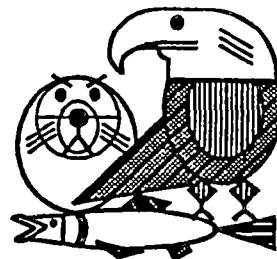


Exxon Valdez Oil Spill Trustee Council

Restoration Office

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RESOLUTION OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

RECEIVED
MAY 1994

We, the undersigned, duly authorized members of the Exxon Valdez Oil Spill Trustee Council,

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

after extensive review and after consideration of the views of the public,

find as follows:

1. The Eyak Corporation and Sherstone Corporation ("Sellers") together own the commercial timber rights on lands located west of Orca Narrows near Cordova, Alaska (the "Orca Narrows area"). There is a sub-parcel of these lands ("the Orca Narrows sub-parcel") consisting of approximately 2,052 acres and more particularly described as all lands in sections 29, 30, and 31 of township 14S, range 3W and all lands in sections 25, 26, 34, 35, and 36 of township 14S, range 4W, Copper River Meridian. The Orca Narrows sub-parcel was conveyed to Eyak Corporation pursuant to the Alaska Native Claims Settlement Act.

2. The Orca Narrows sub-parcel is within the oil spill affected area.

3. A substantial portion of the Orca Narrows area (including the Orca Narrows

Trustee Agencies

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

sub-parcel) is threatened with imminent clearcut logging. Permits have been secured or are pending for commercial logging operations on this land and Sherstone Corporation has entered into a logging contract with the Rayonier Corporation. The majority of the commercial timber in the Orca Narrows area is slated for harvest by clearcut logging over the next few years.

4. The Orca Narrows area includes important habitat for several species of wildlife for which significant injury resulting from the oil spill has been documented. There is evidence that the Orca Narrows area is an important marbled murrelet nesting area and there are substantial feeding concentrations of this species in this area. The extent to which marbled murrelets are naturally recovering from the oil spill is unknown. Logging may directly affect these foraging and nesting activities and hence the rehabilitation of this species. There are known concentrations of sea otters in Orca Bay and Orca Inlet. Sea otters were injured by the oil spill. There are ten documented bald eagle nests on the Orca Narrows area with feeding and roosting occurring along the shoreline. The area has a high value for recreation and tourism and is highly visible to the nearby community of Cordova. There is substantial recreational use of Milton Lake and Hole-in-the-Wall. The area has high scenic value. The Orca Narrows area has high subsistence value for the hunting of land mammals. Subsistence usage is a service lost or diminished as a result of injuries to natural resources from the oil spill.

5. Existing laws and regulation, including but not limited to the Alaska Forest Practices Act, the Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal

Orca Narrows Sub-parcel Resolution - May 3, 1994

Management Act, the Bald Eagle Protection Act, and the Marine Mammals protection Act, are intended, under normal circumstance, to protect resources from serious adverse affects from logging and other developmental activities. However, restoration, replacement, and enhancement of resources injured by the *Exxon Valdez* oil spill present a unique situation. Without passing on the adequacy or inadequacy of existing law and regulation to protect resources, biologists, scientists and other resource specialists agree that, in their best professional judgement, protection of habitat in the spill affected area to levels above and beyond that provided by existing law and regulation will likely have a beneficial effect on recovery of injured resources and lost or diminished services provided by these resources.

6. There has been widespread public support for the protection of the Orca Narrows area.

7. Purchase of the commercial timber rights for the Orca Narrows sub-parcel is an appropriate means to restore a portion of the injured resources and the services they provide in the oil spill area. This restoration action will be much more effective if the restoration measures on other portions of Sellers' lands as identified in the 4/28/94 Trustee Council letter to the Sellers are also implemented.

