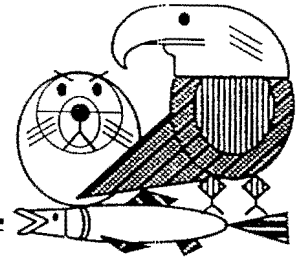


Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 401, Anchorage, Alaska 99501-3451

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



October 27, 1995

Michael Carey, Editorial Page Editor
Anchorage Daily News
1011 Northway Drive
Anchorage, Alaska 99514-9001

RECEIVED
OCT 31 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ANCHORAGE RECORD

To the editor:

Natalie Phillips' article, "The price of pricelessness" (October 22), regarding the appraisal process of the *Exxon Valdez* Oil Spill Trustee Council, was a disservice to your readers; it contained factual errors and displayed a lack of understanding of the Trustee Council's mission.

The Council has the responsibility to restore and protect the resources and services injured by the 1989 oil spill. Scientists and the public have identified purchasing land and/or conservation easements as a key method for aiding these injured fish and wildlife populations and the users that depend upon them. This was affirmed through a rigorous Environmental Impact Statement and review process.

The Council uses fair market value appraisals that conform to government standards as part of its process to identify fair value. But appraisals provide merely an opinion of strict economic value (i.e., timber, minerals, recreational development) and do not consider restoration or biological value. To help determine those values, the Council conducted a multi-year evaluation in the spill area and identified those lands that would contribute to the recovery of injured resources and services if protected.

As allowed by state and federal laws and guidelines, the Council uses economic appraisals as a tool to decide what is a fair, reasonable price for protecting large remote parcels. Appraisers have frequent differences of professional opinion on market conditions, development costs, and speculative economic opportunities. Appraisals are estimates of value based on many assumptions and subject to professional judgements and opinions.

To date, the Council has completed five major habitat protection transactions, each with enormous public support. These include a contribution (together with the Alaska Legislature) to purchase inholdings in Kachemak Bay State Park; the Seal Bay acquisition on Afognak Island which is now Afognak Island State Park; purchase of commercial timber rights along Orca Narrows near Cordova (Eyak Sub-parcel); and two purchases of land and protection easements on Kodiak Island from Old Harbor and Akhiok-Kaguyak, Inc.

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

To set the record straight, the Eyak Sub-parcel was in fact purchased for the government's appraised value. Your reporter also erred in stating that the Seal Bay acquisition was completed prior to a completed appraisal and that the appraisals were not available. That deal was negotiated by the Council subject to completion of the appraisal, and in fact the final price of \$38.7 million was at less than the government's appraised value of \$52 million. Those appraisals have been available for more than a year.

The government's appraisal of \$12 million referred to for Kachemak Bay State Park was a land value only and did not include commercial timber and subsurface rights. When these are added, the government appraisal was about \$20 million; the landowner's was \$34 million. After arbitration, a final deal was struck at \$22 million for all rights.

The Council has so far chosen to substantially exceed government appraised values only in the two Kodiak transactions. In both cases, after great deliberation, the Council decided that the restoration and habitat values justified a negotiated price in excess of the government appraisals' estimates of economic value.

These lands provide some of the highest value fisheries habitat in the world, worth hundreds of millions of dollars to commercial and subsistence fishermen. The statement that these lands were already protected - and therefore not worth purchasing - is not true. Until the Trustee Council protected these lands, they were potentially vulnerable to development that could have seriously harmed important fish and wildlife resources.

The Council acted on the Kodiak acquisitions in open session, in an extensively noticed public meeting, and in response to overwhelming public support. The transactions were reviewed and approved by more attorneys than anyone cares to count, including those of the U.S. Department of Justice, the Department of the Interior, and the State Attorney General's office.

The Trustee Council will continue to use economic appraisals as part of the process to determine a fair price for habitat protection. But the Council must also consider, as required by its restoration charter and as supported by overwhelming public opinion, the best interests of the biological resources injured by the spill and the humans who depend upon them. The Trustees have a strong record of prudent actions, well supported by the public.

