

AGREEMENT

RECEIVED
MAY 25 1994

by and among

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

THE EYAK CORPORATION

SHERSTONE, INC.

and

UNITED STATES OF AMERICA,
acting by and through the Forest Service
within the Department of Agriculture

May 6, 1994

TABLE OF CONTENTS

1.	Definitions	1
2.	Recitals	2
3.	Agreement To Sell and To Purchase Commercial Timber Rights on Orca Narrows Sub-Parcel	3
4.	Conveyance of Commercial Timber Rights on Orca Narrows Sub-Parcel	3
5.	Purchase Price for Commercial Timber Rights on Orca Narrows Sub-Parcel	3
6.	Agreement To Suspend Commercial Timber Harvesting Until March 1, 1995	4
7.	Consideration for Agreement To Suspend Commercial Timber Harvesting Until March 1, 1995	4
8.	Representations And Warranties	5
9.	Conditions Precedent To Closing	5
10.	Closing	7
11.	Failure To Close	7
12.	General Provisions	7

EXHIBITS:

- Exhibit A: Land Description (Orca Narrows Sub-Parcel)
- Exhibit B: Conveyance (Orca Narrows Sub-Parcel)
- Exhibit C: Letter of April 28, 1994, from the Council to Eyak and Sherstone
- Exhibit D: Resolution of Exxon Valdez Oil Spill Trustee Council of May 3, 1994

AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 6th day of May, 1994, by and among THE EYAK CORPORATION, an Alaska Native village corporation the address of which is P. O. Box 340, Cordova, Alaska 99574, SHERSTONE, INC., an Alaska corporation the address of which is P.O. Box 340, Cordova, Alaska 99574, and the UNITED STATES OF AMERICA, acting by and through the Forest Service within the Department of Agriculture, the address of which is P.O. Box 21628, Juneau, Alaska 99802.

FOR AND IN CONSIDERATION OF the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings:

- (a) "ANCSA" means the Alaska Native Claims Settlement Act as heretofore amended and supplemented (43 U.S.C. § 1601 et seq.).
- (b) "Commercial Timber Harvesting" means (1) cutting and removing Merchantable Timber for sale and (2) constructing roads and other related infrastructure in support thereof.
- (c) "Commercial Timber Rights" means (1) the right to conduct Commercial Timber Harvesting, (2) the right to receive any revenue in excess of removal costs resulting from the sale of Merchantable Timber cut and removed by any party incident to the exercise of its lawful rights, (3) all rights and remedies available against persons who cut or remove Merchantable Timber with no lawful right to do so, (4) in cooperation with Eyak, the right, but not the obligation, to reforest in the event then-existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar manmade or natural occurrence (excluding manmade occurrences resulting from the exercise by Eyak of its lawful rights), and (5) in cooperation with Eyak, the right to enter upon the lands in which the rights described herein have been granted to administer said rights (e.g., to establish and maintain survey corners delineating said lands or to determine if reforestation should occur).
- (d) "Council" means the Exxon Valdez Oil Spill Trustee Council.
- (e) "Eyak" means The Eyak Corporation.
- (f) "Eyak Bill of Sale" means that certain Bill of Sale for Forest Products dated December 11, 1986, by and between Eyak and Sherstone (then known as Steinway, Inc.). (A copy of the Eyak Bill of Sale is attached to that certain Deed of Trust given by Eyak for the benefit of Steinway, Inc. recorded on November 24, 1987, at Book 59, Page 459 (the Eyak Bill of Sale begins at Page 461), Cordova Recording District.
- (g) "Merchantable Timber" means timber that can be harvested and marketed at a profit by a prudent operator.
- (h) "Orca Narrows Sub-Parcel" means the surface estate in and to the real property described in Exhibit A attached hereto.

(i) "Other Property" means the surface estate in and to the real property generally referenced in that certain Letter of April 28, 1994, from the Council to Eyak and Sherstone, a copy of which is attached hereto as Exhibit C.

(j) "Rayonier" means Rayonier Inc., a North Carolina corporation.

(j) "Rayonier Agreement" means that certain Timber Harvest and Marketing Agreement dated April 14, 1994, by and between Sherstone and Rayonier, as heretofore or hereafter amended, entered into for the purpose of harvesting and marketing certain timber located on both the Orca Narrows Sub-Parcel and certain Other Property.