THEREFORE, we resolve to offer to buy from the Sellers the commercial timber from the Orca Narrows sub-parcel, consisting of approximately 2,052 acres and described as all lands in sections 29, 30, and 31 of township 14S, range 3W, and all lands in sections 25, 26, 34, 35, and 36 of township 14S, range 4W, Copper River Meridian, pursuant to the

following conditions:

(a) the commercial timber rights are in perpetuity and include the right to any revenue in excess of removal costs resulting from the sale of timber removed incident to any other activity and the right, but not the obligation, to reforest the parcel should the timber on the parcel be destroyed through events such as insect damage, fire or windstorms;

(b) the appraised value will be determined by an appraiser to be selected and paid for by the Trustee Council and the appraisal will be undertaken by the Trustee Council as a priority. The appraised value will be determined as of May 1, 1994 and, to the extent allowed by law, will consider the Rayonier market and cost information prepared for its 1994 operations on the sub-parcel;

(c) a satisfactory title search and hazardous substances survey is completed and Sellers are able to convey title to the commercial timber by general warranty deed;

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

(e) a final purchase agreement is signed within fifteen days from today and, to the extent practicable, all conditions precedent to closure, transfer of title and payment of the purchase amount will be completed within 90 days from today;

Orca Narrows Sub-parcel Resolution - May 3, 1994

(f) Sellers will be paid fair market value determined as of May 1, 1994 for the commercial timber rights;

(g) no commercial timber harvesting or related road development will occur prior to March 1, 1995 on Sellers' lands described in the Trustee Council's letter of April 28, 1994, notwithstanding any subsequent actions by the Council or the Sellers with respect to a more comprehensive protection package. The Council will pay to Sherstone Corporation \$400,000 for this "moratorium", provided that, if the fair market value of the commercial timber per one thousand board feet exceeds \$160, the price the Council pays for the moratorium will be reduced by \$100 for each one cent the fair market value of the commercial timber is above \$160 per thousand board feet. The price of the moratorium will not be less than zero.

Title to the Orca Narrows sub-parcel commercial timber rights shall be conveyed to the United States subject to the following conditions:

(h) there shall be no commercial timber harvest on these lands;

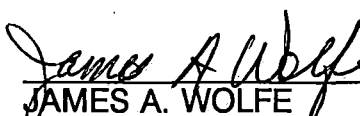
(i) once these commercial timber rights have been conveyed to the United States of America, they may not be conveyed to any other entity for any purpose, and in the event that there is an attempt by the United States to convey the commercial timber rights acquired through this resolution to any entity, in lieu of that conveyance, title to these commercial timber rights shall go to the State of Alaska, subject to the conditions of

Orca Narrows Sub-parcel Resolution - May 3, 1994


subparagraph (h).

The State of Alaska Department of Law and the United States Department of Justice are requested, upon notification that a purchase agreement has been executed for the interests described in the resolution, to petition the United States District Court to release trust funds in the amount of \$2,000,000 for the acquisition of these rights by the United States.

The Trustee Council views this agreement to purchase the commercial timber rights on the Orca Narrows sub-parcel as only the first step in acquiring protection for natural resources injured by the oil spill that are present on Sellers' lands. The Council appreciates the views presented in the final paragraph of the Sellers' letter of May 2, 1994 in this regard and desires to move quickly to the more comprehensive approach outlined in our letter of April 28, 1994 including the need to address public access to all lands on which less than fee title interests are acquired by the United States. The Council acknowledges the Sellers' needs to reasonably regulate uses on those lands. Accordingly, this offer presumes receipt of a more detailed offer addressing these concerns in the next fifteen days.


JAMES A. WOLFE
Trustee Representative
Alaska Region
USDA Forest Service

Dated 5/3/94


BRUCE M. BOTELHO
Attorney General
State of Alaska

Dated

5/3/94

Orca Narrows Sub-parcel Resolution - May 3, 1994

for Deborah Williams ^{ALT} Dated 5/3/94
GEORGE T. FRAMPTON, Jr.
Assistant Secretary for Fish,
Wildlife & Parks
U.S. Department of the Interior

Steven Pennoyer Dated 5/3/94
STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries
Service

Carl L. Rosier Dated 5/3/94
CARL L. ROSIER
Commissioner
Alaska Department of Fish &
Game

John A. Sandor Dated 5/3/94
JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation