

## RESOLUTION OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

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

1. The Eyak Corporation ("Eyak"), owns the surface estate of, or has valid prioritized selections on, lands in the Chugach National Forest ("Forest"), which include parcels known as Power Creek, Eyak River, and Eyak Lake (together "the Core Lands"), consisting of approximately 11,200 acres, and generally depicted on Exhibit A. The reduction in acreage from prior descriptions of the Core Lands contained in previous analysis and resolutions of the Trustee Council, which consisted of approximately 13,700 acres, is due in part to the removal by Eyak of three parcels of land for future development. Sherstone, Inc. ("Sherstone") is a wholly-owned subsidiary of Eyak that holds timber rights on the Core Lands. These lands were selected and conveyed pursuant to the Alaska Native Claims Settlement Act. The subsurface rights associated with these lands are held by Chugach Alaska Corporation.

2. These lands are within the oil spill area as defined by the Trustee Council in the Final Restoration Plan.

3. Eyak and Sherstone have recently indicated an intent to

develop the Core Lands through logging operations commencing on March 15, 1996. Eyak and Sherstone have also indicated a desire to sell the Core Lands in fee simple to the United States as part of the Trustee Council's program for restoration of the natural resources and services that were injured by the Exxon Valdez Oil Spill ("EVOS").

4. The Core Lands include important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented. The Trustee Council's habitat acquisition analysis indicates the Core Lands have high value to benefit such injured natural resources as sockeye salmon, cutthroat trout, Dolly Varden, and river otters, as well as a high restoration value for recreational use. Eyak Lake and Power Creek provide major spawning and rearing habitat for sockeye salmon, cutthroat trout and Dolly Varden. Annual sockeye escapement into Eyak Lake is estimated at 15,000 to 25,000 fish; most spawning occurs along the lakeshore. Eyak River is a major migration corridor for anadromous fish and supports major commercial, recreational, and subsistence fisheries. River otters use the Core Lands for feeding and denning. Acquisition of the Core Lands will benefit fish and waterfowl and the services they support primarily

by protecting the watershed from activities such as logging that may adversely affect water quality and quantity in Power Creek and Eyak Lake. Because Eyak Lake is shallow, it is particularly sensitive to possible eutrophication resulting from lake shore development. Protection of the land surrounding the lake will limit the risk of this occurrence. The Core Lands also have high scenic value because they are visible from the Copper River Highway; acquisition will preserve this scenic quality. The area is accessible by road and trail and receives high use by residents of Cordova for fishing, hunting, and plant gathering. Because of its proximity to Cordova and road access, there is a significant likelihood that development could occur on these lands. Although the size of the Core Lands has been reduced somewhat because Eyak has chosen to retain some areas, the Trustee Council finds that the remaining acreage retains significant attributes that will promote the restoration of injured resources.

5. Existing laws and regulations, including but not limited to the Alaska Anadromous Fish Protection Act, the Clean Water Act, the Alaska Coastal Management Act, the Bald Eagle Protection Act, and the Marine Mammal Protection Act, are intended, under normal circumstances, to protect resources from serious adverse effects

from activities on the Lands. However, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services injured, lost or reduced as a result of the EVOS present a unique situation. Without passing judgment on the adequacy or inadequacy of existing law and regulations to protect resources, biologists, other scientists, and other resource specialists agree that, in their best professional judgment, protection of habitat in the spill area to levels above and beyond that provided by existing laws and regulations will likely have a beneficial effect on recovery of injured resources and lost or reduced services provided by these resources.

6. There is widespread public support for the acquisition of the Core Lands.

7. The purchase of the Core Lands is an appropriate means to restore a portion of the injured resources and reduced services in the oil spill area. Acquisition of these lands is consistent with the Final Restoration Plan.

8. It is ordinarily the Federal Government's practice to purchase property based on a value determined through a fair market value appraisal for the land interests to be acquired. Although a fair market value appraisal has not been completed, the United

States has procured a draft appraisal for the underlying land value and a preliminary estimate of value of the timber located on a portion of the Core Lands. The combined initial estimate of value of the Core Lands is between \$2.9 to \$3.9 million.

9. Fair market value is an economic concept and does not reflect the benefits of the acquisition to the restoration of the injured natural resources. The habitat analyses prepared for the Trustee Council demonstrate that there is a need to acquire these lands promptly to promote the recovery of the injured natural resources by preventing any potential degradation of the habitat resulting from development. Furthermore, the United States has no authority to acquire these lands from the seller except on the basis of a mutually negotiated purchase price. Based on prior negotiations with Eyak and Sherstone, the Trustee Council believes that the initial estimate of fair market value is not an acceptable purchase price to Eyak and Sherstone. Accordingly, we find that it is appropriate to pay more than the initial estimate of fair market value for the Core Lands in order to obtain the resulting benefits for the restoration program.