(k) "Sherstone" means Sherstone, Inc. Sherstone was formerly known as Steinway, Inc.

(l) "United States" means the United States of America.

2. Recitals

(a) On November 2, 1978, the United States conveyed both the Orca Narrows Sub-Parcel and the Other Property to Eyak pursuant to ANCSA. See Interim Conveyance No. 127.

(b) On December 11, 1986, Eyak executed and delivered to Sherstone the Eyak Bill of Sale, by which instrument Eyak granted to Sherstone certain Commercial Timber Rights in and to both the Orca Narrows Sub-Parcel and the Other Property for a term commencing on December 11, 1986, and ending no later than December 31, 2011. Upon the expiration or termination of the Eyak Bill of Sale, all Commercial Timber Rights held by Sherstone revert to Eyak.

(c) On April 14, 1994, Sherstone and Rayonier entered into the Rayonier Agreement. As part of the Rayonier Agreement, Sherstone and Rayonier intend to harvest immediately during 1994 and early 1995 approximately 10,000,000 board feet of timber located on the Orca Narrows Sub-Parcel.

(d) On April 28, 1994, the Council sent a letter to Eyak and Sherstone (a copy of said letter is attached hereto as Exhibit C) proposing to protect certain property owned by Eyak and Sherstone. Said letter also invited Eyak and Sherstone to make a proposal for immediate protection of the Orca Narrows Sub-Parcel.

(e) On May 2, 1994, Eyak and Sherstone sent a letter to the Council containing a proposal for immediate protection of the Orca Narrows Sub-Parcel.

(f) On May 3, 1994, the Council adopted a resolution (a copy of said resolution is attached hereto as Exhibit D) authorizing both (1) the purchase of an agreement suspending Commercial Timber Harvesting until March 1, 1995, on both the Orca Narrows Sub-Parcel and the Other Property and (2) the purchase of the Commercial Timber Rights in and to the Orca Narrows Sub-Parcel.

(g) The Orca Narrows Sub-Parcel and the Other Property are within the area affected by the *Exxon Valdez* oil spill.

3. Agreement To Sell and To Purchase Commercial Timber Rights on Orca Narrows Sub-Parcel

Eyak and Sherstone hereby agree to sell to the United States, and the United States hereby agrees to purchase from Eyak and Sherstone, the Commercial Timber Rights in and to the Orca Narrows Sub-Parcel on the terms and subject to the conditions set forth below.

4. Conveyance of Commercial Timber Rights on Orca Narrows Sub-Parcel

At closing, Eyak and Sherstone shall execute, acknowledge, and deliver to the United States a conveyance in the form attached hereto as Exhibit B conveying to the United States the Commercial Timber Rights in and to the Orca Narrows Sub-Parcel and containing the restrictive covenant set forth in Exhibit B. At closing, the United States shall execute and acknowledge such conveyance in order to give effect to the restrictive covenant contained therein.

5. Purchase Price for Commercial Timber Rights on Orca Narrows Sub-Parcel

After the execution of this Agreement by all parties and prior to closing, the United States at its sole cost shall determine, by timber cruise and by residual value appraisal conducted on a priority basis in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (1992) and the Uniform Standards of Professional Appraisal Practice,

- (a) the amount (in thousands of board feet) of all Merchantable Timber situated on the Orca Narrows Sub-Parcel,
- (b) the average fair market value (in dollars per thousand board feet) as of May 1, 1994, of all Merchantable Timber situated on the Orca Narrows Sub-Parcel, and
- (c) the total fair market value (in dollars) as of May 1, 1994, of all Merchantable Timber situated on the Orca Narrows Sub-Parcel.

In making the determinations set forth above, the cost and market information developed by Rayonier in connection with its proposed 1994 operations on the Orca Narrows Sub-Parcel shall be considered, to the extent allowed by law.