Sincerely,

A handwritten signature in black ink, reading "Molly McCammon". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Molly McCammon
Executive Director

AKHIOK-KAGUYAK, INC.
5028 Mills Drive
Anchorage, Alaska 99508

OLD HARBOR NATIVE CORPORATION
P.O. Box 71
Old Harbor, Alaska 99643

October 27, 1995

ANCHORAGE DAILY NEWS
Box 149001
Anchorage, AK 99514-9001

RECEIVED
OCT 31 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Dear Editor:

To say the least, we were disappointed by the article, "The price of pricelessness" which appeared in last Sunday's newspaper. The story on the Exxon Valdez Oil Spill Trustee Council's recent land transactions on the Kodiak Archipelago involving our two corporations lacked both accuracy and balance.

First though, we want to state unequivocally that when all aspects of the Kodiak land transactions are considered, the deals were fair to the government and our shareholders. The benefits for the Kodiak region will be realized forever. The multimillion dollar commercial fishing industry is dependent on the now conserved and protected watersheds. The sport hunting, sport fishing, tourism industries on Kodiak are inextricably linked to the health and vitality of the refuge lands and public access to those lands. An intact Kodiak refuge will now be preserved forever. Additionally, our shareholders have established settlement trusts authorized under ANCSA and proceeds from the transactions are committed to those trusts. That will conserve those assets for the benefit of our current and future shareholders and the Alaskan economy in perpetuity. If those and related results are not worth every penny committed to them, we can't imagine what could ever be.

We had hoped your reporter would have researched the issues more thoroughly to avoid producing a biased article. Also disturbing to us is the continued sniping by a few, but determined, government realty personnel who object philosophically to the acquisition and conservation of world class fish and wildlife habitat and apparently do not understand the routine negotiating process people use in the real world when purchasing land.

To characterize the land sales as "boondoggles," as your story did, is unsupported by the facts and degrading to those involved in this achievement. For the government appraisers to suggest we sell our land for \$128 per acre was ludicrous in our opinion. It fails the red-face test. No one would sell these lands for such a low figure, especially considering remote parcels on Kodiak Island were selling routinely in the private market for \$3,000 to \$5,000 per acre.

The primary misunderstanding conveyed by your story involves the role of a land appraisal in the EVOS Trustee Council process, or in any land transaction, where the government lacks

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condemnation authority. Appraisals are educated guesses about land prices, estimates of what informed willing sellers and informed willing buyers would agree upon for land market values. In the private sector buyers and sellers rely upon MAI appraisers to perform this task.

According to the Appraisal Institute, Mr. Carl Rasmussen, the federal review appraiser whose statements were the foundation for your story, is neither a member or a candidate for membership. In other words, he is not an MAI appraiser. The professionals we retained were MAI appraisers. Mr. Rasmussen's argument never recovers from misconstruing of the role of appraisals in noncondemnation government land acquisitions; and he clearly is upset that his superiors rejected his views.

The EVOS Trustee Council recognized that appraisals are at best estimates and, if you hired fifteen appraisers, you'd likely get fifteen different estimates of value. All sides supported the use of appraisals, but once they were completed it was time to test them in the marketplace and see what a willing seller and willing buyer would agree upon. In other words, when appraisals don't close the divergence in estimates of value between seller and buyer, negotiations must take over if a transaction is to be completed. This is normal business practice, there is nothing mysterious about it.

Contrary to the view expressed by Mr. Carl W. Rasmussen, the appraisals performed by an MAI appraiser on behalf of our corporations were not "public interest value appraisals." That is a label federal government realty personnel try to tag on any appraisal that results in a value higher than their particular view of what value should be. In fact, the final versions of our two appraisals were looked at and found to have used "appropriate appraisal techniques" by none other than the then President of the Appraisal Institute, Douglas C. Brown, MAI.

Your reporter quotes Mr. Rasmussen as saying that "You didn't get anything for the money. The land was already protected from development." That statement is not true; and, if it were, then it would call into serious question the underlying fairness and equity of the settlement of the aboriginal title to lands in Alaska by the people who are now shareholders of our respective Native corporations. It would mean that the lands provided to us in settlement of our aboriginal claims represented little, if any, value.

Mr. Rasmussen stated that the lands were already protected from development, apparently relying on his interpretation of Section 22(g) of ANCSA. However, the Department of Interior is on record acknowledging the unenforceability of the supposed development restrictions available to wildlife refuge managers under Section 22(g). In the twenty-four years since passage of ANCSA, no regulations regarding Section 22(g) have been promulgated. It is a ghost, a "will of the wisp."

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We believe the federal government has no power to restrict development on our private lands. Section 22(g) lands were subdivided, distributed and sold. Cabins and lodges were built on Section 22(g) lands. Air strips and land fills also have been built on Section 22(g) lands. The government declined to challenge any of these activities.

Our ANCSA lands are meant for our economic self sufficiency among other things. Native American treaties hopefully have progressed beyond the stage of giving with one hand while taking away with the other.

In any event, none of the species and resources injured in the oil spill could have been protected by Section 22(g) because their protection is not the purpose for which President Roosevelt established KNWR. Brown bears are the Kodiak Refuge's purpose, not black oystercatchers, land otters, herring and intertidal biota -- all EVOS injured species. Section 22(g) did not afford protection in support of the restoration objectives of the Trustee Council. If the Trustee Council wanted to protect these resources as envisioned by the Consent Decree they needed to enter into a land transaction with the corporations owing the habitat. Mr. Rasmussen was wrong about Section 22(g) and thankfully, his superiors did not share his opinion.

In our opinion, Mr. Rasmussen has been part of an effort by some to depress remote land values through misinterpretation of the law and the attempted intimidation of members of the appraisal profession who hold contrary opinions. The logical extension of this view of the value of quality, undeveloped, open spaces and fish and wildlife habitat would prohibit communities across the nation from acquiring critical recreation and habitat lands of importance to their local communities, their states and their nation. No one will sell land for such purposes for such absurdly low prices. That is what is dangerous about the point Mr. Rasmussen raises . . . not as he implies, that somehow government is going to pay more than is needed to conserve such resources judged important to people.

What your news article did not report was that Mr. Rasmussen's appraisal work regarding these lands was rejected by President Reagan's Department of the Interior in 1987 and again last year by the Clinton Administration. The article also did not mention that, in the case of Seal Bay, the government appraisal came in higher than the purchase price negotiated with Attorney General Charlie Cole and the other members of the Trustee Council. Nonetheless, we closed that sale and those lands are now the Afognak State Park established by the Alaska Legislature last year. This area will provide recreation and tourism benefits to Alaskans and others into the future.

If there ever were land transactions scrutinized, debated, held up to the light, these were them. The Seal Bay transaction was negotiated in a public meeting with the Trustee Council with the media on hand. The Kodiak transactions have been in the making for over a decade. Anyone who wanted to say anything about them had years to make their views known. To even hint that

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there was anything improper is to deny reality and display ignorance of the process and disregard to Alaska Native and other private property rights.

It was heartening to us and represented proud moments for our corporations to have been a part of those conservation efforts. The following are just a few of the public comments regarding the spectacular nature of the Kodiak lands and the resources to be conserved there.

"The protection of these lands will ensure the preservation of one of the nation's most productive and unique ecosystems."

EVOS Trustee Council Resolution, November 2, 1994

"The wildlife resources in the Kodiak refuge are among the nation's most spectacular. Congress, along with the sporting community, should preserve this remarkable natural treasure."

Congressional Sportsmen's Caucus Co-Chairs,
Rep. Don Young & Rep. Bill Brewster

"The majestic Kodiak bear can be seen as a symbol of this great state, a symbol of Alaska's courage, strength of character, and determination to endure."

Alaska Governor Walter J. Hickel

"Kodiak is perhaps the most important totally intact ecosystem in the United States."

