION, SEA LION CORPORATION,)

Defendants.)

According to the federal defendants, review of paragraph 10(b) of the exchange agreement required the CIRI Group only to notify and consult with the FWS Regional Director concerning planned operations on the island. Moreover, the CIRI Group was entitled to proceed with its construction plan whether the Regional Director objected or not. The Regional Director's recourse, should his recommendations be disregarded, was to obtain judicial review of whether the CIRI Group's planned operations violate the standards contained in paragraph 10(b) of the exchange agreement. In other words, since the exchange created a private inholding on St. Matthew Island, which the CIRI Group was free to use without restriction so long as the construction or operations plans were submitted to the Regional Director of FWS for his comment and recommendations. And should the Regional Director object to the CIRI Group's proposals for use of the exchanged lands, his only recourse would be to bring an action seeking to enforce the provisions of the exchange agreement.

The federal defendants also suggested that even though conveyance of the St. Matthew lands was subject to a restriction in the patent under ANCSA §22(g), that the requirements of §22(g) were satisfied by the stipulations included in the exchange agreement. Indeed, at hearing of Sept. 27 on Audubon's motion for preliminary injunction, government's counsel stated that the Secretary's responsibility under this provision of ANCSA

are very limited. Section 22(g) does not "talk to any specific activity. It basically says that [the conveyed lands are] subject to the laws and regulations of the national wildlife refuge. . . ." ^{31/} The Secretary fully complies with section 22(g) by the proper placement of the statutory language in the government's land patents. He has no affirmative duty to prevent ^{32/} proposed incompatible activities within the exchange lands.

A companion case to A 84-402 was filed on September 18 in case no. A 84-401 (the permit case) by the same plaintiffs against the CIRI Group seeking declaratory and injunctive relief. According to the documentation in no. A 84-401, the CIRI Group had applied to the United States Army Corps of Engineers for a permit to place fill material on wetlands on St. Matthew Island to construct an airstrip, and to place gravel on the island to construct three roads. In response to the CIRI Group's application, the Corps of Engineers had given public notice on June 7, 1984 inviting comment on the application.

The National Marine Fisheries Service ^{33/} responded to the Corps of Engineers' notice, in a letter dated July 20, 1984. NMFS suggested to the Corps that the proposed project might have potentially significant impacts on marine resources in the vicinity of St. Matthew Island. Moreover, the NMFS recommended an analysis of alternatives, to address both the human need for safety and support for exploration in the Navarin Basin, as well as the objective of preserving the pristine quality of the marine mammal habitat on the island. The NMFS suggested that alternatives considered include the use of existing

exchange would clearly result in a "net benefit" to national wildlife and conservation values.^{78/} He stated that a primary reason for his approval of this exchange was the remoteness of the possibility of danger to St. Matthew's environmental resources and the temporary quality of any potential environmental disruption.^{79/} Conversely, he found that the prospective environmental and recreational benefits that the government would acquire in the Kenai and Yukon Delta NWRs would advance wildlife conservation values in both the short and long terms.^{80/} Additionally, he concluded that the CIRC Group's proposed use of St. Matthew for an oil support base would be compatible with the purposes of the Alaska Maritime NWR, as required by ANCSA §22(g).^{81/}

I. Analysis of Land Interests Conveyed to the
United States

The Kokechik Bay Nondevelopment Easement

In terms of acreage, the largest acquisition by the Secretary in the exchange amounts to approximately 8000 surface acres of waterfowl nesting habitat within the Yukon Delta NWR. Recognizing the importance of this nesting region in Alaska, Congress declared a primary purpose of the Yukon Delta NWR to be "to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds."^{82/}

The site of the nondevelopment easement is in Kokechik Bay and the land is owned by Sea Lion Corp. The nondevelopment easement conveyed by Sea Lion Corp. to the Secretary under the exchange provided for the following rights:

(a) the right of GRANTEE, in perpetuity, to prevent and prohibit GRANTOR, its successors and assigns, from developing docking facilities, roads, canals, airstrips, utilities, transmissions lines, pipelines, tank facilities, structures not used for subsistence purposes, or excavations or other topographical changes: Provided, that development on the Real Estate may be permitted with the prior written consent of the Secretary of the Interior or his designee.

(c) GRANTOR's covenant running with the land not to permit, authorize, or consent to the use of the Real Estate for purposes of exploration, development, or extraction of the subsurface estate underlying the Real Estate (where such power of permission, authorization or consent is necessary under law for subsurface use), unless such exploration, development, or extraction is expressly agreed to by GRANTEE. 83/

Kokechik Bay is located in the Yukon-Kuskokwim Delta Area of Alaska. 84/ The bay is separated from the Bering Sea by a low sandy spit and a similar barrier island. The easement lands are located along the southern shore of the bay within a flat band of low tundra up to three miles wide. At least half of this area is water in the form of tidal sloughs, ponds, and lakes. The average daily temperature ranges from 11 degrees F. during February to 49 degrees F. during July and August.

The lands subject to the nondevelopment easement contain excellent waterfowl nesting and brood rearing habitat. The most dense nesting concentrations of emperor geese are found in

this area.^{85/} In addition, the Kokechik Bay region is the breeding ground for half the world's population of black brant.^{86/} Cackling Canada geese also breed chiefly in the areas surrounding the Kokechik Bay.^{87/}

There can be absolutely no doubt that the lands subject to the nondevelopment easement are important to conservation and management objectives in protecting the black brant and the Cackling Canada and emperor geese. My inquiry does not stop here, however. The Secretary's determination that the St. Matthew exchange is in the national interest rests in substantial part upon his conclusion that the nondevelopment easement acquired in Kokechik Bay added significant environmental protections in this region.^{88/}

My review of the environmental protections already in place prior to the St. Matthew exchange has revealed that the lands subject to the nondevelopment easement are for the most part located within the Yukon Delta NWR.^{89/} As such, they are governed by the requirements of §22(c) of ANCSA. This provision provides, in pertinent part, that:

Notwithstanding any other provision of this chapter, every patent issued by the Secretary pursuant to this chapter--which covers lands lying within the boundaries of a National Wildlife Refuge on December 18, 1971--shall contain a provision that such lands remain subject to the laws and regulations governing use and development of such Refuge. ^{90/}

When the Secretary conveyed these lands to the CIRI Group, he imposed covenants, pursuant to §22(c)'s requirements,

that subjected almost all of the lands to the laws and regulations of the National Wildlife Refuge System.^{91/} The laws and regulations governing use and development of wildlife refuges provide that only activities which are "compatible" with the major purposes for which a particular refuge was established may be permitted by the Secretary.^{92/} Although compatibility is not expressly defined in either the National Wildlife Refuge System Administration Act^{93/} or ANILCA, implementing regulations for the administration of §22(g) covenant state that compatibility means that proposed uses must not "materially impair the values for which the refuge was established."^{94/}

My reading of the language of §22(g), which the Secretary properly inserted into the Kokechik Bay conveyances to the CIME Group, suggests to me that these lands were already protected from incompatible uses even without the nondevelopment easement obtained by the Secretary. To this extent, I agree with Audubon's claim that the protections acquired under the easement were largely "redundant" of the environmental safeguards obtained through the §22(g) covenants.

In this connection, the Secretary in his Public Interest Determination suggests that the nondevelopment easement

on CSU lands (Kokechik Bay) will provide secure protection "against the vagaries of section 22(g) of the Alaska Native Claims Settlement Act, and eliminate the risk that the lands transferred and relinquished by the CIRI Group would be developed in a manner inconsistent with CSU objectives.^{95/}

The Final Ascertainment Report discloses that the primary federal statute governing the management of national wildlife refuge resources is the National Wildlife Refuge System Administration Act of 1966.^{96/} Section 4(d) of the Act authorized the Director of the Fish and Wildlife Service to permit a wide array of development activities within national wildlife refuges provided that such activities are found to be compatible with the purposes for which a given wildlife refuge was established. In applying the test for compatibility, the proposed activity must be judged and its anticipated impacts assessed against the purposes for which a given refuge was established. Section 22(g) of ANCSA retains this "compatibility test" for lands selected by and conveyed to Natives within national wildlife refuges in Alaska. The Kokechik Bay lands were included in the Yukon Delta NWR established in 1980.^{97/}

The nondevelopment easement prohibits Sea Lion Corporation from constructing docking facilities, roads, canals, airstrips, utilities, transmission lines, pipelines, tank facilities, and other structures not used for subsistence purposes, or excavating or making other topographic changes. Given the purpose for which the Yukon Delta NWR was established, there would seem to be considerable

doubt as to whether docking facilities, roads, canals, airstrips, utilities, pipelines and the like would be compatible uses of the Kokechik Bay lands. Apart from that, the easement lands are located along the southern shore of Kokechik Bay within a flat band of low tundra up to three miles wide which extend from the water's edge to an undulating line of bluffs. At least one-half of this area is water in the form of tidal sloughs, ponds, and lakes.^{98/} The primary human impact in the Kokechik Bay lowlands has always been egg collecting and spring hunting by Alaskan Natives.^{99/} That is, the Kokechik Bay lowlands are very important for subsistence uses by Native peoples. Certainly the sort of development precluded by the nondevelopment easement, if not so precluded, would have to be considered under §§ 801(4) and 802(1) of ANILCA^{100/} for the possible impacts the construction and activity would have on subsistence users.^{101/}

Finally, there is nothing that I have discovered in the Final Ascertainment Report that suggests the existence of any probable or potential threat of the kind of development prohibited by the nondevelopment easement obtained by the United States under the exchange. To the extent this matter is considered at all, the Ascertainment Report acknowledges that while the compatibility test of §22(g) can't be expected to preclude several types of development activities on the Kokechik lands, a number of other types of development activities could probably be found to be compatible if carefully managed.^{102/}

In sum, there is nothing in the Ascertainment Report that suggests

that the likelihood of future construction or operation of docking facilities, roads, canals, airstrips, utilities, transmission lines, pipelines, and tank facilities at Kokechik Bay. Nor is there anything in the DEIS or any other source that I am aware of that suggests the construction of such facilities is now either contemplated or projected.