The purchase price for the conveyance to be delivered pursuant to Paragraph 4 above shall be 100% of the total fair market value (in dollars) of all Merchantable Timber situated on the Orca Narrows Sub-Parcel, without deduction for the restrictive covenant contained in Exhibit B. Said purchase price shall be divided and paid separately to the order of Eyak and Sherstone, in accordance with the following percentages, at closing or as soon thereafter as the United States Attorney General or the Office of the General Counsel of the United States Department of Agriculture confirms that title has vested in the United States:

Eyak	0.50%
Sherstone	99.50%.

6. Agreement To Suspend Commercial Timber Harvesting Until March 1, 1995

Eyak and Sherstone hereby agree to suspend, until March 1, 1995, all Commercial Timber Harvesting on both the Orca Narrows Sub-Parcel and the Other Property.

7. Consideration for Agreement To Suspend Commercial Timber Harvesting Until March 1, 1995

Upon the execution by the parties of this Agreement, the United States shall become obligated to pay to the order of Sherstone at closing an amount in dollars determined as follows:

If the average fair market value (in dollars per thousand board feet) of all Merchantable Timber currently situated on the Orca Narrows Sub-Parcel, as determined pursuant to Paragraph 5 above, is less than or equal to \$160.00 per thousand board feet:

\$400,000

If the average fair market value (in dollars per thousand board feet) of all Merchantable Timber currently situated on the Orca Narrows Sub-Parcel, as determined pursuant to Paragraph 5 above, is greater than \$160.00 per thousand board feet but less than or equal to \$200.00 per thousand board feet:

\$400,000 less the product of \$10,000 times the difference between the average fair market value (in dollars per thousand board feet) of all Merchantable Timber currently situated on the Orca Narrows Sub-Parcel, as determined pursuant to Paragraph 5 above, and \$160.00 per thousand board feet

If the average fair market value (in dollars per thousand board feet) of all Merchantable Timber currently situated on the Orca Narrows Sub-Parcel, as determined pursuant to Paragraph 5 above, is greater than \$200.00 per thousand board feet:

\$10

8. Representations and Warranties

8.01 Orca Narrows Sub-Parcel.

Eyak hereby represents and warrants that as of the date hereof it is the sole owner of the Orca Narrows Sub-Parcel as and to the extent conveyed to it pursuant to ANCSA by Interim Conveyance No. 127, free and clear of any defects, liens, encumbrances, or other interests other than the interest of Sherstone under the Eyak Bill of Sale or the interests of Rayonier arising under the Rayonier Agreement or documents executed pursuant thereto or in connection therewith.

Sherstone hereby represents and warrants that as of the date hereof it is the sole owner of the rights granted to it under the Eyak Bill of Sale insofar as such rights extend to the Orca Narrows Sub-Parcel, free and clear of any defects, liens, encumbrances, or other interests other than the interests of Rayonier arising under the Rayonier Agreement or documents executed pursuant thereto or in connection therewith.

8.02 Other Property.

No party makes any representations or warranties respecting title to the Other Property.

8.03 General Representations.

Eyak hereby represents that it is duly incorporated and in good standing in the State of Alaska, that all corporate action necessary to authorize its entry into and performance of this Agreement has been taken, that this Agreement constitutes the legal, valid, and binding agreement of Eyak, and that entering into this Agreement will not result in a breach of any other agreement to which Eyak is a party.

Sherstone hereby represents that it is duly incorporated and in good standing in the State of Alaska, that all corporate action necessary to authorize its entry into and performance of this Agreement has been taken, that this Agreement constitutes the legal, valid, and binding agreement of Sherstone, and that entering into this Agreement will not result in a breach of any other agreement to which Sherstone is a party.

The United States hereby represents that pursuant to 7 U.S.C. § 428a(a), the Secretary of Agriculture is authorized to acquire interests in land by purchase as may be necessary to carry out his authorized work.

8.04 Disclaimer.

All parties hereby agree that no party or representative or agent of any party has made any representations or promises with respect to this Agreement that are not expressly set forth herein.