Interior Secretary Bruce Babbitt

"There really isn't any other place that exceeds the rank of Kodiak Island as a conservation priority."

Kathryn S. Fuller, President -- World Wildlife Fund

"Perhaps no creatures on earth inspire greater awe than the majestic wild bears that roam Alaska's Kodiak Island."

Gil Grosvenor, National Geographic Society

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In a letter to the Trustee Council, the Executive Director of the Kodiak Regional Aquaculture Association stated that "The Kodiak Regional Aquaculture Association supports Trustee Council land acquisition within the Kodiak National Wildlife Refuge, particularly of critical fisheries and wildlife habitat . . . Seventy percent of the commercial salmon harvest in the Kodiak area management unit (Area K) comes from anadromous streams within the Kodiak Refuge. Most of the Refuge salmon streams are on Native land."

And finally, your newspaper stated the following about conserving habitat on Kodiak:

"the Kodiak buyback is a no-lose proposal . . . using some of the oil spill settlement to protect this extraordinary habitat would be a fitting settlement of the state's worst environmental accident."

Among the leaders in the efforts regarding Kodiak were Governor Hickel and the Alaska EVOS Trustees. Senator Ted Stevens helped provide the first real money to help conserve Kodiak fish and wildlife habitat. Congressman Young was a tireless advocate for conserving this world class habitat. Secretary Babbitt and the federal Trustees played key roles in these acquisitions. Additionally, the research endowment advocated by Senator Murkowski, which our corporations support, will help continue providing benefits to the Exxon Valdez Oil Spill Region from the EVOS Settlement Trust funds for years to come.

The Kodiak agreements are achievements of remarkable scope and importance and will not be tarnished by the jaundiced views of a disgruntled few.

Sincerely,

Ralph Eluska, President
Akhiok-Kaguyak, Inc.

Emil Christiansen, President
Old Harbor Native Corporation

AKHIOK-KAGUYAK, INC.
5028 Mills Drive
Anchorage, Alaska 99508

OLD HARBOR NATIVE CORPORATION
P.O. Box 71
Old Harbor, Alaska 99643

October 30, 1995

RECEIVED
OCT 31 1995

KODIAK DAILY MIRROR
1419 Selig Street
Kodiak, AK 99615

MAIL ROOM
RECEIVED
ANNOUNCEMENT

Dear Editor:

To say the least, we were disappointed by the AP article, "Feds say trustees paid too much for Kodiak land" which appeared in the *Kodiak Daily Mirror* last week. The story on the Exxon Valdez Oil Spill Trustee Council's recent land transactions on the Kodiak Archipelago involving our two corporations lacked both accuracy and balance.

First though, we want to state unequivocally that when all aspects of the Kodiak land transactions are considered, the deals were fair to the government and our shareholders. The benefits for the Kodiak region will be realized forever. The multimillion dollar commercial fishing industry is dependent on the now conserved and protected watersheds. The sport hunting, sport fishing, tourism industries on Kodiak are inextricably linked to the health and vitality of the refuge lands and public access to those lands. An intact Kodiak refuge will now be preserved forever. Additionally, our shareholders have established settlement trusts authorized under ANCSA and proceeds from the transactions are committed to those trusts. That will conserve those assets for the benefit of our current and future shareholders and the Kodiak economy in perpetuity. If those and related results are not worth every penny committed to them, we can't imagine what ever could be.

We had hoped the reporter would have researched the issues more thoroughly to avoid producing a biased article. Also disturbing to us is the continued sniping by a few, but determined, government realty personnel who object philosophically to the acquisition and conservation of world class fish and wildlife habitat and apparently do not understand the routine negotiating process people use in the real world when purchasing land.

To characterize the land sales as "boondoggles," as the story did, is unsupported by the facts and degrading to those involved in this achievement. For the government appraisers to suggest we sell our land for \$128 to \$175 per acre was ludicrous in our opinion. No one would sell these lands for such a low figure, especially considering remote parcels on Kodiak Island were selling routinely in the private market for \$3,000 to \$5,000 per acre.