Thus it would be hard to find a more striking comparison between the potential or probable use of Kokechik Bay lowlands with the proposed use of CIRI's inholdings on St. Matthew Island. On St. Matthew Island construction of the type of facilities that would be barred by the nondevelopment easement in the Kokechik Bay lowlands is both certain and immediate.

Part from the protection provided by §22(g), other provisions of law ought to be considered in determining the actual extent of the increased protection the Secretary acquired in the exchange. Section 404 of the Clean Water Act, ^{103/} which Audubon has asserted regulates the St. Matthew lands conveyed to the CIRI Group, ^{104/} requires anyone seeking to commence development activities upon "wetlands" to obtain a permit from the Army Corps of Engineers. Such a permit request generally requires the Corps to prepare an environmental impact statement under the provisions of NEPA. ^{105/}

Mention has been made of the subsistence use made of Kokechik Bay lowlands by Alaskan Natives. The easement

conveyed to the Secretary ensures that subsistence uses are to be protected. In fact, provisions of ANILCA expressly protect subsistence uses:

Congress's intention to protect subsistence uses by rural residents of Alaska is repeatedly and strongly stated in the statute itself. It was a stated general purpose of the Conservation Act "to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so." Section 101(c), 16 U.S.C. §101(c). 106/

In sum, I have concluded that contrary to the Secretary's statement in his Public Interest Determination, the nondevelopment easement obtained under the exchange adds little to the environmental protections already in place for Kokechik Bay. Hence, the Secretary's conclusion that the acquisition of the nondevelopment easement significantly advances long term CSU and general wildlife conservation and management objectives is not borne out when the land status and legal restrictions otherwise applicable are examined.

Section 22(g) covenants would have further ensured no development activities incompatible with refuge purposes would have occurred on the Nunivak Island lands.

The strong shield of environmental protection that ANCSA §14(h) and §22(g) would have provided suggests that the St. Matthew exchange added little to long term conservation objectives. Concerning the furtherance of wildlife management goals, it is theoretically true that potential inholdings were avoided on Nunivak Island. But this management benefit would be offset by the exchange's creation of the St. Matthew Island parcel as a major inholding in the Alaska Maritime NWR. Overall, I conclude that the Secretary's finding, that the acquisition of the Nunivak Island interests furthered CSU and wildlife goals, is without basis in the record.

The Kenai Peninsula Interests

Along with the Kokechik Bay nondevelopment easement and the Nunivak Island interests, the CIRI Group relinquished claims in the Kenai NWR. As with the Yukon Delta NWR in which Kokechik Bay and Nunivak Island are situated, wildlife conservation is a primary purpose of the Kenai NWR. ^{113/}

In addition, Congress has sought, by the creation of this refuge, "to provide, in a manner compatible with [the refuge's environmental protection] purposes, opportunities for fish and wildlife-oriented recreation."^{116/}

As part of the exchange, the CIRI Group relinquished 2254 acres of its entitlement under ANCSA §14(h) within the Kenai NWR. Additionally, it relinquished its claim under Public Law 94-204^{117/} to the surface estate of lands adjacent to the Kasilof River and Tustumena Lake, also located in the Kenai NWR.

All of these lands acquired in the Kenai NWR are located on Kenai Peninsula rivers which receive high fishing use. Consistent with the refuge's public recreation objectives, many visitors currently use this area to beach their boats, fish, picnic, hunt waterfowl, and camp.

Of the approximately 5000 acres of land the Secretary prevented from becoming inholdings in the Kenai NWR, slightly less than half of these interests would have been subject to the compatibility requirements of ANCSA §§14(h) and 22(g).

As noted earlier, the existence of these provisions means

that there would have been minimal additional wilderness conservation benefits realized under the St. Matthew exchange.

There is little doubt, however, that the Secretary's acquisition of the surface estate in the Tustemena region provided some assurance that these lands would remain accessible for traditional recreational uses. There is no evidence in the Final Ascertainment Report that suggests that public access to this area is currently threatened or would be threatened were the CIRI Group to have acquired these interests. I believe it reasonable to assume, however, that the exchange's prevention of this possibility afforded substantial benefit to the recreational objectives of this refuge. I therefore find that the Secretary's conclusion that the exchange was in the public interest "in terms of advancing the objective of public enjoyment of CSUs" was reasonable according to the evidence before him.

3. Potential Dangers to St. Matthew Island's Wilderness Values

In concluding that relinquishing lands on St. Matthew Island to the CIRI Group for use as an oil support facility was in the public interest, the Secretary assumed that there was little possibility of long term environmental danger to the island's unique wilderness values. Being mindful of the narrow confines of the standard of review in this case, I nevertheless have found this determination fails to consider the relevant fact the Secretary's own administrative record. My review of the record

VII. CONCLUSION

I conclude that the Secretary's Public Interest Determination for the St. Matthew Island exchange suffers from serious errors of judgment and misapplication of law which have led to a clear error of judgment.

My review of the underlying record has convinced me that the Secretary, by failing to consider the protections otherwise provided by law and by failing to consider relevant facts appearing of record, seriously overestimated the benefits to CSU and general wildlife conservation and management objectives advanced by this exchange. Additionally, by characterizing the effects on St. Matthew Island as temporary and by erroneously assuming that the land use stipulations would provide sufficient protection to wildlife and wilderness habitats, the Secretary failed to adequately consider the likely negative effects on St. Matthew Island. Finally, the Secretary's determination under AMCSA §22(c) that a support base located within the Alaska Maritime NWR would be compatible with the environmental protection purposes of this refuge is contrary to the underlying record. The Secretary's Public Interest Determination thus constitutes a clear error of judgment.

I conclude that the St. Matthew Island land exchange is invalid. I also conclude that Audubon's application for a preliminary injunction in case no. A 84-402 civil (the NEPA case) must be granted. My conclusion that the exchange is invalid demonstrates Audubon's "strong likelihood of success on the merits," and that an injunction would serve the public interest.

Audubon has documented the irreparable injury that would occur on St. Matthew should development be permitted. Thus the requirements for granting injunctive relief are satisfied. ^{156/} Audubon is entitled to a preliminary injunction to prohibit any construction or other use of heavy equipment on St. Matthew Island.

In case no. A 84-401 civil (the permit case), I conclude that Audubon's request for relief is premature. At this time, the Army Corps of Engineers has not yet made a final decision on CERI's application for a permit. Until such decision is made, it is premature for Audubon to be seeking relief in this court.

IT IS NOW ORDERED:


In case no. A 83-425, Audubon's Motion for Summary Judgment is GRANTED, and the defendants' Motion for Summary Judgment is DENIED.

In case no. A 84-401, Audubon's Motion for Preliminary Injunction is DENIED.

In case no. A 84-402, Audubon's Motion for Preliminary Injunction is GRANTED.

I further ORDER that the \$2,500 bond previously posted by Audubon as a condition of the Temporary Restraining Ord. shall continue in effect as the bond required for this preliminary injunction.

MADE AND ENTERED at Anchorage, Alaska, this 10 day of October 1984.


JAMES M. FITZGERALD
United States District Judge

cc: DISTRIBUTION ON NEXT PAGE

SUBSISTENCE RESERVATION AND BACKGROUND INFORMATION

APPENDIX 1

RESERVING TO Old Harbor Native Corporation from the lands so granted the following described easement:

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

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

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

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

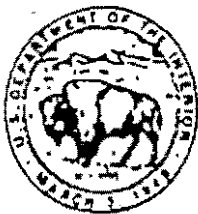
(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the above-granted lands as of January 1, 1987; provided, however, that the Secretary may impose such reasonable restrictions on such means of transportation as may be necessary to protect the natural and other values of the Kodiak National Wildlife Refuge (hereinafter "KNWR"). Nothing herein shall be construed as (1) allowing such uses to interfere with the Secretary's responsibility to manage the above-granted lands for the purposes for which the KNWR is established, (2) permitting the level of such uses of wild, renewable resources upon the above-granted lands to be inconsistent with the conservation of healthy fish and wildlife populations, or (3) preventing the Secretary from closing the above-granted lands to such uses of a wild, renewable resource if necessary for reasons

of public safety, administration, or to assure the continued viability of such resource; provided however, that the Secretary shall not limit or preclude such uses of fish and wildlife on the above-granted lands by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on such lands that contribute to such conditions. The Secretary shall, consistent with his other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his successors and assigns, or the United States and its assigns for the management of such lands. Nothing herein shall be construed to affect the authority of the State of Alaska to regulate or prohibit the taking of fish and wildlife upon the above-granted lands. Nothing herein shall be construed to affect the authority of the United States under the provisions of any Federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd-jj), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531-1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361-1407), the Act entitled "An Act for the

Protection of the Bald Eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a-754), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777-777k) or any amendments to any one or more of such acts.

This easement is a covenant running with the above-granted lands and shall be binding upon the United States and its assigns, except that such easement shall not survive to the extent that the above-granted lands are conveyed to Old Harbor Native Corporation.