THEREFORE, we supersede our resolution of December 2, 1994, related to Eyak and Sherstone land and timber interests and all

other Trustee Council offers. We resolve to authorize funding for an offer to purchase the Core Lands in fee simple and to provide the funds, if the offer is accepted, in the amount set forth below for the United States, acting through the Forest Service, to enter into appropriate agreements in conformity with applicable Federal and State law to purchase and acquire the interests. Such agreements shall contain and are subject to the following conditions and terms:

(a) fee simple acquisition of the land identified in Exhibit A. The offered purchase price for the interests in the Core Lands shall be \$7 million. This offer represents the lump-sum payment price. Because of the installment payment schedule provided for in the Exxon settlement agreement and the resulting limited availability of funds, an offer that reflects a value that provides Eyak and Sherstone a benefit for selling their interests in these lands over the course of several years will be considered by the Trustee Council if Eyak and Sherstone prefer such method of payment. The amount of this benefit will depend on the payment schedule agreed to by the parties. If an interim approved appraisal determines the fair market value of the Core Lands is more than \$7 million, the Trustee Council will consider a new offer

for the Core Lands. For purposes of this resolution, the interim approved fair market value appraisal shall be considered the final approved appraisal. This offer is valid until withdrawn by the Trustee Council or the date on which timber harvesting operations begin on the Core Lands.

(b) receipt by the United States District Court for the District of Alaska ("District Court") of the settlement payments due from Exxon Corporation, et al;

(c) disbursement of these funds by the District Court;

(d) completion of a satisfactory title search;

(e) no pre-closing development on the Core Lands;

(f) approval by the shareholders of Eyak and Sherstone for the sale of the interests in the Core Lands;

(g) Congressional review to the extent required with respect to acquisitions by the Forest Service pursuant to House Report No. 102-116;

(h) completion of a satisfactory hazardous substances survey;

(i) satisfactory compliance with the National Environmental Policy Act and other applicable state and federal law.

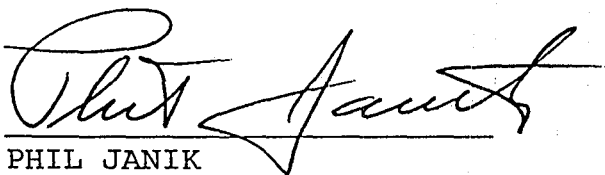
(j) Eyak and Sherstone agree to continue to negotiate in good faith with the Forest Service and the State of Alaska regarding the

acquisition of other land interests that have high value for purposes of restoration.

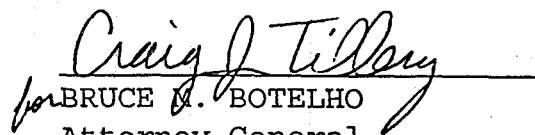
By unanimous consent, and upon execution of the purchase agreements and written notice from the Forest Service and the State of Alaska to the Executive Director of the Exxon Valdez Oil Spill Trustee Council that the terms and conditions set forth herein and in the purchase agreements have been satisfied, we request the Alaska Department of Law and the Assistant Attorney General of the Environment and Natural Resources Division of the U.S. Department of Justice to petition the District Court for withdrawal of the appropriate sum to be paid at closing from the District Court Registry account established as a result of the Governments' settlement. The appropriate sum is \$7 million if a lump-sum purchase is made. The sum of the installment payments is authorized for withdrawal if an installment payment schedule is agreed to by the parties. The lump-sum payment or the sum of the installment payments are the only amounts due under this resolution to Eyak and Sherstone by the United States or the State of Alaska from the joint funds in the District Court Registry, and no additional amounts are herein authorized to be paid to Eyak and Sherstone from such joint funds.



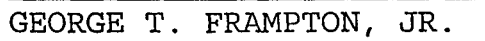
Dated this 29th day of February, 1996, at Juneau and Anchorage,  
Alaska.



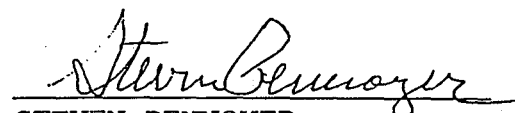
PHIL JANIK  
Regional Forester  
Alaska Region  
USDA Forest Service



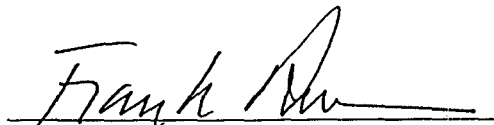
BRUCE A. BOTELHO  
Attorney General  
State of Alaska



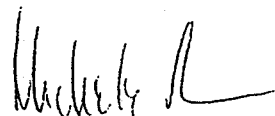
GEORGE T. FRAMPTON, JR.  
Assistant Secretary for  
Fish & Wildlife and Parks  
U.S. Department of the Interior



STEVEN PENNOYER  
Director, Alaska Region  
National Marine Fisheries  
NOAA



FRANK RUE  
Commissioner  
Alaska Department of  
Fish and Game



MICHELE BROWN  
Commissioner  
Alaska Department of  
Environmental Conservation