9. Conditions Precedent To Closing

9.01 Conditions To Be Satisfied By Eyak.

The obligations of Sherstone and the United States set forth in Paragraphs 3, 4, and 5 above shall be subject to the fulfillment, at or before closing, of the following conditions, which conditions Eyak hereby agrees to use its best efforts to fulfill or to have fulfilled at or before closing:

- (a) Eyak shall establish to the United States' reasonable satisfaction that at closing it will convey to the United States all Commercial Timber Rights in and to the Orca Narrows Sub-Parcel as and to the extent such rights were conveyed to it by Interim Conveyance No. 127, free and clear of any defects, liens, encumbrances, or other interests other than the interest of Sherstone under the Eyak Bill of Sale;
- (b) Counsel for Eyak shall deliver to the United States an opinion confirming to the United States' reasonable satisfaction that the general representations of Eyak set forth in Paragraph 8.03 above are true as of the date of closing.

9.02 Conditions To Be Satisfied By Sherstone.

The obligations of Eyak and the United States set forth in Paragraphs 3, 4, and 5 above shall be subject to the fulfillment, at or before closing, of the following conditions, which conditions Sherstone hereby agrees to use its best efforts to fulfill or to have fulfilled at or before closing:

- (a) Sherstone shall establish to the United States' reasonable satisfaction that at closing it will convey to the United States all Commercial Timber Rights in and to the Orca Narrows Sub-Parcel as and to the extent such rights were granted to it by the Eyak Bill of Sale, free and clear of any defects, liens, encumbrances, or other interests;
- (b) Counsel for Sherstone shall deliver to the United States an opinion confirming to the United States' reasonable satisfaction that the general representations of Sherstone set forth in Paragraph 8.03 above are true as of the date of closing.

9.03 Additional Conditions of Closing.

The United States may elect not to proceed to closing if it has obtained prior to August 5, 1994, a written report of an inspection of the Orca Narrows Sub-Parcel for hazardous substances that is not reasonably satisfactory to it. In addition, the United States may elect not to proceed to closing if, despite its best efforts, the U.S. District Court for the District of Alaska has not released to the United States the funds held in the court registry necessary to close this transaction prior to September 2, 1994.

9.04 Additional Obligation To Be Fulfilled By the United States.

The United States shall comply with the National Environmental Policy Act in connection with this Agreement.

9.05 Risk of Loss.

The parties agree that (a) any material loss or damage to the Commercial Timber Rights respecting the Orca Narrows Sub-Parcel occurring prior to the vesting of satisfactory title in the United States by reason of the unauthorized cutting or removal of timber, or as a result of fire or acts of God, shall be borne by Eyak and Sherstone, and (b) in the event any such material loss or damage occurs, the United States may refuse, without liability, to proceed to closing or may elect to proceed to closing upon such equitable adjustment of the purchase price as to which the parties may have agreed.

10. Closing

The parties shall use their best efforts to cause closing to occur on or before August 5, 1994. The parties shall agree in writing on a time, date, and place for closing. A third party shall serve as closing agent. The parties shall execute and provide written closing instructions to the closing agent no later than ten days prior to the date of closing, which instructions shall provide, inter alia, that no documents shall be delivered to the parties entitled thereto by the closing agent until the closing agent can disburse payment in immediately collectible funds to the parties entitled thereto.

11. Failure To Close

If closing fails to occur on or before September 2, 1994, through no fault of Eyak or Sherstone (but not otherwise), then Eyak and Sherstone may terminate this Agreement and thereby be relieved of all obligations and liabilities under this Agreement. Such termination shall not extinguish any claims for damages which Eyak or Sherstone may have for breach of this Agreement by the United States.

12. General Provisions

12.01 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties and supersedes any and all prior agreements and understandings relating to the subject matter hereof.

12.02 Modification of Agreement. This Agreement may be modified or amended only by a document in writing executed by all of the parties hereto.

12.03 Waiver. The failure of any party to this Agreement to insist upon the strict performance of any provision of this Agreement or to exercise any right, power, or remedy consequent upon a breach thereof shall not constitute a waiver by said party of any such provision, breach, or subsequent breach of the same or any other provision.

12.04 Remedies. Except as otherwise provided in this Agreement, the parties hereto shall be entitled to any and all remedies provided by law.

12.05 Time. Time is of the essence of this Agreement.

12.06 United States Currency. Except where expressly provided to the contrary, all references to dollars in this Agreement refer to United States currency, rounded to the nearest whole cent.

12.07 No Severability. If any material provision of this Agreement or any application thereof shall be invalid or unenforceable, this Agreement as a whole likewise shall be deemed invalid or unenforceable.