United States Department of the Interior

OFFICE OF THE SOLICITOR
ALASKA REGION

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FWS.AK.0933

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 6

May 2, 1994

To	Sharon J. J. J.	From	Keith G. G.
Dept./Agency	FWS	Phone #	271-4/131
Fax #	786-3435	Fax #	271-4/143
NSN 7540-01 317-7268		5009-101	
GENERAL SERVICES ADMINISTRATION			

MEMORANDUM

TO: Director, Region Seven
U.S. Fish and Wildlife Service

ATTN: Assistant Regional Director
Refuges and Wildlife

FROM: Attorney, Alaska Region
Office of the Solicitor

SUBJECT: Kodiak National Wildlife Refuge--
Koniag Subsistence Use Easement

The U.S. Fish and Wildlife Service is presently considering the purchase of certain private lands located within the Kodiak National Wildlife Refuge. As a preliminary matter, the holder of those lands has indicated that any sale must be made subject to a "Subsistence Use Easement" running in favor of the residents of Karluk and Larsen Bay. Refuge Managers now ask whether the U.S. can, as a matter of law, accept title to lands encumbered by an easement for individual subsistence use.

At the request of the Fish and Wildlife Service (FWS), Region Seven, this office has reviewed an initial DRAFT of the proposed "Subsistence Use Easement." In addition, we have reviewed the Alaska National Interest Lands Conservation Act,¹ the National Wildlife Refuge Administration Act,² and the Refuge Recreation Act.³ Based on that review, it is the conclusion of this office that: If the terms of the easement comply with the authorizing legislation AND the Department of Justice title regulations, the U.S. may accept title to land encumbered by an easement for individual subsistence use.

¹ Pub. L. 96-487, 94 Stat. 2371 et seq. (Dec. 2, 1980) (codified as amended in scattered sections of 16 U.S.C., 43 U.S.C., 48 U.S.C.) (Several sections pertaining to the Alaska Wildlife Refuges were not codified.).

² 16 U.S.C.A. §§ 668dd-668ee (1993).

³ 16 U.S.C.A. §§ 460k-460k-4 (1991).

BACKGROUND

In 1980, the Kodiak National Wildlife Refuge was expanded and redesignated as a unit of the National Wildlife Refuge System by the Alaska National Interest Lands Conservation Act (ANILCA).⁴ Under the terms of that act, the major purposes for which the Refuge is established include: (1) the conservation of "fish and wildlife populations [and] habitats in their natural diversity," and (2) the continuation of opportunity for "subsistence uses by local residents."⁵ The refuge is managed--by the Fish and Wildlife Service--in accordance with the general laws governing administration of the Refuge System, as well as the more specific provisions of ANILCA.⁶

Like the other Alaska refuges, Kodiak Refuge legally includes only that land which ANILCA defines as "public."⁷ Currently, over 300,000 acres ("nearly one-fifth of the refuge") is held in private hands--either corporate or individual.⁸ Among these holdings: "a considerable portion of the best brown bear habitat in the refuge, several key salmon spawning streams,

⁴ ANILCA § 303(5)(A), 94 Stat. 2391.

⁵ ANILCA § 303(5)(B)(i)&(iii); 94 Stat. 2392. Other major purposes include: (1) the fulfillment of "international treaty obligations," and (2) the ensurance of "water quality and necessary water quantity within the refuge." ANILCA § 303(5)(B)(ii)&(iv).

⁶ ANILCA § 304(a), 94 Stat. 2393. See 16 U.S.C.A. §§ 668dd-668ee (Refuge Administration Act) and 16 U.S.C.A. §§ 460-460k-4 (Refuge Recreation Act). See also Trustees for Alaska v. Watt, 524 F.Supp. 1303, 1308-9 (D. Alaska 1981) ("Wildlife Administration Defined").

⁷ ANILCA § 103(c); 16 U.S.C.A. § 3103(c). "Public lands" are basically those lands to which the United States holds title, except for: (1) State Selections, (2) Native Selections, and (3) Native Reserves. See Amoco Production Co. v. Gambell, 480 U.S. 531, 546-7 (1987).

⁸ FWS, Kodiak National Wildlife Refuge Comprehensive Conservation Plan 42 (1987) (Kodiak CCP).

New - Corp owned lands are now
subsistence, 15 sec from road
which will trigger some subsistence

and at least one heavily used recreational area (Karluk Lake and River)."⁹

Because they are privately owned, these lands are now outside the terms of ANILCA Title VIII.¹⁰ Generally, that Title provides "that rural Alaskan residents engaged in a subsistence way of life be allowed to continue using refuge resources for traditional purposes."¹¹ While inclusion of land within the Refuge makes it subject automatically to the provisions of Title VIII, the sellers wish to assure this result (and perpetuate it) through use of the title "reservation" they call a "Subsistence Use Easement."¹²

DISCUSSION

Unless exempted by statute, all federal land purchases require a written approval from the U.S. Attorney General.¹³ To gain this approval, the closing documents must show "the sufficiency of the title to land for the purpose for which the property is being acquired."¹⁴ Absent approval, "public money

UPPER PART NOT'S
THIS IS THE
SUBSISTENCE
EASEMENT

⁹ Id. See also FWS, Kodiak National Wildlife Refuge Public Use Management Plan 5 (1993) (Generalized Land Status).