The primary misunderstanding conveyed by the story involves the role of a land appraisal in the EVOS Trustee Council process, or in any land transaction, where the government lacks

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The story also says the government got very little for its money, implying the land was already protected from development. That is not true; and, if it were, then it would call into serious question the underlying fairness and equity of the settlement of the aboriginal title to lands in Alaska by our people. It would mean that the lands provided to us in settlement of our aboriginal claims represented little, if any, value.

The suggestion that the lands were already protected from development, apparently relies on an interpretation of Section 22(g) of ANCSA. However, the Department of Interior is on record acknowledging the unenforceability of the supposed development restrictions available to wildlife refuge managers under Section 22(g). In the twenty-four years since passage of ANCSA, no regulations regarding Section 22(g) have been promulgated. It is a ghost, a "will of the wisp."

We believe the federal government has no power to restrict development on our private lands. As folks in Kodiak know, Section 22(g) lands have been subdivided, distributed and sold. Cabins

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What the article did not report was that Mr. Rasmussen's appraisal work regarding these lands was rejected by President Reagan's Department of the Interior in 1987 and again last year by the Clinton Administration. The article also did not mention that, in the case of Seal Bay, the government appraisal came in higher than the purchase price negotiated with Attorney General Charlie Cole and the other members of the Trustee Council. Nonetheless, we closed that sale and those lands are now the Afognak Island State Park established by the Alaska Legislature last year. This area will provide recreation and tourism benefits to Alaskans and others into the future.

If there ever were land transactions scrutinized, debated, held up to the light, these were them. The Seal Bay transaction was negotiated in a public meeting with the Trustee Council with the media on hand. The Kodiak transactions have been in the making for over a decade. Anyone who wanted to say anything about them had years to make their views known. To even hint that there was anything improper is to deny reality and display ignorance of the process and disregard to Alaska Native and other private property rights.

It was heartening to us and represented proud moments for our corporations to have been a part of these conservation efforts and to see the wide support these acquisitions received. The following are just a few of the public comments regarding the spectacular nature of the Kodiak lands and the resources to be conserved here.

"The protection of these lands will ensure the preservation of one of the nation's most productive and unique ecosystems."

EVOS Trustee Council Resolution, November 2, 1994

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Congressional Sportsmen's Caucus Co-Chairs,
Rep. Don Young & Rep. Bill Brewster

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Alaska Governor Walter J. Hickel

"Kodiak is perhaps the most important totally intact ecosystem in the United States."

Interior Secretary Bruce Babbitt

"There really isn't any other place that exceeds the rank of Kodiak Island as a conservation priority."

Kathryn S. Fuller, President -- World Wildlife Fund

"Perhaps no creatures on earth inspire greater awe than the majestic wild bears that roam Alaska's Kodiak Island."

Gil Grosvenor, National Geographic Society

Finally, in a letter to the Trustee Council, the Executive Director of the Kodiak Regional Aquaculture Association stated:

"The Kodiak Regional Aquaculture Association supports Trustee Council land acquisition within the Kodiak National Wildlife Refuge, particularly of critical fisheries and wildlife habitat . . . Seventy percent of the commercial salmon harvest in the Kodiak area management unit (Area K) comes from anadromous streams within the Kodiak Refuge. Most of the Refuge salmon streams are on Native land."

October 30, 1995

Page 5

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The Kodiak agreements are achievements of remarkable scope and importance that will benefit all of us who call Kodiak home for years to come. The public receives access to these lands, the habitat critical to our commercial salmon industry is protected, and our shareholders finally receive an economic return from ANCSA. Everyone won. This is the true story that should have been told by the Associated Press.

Sincerely,

Ralph Eluska, President
Akhiok-Kaguyak, Inc.