¹⁰ Compare Kodiak CCP at 171-2 (Management of Native Conveyed (22(g)) Lands). See also Memo to Director, Region Seven, U.S. Fish and Wildlife Service from the Office of the Solicitor, Alaska Region (July 24, 1987) (Alaska National Wildlife Refuges--ANCSA § 22(g) Implementation).

¹¹ Kodiak CCP at 191 (Subsistence Use Management Directions). See 16 U.S.C.A. §§ 3111-3126 (Codification of ANILCA Title VIII--Subsistence Management and Use).

¹² ANILCA § 301(D). Cf. Memo to Director, Region Seven, U.S. Fish and Wildlife Service from the Office of the Solicitor, Alaska Region (April 14, 1989) (Yukon Delta National Wildlife Refuge--Bethel Administrative Site).

¹³ 40 U.S.C.A. § 255 (1993).

¹⁴ Id. See 28 C.F.R. § 0.66 (1991) (delegation of title functions to Land and Natural Resources Division).

may not be expended for the purchase of land or any interest therein."¹⁵

The Attorney General may, however, delegate the approval authority "to other departments and agencies."¹⁶ Accordingly, the U.S. Department of the Interior has been delegated the authority to approve land titles--subject to "[c]ompliance with the regulations issued by the Assistant Attorney General," Land and Natural Resources Division.¹⁷ These are prescriptive regulations, grounded on the precept that: "[n]o land shall be purchased by the United States except under a law authorizing such purchase."¹⁸

After a statement of fundamentals, the Regulations go on to detail the findings an acquiring agency must make: (1) "that the proposed interest in property is in accord with the authorizing legislation," (2) "that such interest is sufficient for the purposes for which the property is being acquired," and (3) "that the purchase price is commensurate with such interest."¹⁹ While "reservations and exceptions" may be acceptable in some cases, they must be "approved by the department or agency of the Government acquiring the land."²⁰ And, any such "reservations" must be so limited as to leave unimpaired the capacity of the U.S.

¹⁵ 40 U.S.C.A. § 255 (emphasis added).

¹⁶ Id. See Acquisition of Land by the Department of the Air Force, 6 U.S. OLC 431 (1982 WL 170705 @ 2) ("The delegation is ... subject to the Attorney General's general supervision.").

¹⁷ DOI, Solicitor's Manual App. 15 (July 1988).

¹⁸ DOJ, Regulations of the Attorney General ... Concerning Approval by the Attorney General of the Title to Lands Acquired for and on behalf of the United States § 4(b)(1) (October 2, 1970) (Regulations) citing 41 U.S.C.A. § 14 (R.S. 3736 derived from Act May 1, 1820, c. 52, §7, 3 Stat. 568).

¹⁹ Regulations at 5(a). See also DOJ, A Procedural Guide for the Acquisition of Real Property by Governmental Agencies (1972).

²⁰ DOJ, Standards for the Preparation of Title Evidence in Land Acquisitions by the United States at 13 (1970) (emphasis added). See 3 Refuge Manual 1.5A (1982) ("Fee title may be acquired subject to specific reservations or exceptions that will not interfere with use and management for refuge purposes.").

to sell "the property under laws relating to the disposition of surplus property."²¹

In its present form, the DRAFT proposes a very broad easement--indefinite in duration--running in favor of all those who live (or may in the future live) in the Villages of Karluk or Larsen Bay.²² While an easement of this breadth may sort well with the purposes of the refuge, it does raise an important question regarding the proper valuation of the acquired property interests.²³ Still, the concept is generally sound; and if the authorizing legislation allows it, the U.S. can accept title to land incumbered by a easement for individual subsistence use."²⁴

SUMMARY

The U.S. Fish and Wildlife Service is presently considering the purchase of certain private lands located within the Kodiak National Wildlife Refuge. In that regard, Refuge Managers now

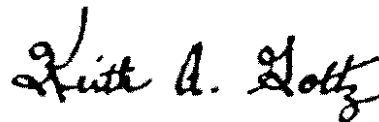
²¹ Regulations at 5(c), See also 6 U.S. Op. OLC at 431 (1982 WL 170705 @ 4) ("Other covenants and conditions in the deeds to the United States or in prior deeds may limit the use of the property in a manner which may prevent the sale and disposition of the property under laws relating to the disposition of surplus property so as to prevent the recovery of a substantial portion of the Government's investment in the property. Titles are not acceptable which are subject to such covenants and conditions in the absence of clear authorizing legislation.").

²² DRAFT at 1. Compare ANILCA § 303(5)(B)(iii) (A primary purpose of Kodiak Refuge is to provide "the opportunity for continued subsistence uses by local residents.") (emphasis added).

²³ See Interagency Land Acquisition Conference, Uniform Appraisal Standards for Federal Land Acquisitions at 56 (1992) ("An easement is an interest less than the fee estate."). See also Chapman v. Sheridan-Wyoming Coal Co. 338 U.S. 621, 627 (1950) (Easements are "real estate, part and parcel of the land to which they are attached and pass by conveyance.").

²⁴ In the DRAFT documents submitted to this office, the authorizing legislation remains unspecified. See ANILCA § 1302(a), 16 U.S.C.A. § 3192 (Land Acquisition Authority).

ask whether the U.S. can--as a matter of law--accept title to lands incumbered by an easement for individual subsistence use. Based on a review of the applicable law, and the submitted file materials, it is the conclusion of this office that: If the terms of the easement comply with the authorizing legislation AND the Department of Justice title regulations, the U.S. may accept title to land encumbered by an easement for individual subsistence use.



Keith A. Goltz

cc: Associate Solicitor
Division of Conservation and Wildlife
Attn: Assistant Solicitor
Branch of Fish and Wildlife

KEY WORDS: Alaska National Interest Lands Conservation Act;
Wildlife Refuges, land acquisition; Kodiak National Wildlife
Refuge, subsistence easement.

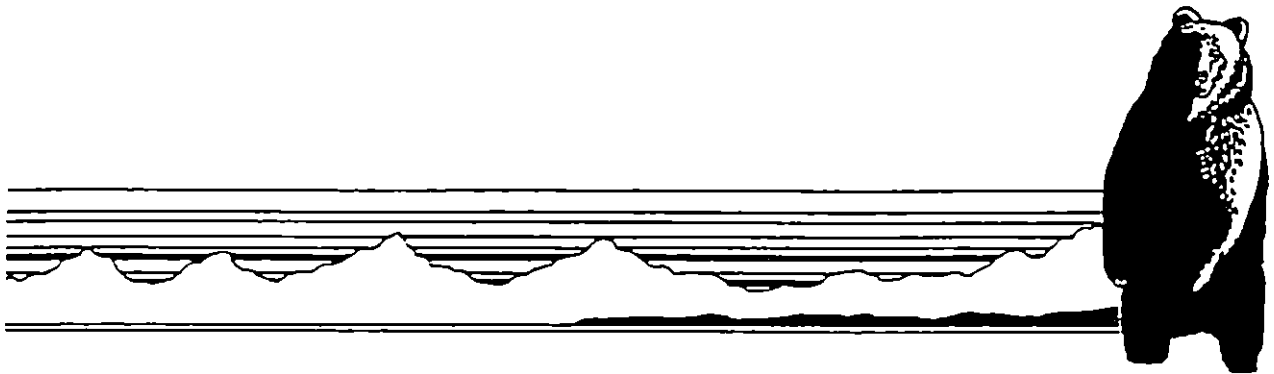
**EXCERPTS: KODIAK NATIONAL WILDLIFE REFUGE
LAND PROTECTION PLAN**

KODIAK

NATIONAL WILDLIFE REFUGE

LAND PROTECTION PLAN

Options for the protection
of fish & wildlife habitats



OCTOBER 1992

U.S. Department of the Interior
Fish and Wildlife Service
Region 7
Anchorage, Alaska

DRAFT

LAND PROTECTION PLAN

KODIAK NATIONAL WILDLIFE REFUGE

INTRODUCTION

This land protection plan (LPP) was developed to identify minimum levels of protection necessary to preserve the high quality wildlife habitat found on, and in the vicinity of, private lands within the boundaries of Kodiak National Wildlife Refuge. The guiding principle of the LPP is to protect the resource integrity of the Kodiak Refuge area and to ensure the refuge remains consistent with the stated purposes for which it was created. This plan presents a combination of alternative actions to protect wildlife resources and other natural values on and around these private lands, or inholdings, within the refuge.

► Kodiak Refuge covers two-thirds of Kodiak Island ◄

Kodiak Refuge encompasses about two-thirds of Kodiak Island, all of Uganik and Ban Islands, and part of Afognak Island in southwestern Alaska (Figure 1). The islands, part of the Kodiak Archipelago, lie at the western border of the Gulf of Alaska in the Pacific Ocean. The approximately 30-mile wide Shelikof Strait separates Kodiak Island from the base of the Alaska Peninsula. The city of Kodiak is about 250 air miles from Anchorage and about 21 miles northeast of the refuge boundary.