Emil Christiansen, President
Old Harbor Native Corporation



IN REPLY REFER TO:

RD

United States Department

FISH AND WILD

1011 E. Tu

Anchorage, Alaska

OPTIONAL FORM 99 (1-77)

FAX TRANSMITTAL

of pages 2

To	Mr. M. C. Cameron	From	Dave Allen
Dept./Agency		Phone #	
Fax #	FJI	Fax #	

NSN 7540-01-517-7500

5099-101

GENERAL SERVICES ADMINISTRATION

OCT 25 1995

OCT 31 1995

Michael Carey, Editorial Page Editor
 Anchorage Daily News
 1011 Northway Drive
 Anchorage, Alaska 99514-9001

Dear Editor:

I want to clarify the views of the U.S. Fish and Wildlife Service on the recent acquisitions of land within the Kodiak National Wildlife Refuge which were funded in part by the Exxon Valdez Oil Spill Trustee Council. The article by Natalie Phillips, "The Price of Pricelessness," of the October 22, 1995, edition of the Anchorage Daily News quoted Mr. Carl Rasmussen, a review appraiser for the Service. Mr. Rasmussen is highly knowledgeable about the fine points of appraisals, but he is not particularly familiar with the natural resources of the Kodiak Refuge, its management programs, and the overall Exxon Valdez Restoration Program. I am concerned that his comments as reported may be misleading or misconstrued. In discussions with Mr. Rasmussen, he is concerned that some of his comments were taken out of context.

The article is correct in its statements that the prices for the Kodiak acquisitions were agreed to through a negotiated process. The Service feels very strongly that the resources protected are indeed very significant, the threats to them real, and the prices paid are fair to the Government and Native Corporations alike. The very significant resources of the Kodiak Refuge were protected, restoration goals of the Exxon Valdez Oil Spill Trustee Council met and in turn the public interest well served. The price paid was the minimum the sellers would accept, the Trustee Council decided it was a reasonable price to achieve its restoration goals and the process was consistent with Federal Land Acquisition statutes and guidance.

The Service takes the long view in the acquisition process. These acquisitions will provide significant benefits to the people of America in perpetuity. The actions by the EVOS Trustee Council ensure that, on the lands acquired, human activities will benefit conservation and assure restoration of the resources injured by the Nation's worst oil spill as much as possible. The public received a lot for the money spent.

Since the article dealt with the costs so extensively, it is worth pointing out the economic value of the Kodiak salmon fisheries is a major reason for the Trustee Council's action. The average ex-vessel value to the commercial fisherman from 1984-1994 was \$41.4 million dollars with a high of \$103.8 million dollars in 1988. Much of the salmon spawning and rearing habitat that supports this renewable resource is within watersheds protected by the Trustee Council's action. The acquisitions provide additional recreation access, another extremely valuable segment of the local and state economy.

EXHIBIT COPY OF COPY
 TRANSFER TO FILE
 ADMINISTRATIVE RECORD

More important than protection of individual species or ~~services~~ or segments of the economy is the overall protection of one of America's richest natural ecosystems. The actions of the Trustee Council enhance the Service's ability to manage the Kodiak ecosystem for the benefit of all its inhabitants and users in perpetuity. When amortized over the lifetime of our children and their grand children, this investment is a bargain.

We very much appreciate the past editorial support of the Anchorage Daily News for the acquisition of inholdings within the Kodiak Refuge. On March 27, 1994, the Daily News editorialized that "...the lands the trustee council ranks as its top priorities would be well worth protecting. These include Native inholdings in the Kodiak National Wildlife Refuge ..." The Daily News also recognized the long-term economic dividends which would stem from the acquisitions: "the acquisitions would be not just pretty parks but scientific and economic investments, since protecting critical habitat is key to keeping the North Pacific diverse and productive."

Two days later, on March 29, 1994, the Daily News devoted its lead editorial, "Kodiak buyback: a good use for the oil spill settlement," in support of acquiring a "no-lose proposal," and that "using some of the oil spill settlement to protect this extraordinary habitat would be a fitting settlement of the state's worst environmental accident." Well said!

Sincerely,

A handwritten signature in dark ink, appearing to read "David B. Allen", with a stylized, flowing script.

David B. Allen
Regional Director