I. PURPOSE

► Interspersed federal-private land ownership complicates refuge management ◄

Private landowners have title or active claims to nearly 470,000 acres, or nearly 30 percent, of the land within the Kodiak Refuge. This land is interspersed among refuge lands creating a mixed pattern of ownership. These mixed-ownership areas have been difficult to manage and limit the effectiveness of certain refuge objectives, e.g., preserving natural integrity. The U.S. Fish and Wildlife Service (Service) proposes to work with private landowners to preserve wildlife resources and ease management difficulties. The Service will only pursue working with landowners who are willing cooperators. Protection options include the following: cooperative agreement, lease, conservation easement, donation, exchange, or acquisition by purchase.

► Objectives of the LPP ◄

The primary goal of this LPP is to inform private landowners what land within refuge boundaries the Service would like to see protected for wildlife. To meet this goal the

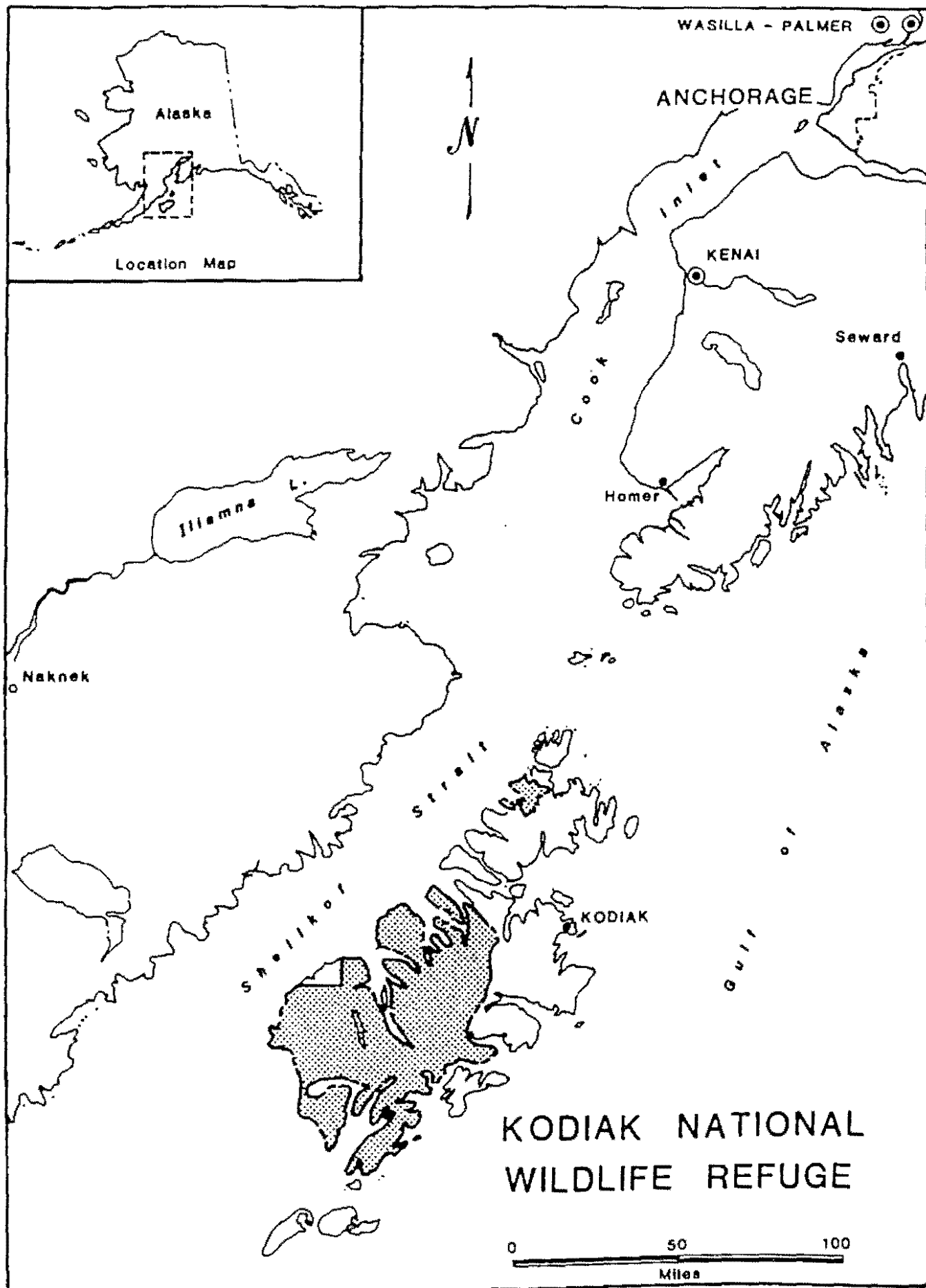


Figure 1. Location of the Kodiak National Wildlife Refuge