12.08 Governing Law. This Agreement shall be interpreted, construed, and enforced in accordance with, and otherwise governed in all respects by, the laws of the State of Alaska and the United States.

12.09 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

12.10 Further Actions. The parties hereby agree to take any and all actions and to execute, acknowledge, and deliver any and all documents reasonably necessary to effect the purposes of this Agreement.

12.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute a single agreement. Execution may occur at separate locations, provided that copies of this Agreement as executed are transmitted by facsimile to the other parties, with executed original counterparts delivered to each party as soon as possible thereafter.

12.12 Paragraph Headings. The descriptive paragraph headings throughout this Agreement are for convenience and reference only, and the words contained therein shall not be used to expand, modify, or amplify the meaning of this Agreement or to aid in the interpretation or construction of this Agreement.

12.13 No Member of Congress, Etc. It is agreed that no Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share of part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such corporation or company (sec. 3741, Rev. Stat., and secs. 114-116, Act of Mar. 4, 1909).

12.14 Proposal Respecting Other Property. Eyak and Sherstone shall make a good faith effort to deliver to the Council promptly a comprehensive proposal respecting the protection of the Other Property.

12.15 Savings. Nothing herein shall be construed to restrict or prohibit Eyak or Sherstone (a) from undertaking, after March 1, 1995, Commercial Timber Harvesting on the Other Property (excluding any portion of the Orca Narrows Sub-Parcel included therein), (b) from exercising, after March 1, 1995, their right to construct, use, and maintain roads, sort yards, log transfer facilities, camps, and other facilities on the Orca Narrows Sub-Parcel in connection with the conduct of Commercial Timber Harvesting on lands other than the Orca Narrows Sub-Parcel, or (c) from exercising, during the term of this Agreement or thereafter, all rights in and to the Orca Narrows Sub-Parcel other than Commercial Timber Rights.

12.16 Land Bank. Neither by entering into this Agreement nor by performing in accordance with this Agreement do the parties intend to effect the loss of any protections that may be afforded to Eyak or Sherstone or their interests by section 907 of the Alaska National Interest Lands Conservation Act, as amended, 43 U.S.C. § 1636.

EXECUTED on the date first set forth above.

THE EYAK CORPORATION

By: _____
Title: _____

SHERSTONE, INC.

By: [Signature]
Title: PRESIDENT

UNITED STATES OF AMERICA, acting by
and through the Forest Service within the Department
of Agriculture

By: _____
Title: _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of May, 1994, at _____,
Alaska, before me personally appeared _____ of
THE EYAK CORPORATION, an Alaska Native village corporation organized and existing
under the laws of the State of Alaska, to me known to be the _____ of said
corporation, and he acknowledged before me that he executed the foregoing Agreement on behalf
of The Eyak Corporation by authority of its Board of Directors for the uses and purposes therein
mentioned.

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

Notary Public in and for Alaska
My commission expires _____

SHERSTONE, INC.

By: _____
Title: _____

UNITED STATES OF AMERICA, acting by
and through the Forest Service within the Department
of Agriculture

By: James A. Wolfe
Title: Acting Regional Forester

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

ss.

THIS IS TO CERTIFY that on the _____ day of May, 1994, at _____,
Alaska, before me personally appeared _____ of
THE EYAK CORPORATION, an Alaska Native village corporation organized and existing
under the laws of the State of Alaska, to me known to be the _____ of said
corporation, and he acknowledged before me that he executed the foregoing Agreement on behalf
of The Eyak Corporation by authority of its Board of Directors for the uses and purposes therein
mentioned.

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

Notary Public in and for Alaska
My commission expires _____

12.10 Further Actions. The parties hereby agree to take any and all actions and to execute, acknowledge, and deliver any and all documents reasonably necessary to effect the purposes of this Agreement.

12.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute a single agreement. Execution may occur at separate locations, provided that copies of this Agreement as executed are transmitted by facsimile to the other parties, with executed original counterparts delivered to each party as soon as possible thereafter.

12.12 Paragraph Headings. The descriptive paragraph headings throughout this Agreement are for convenience and reference only, and the words contained therein shall not be used to expand, modify, or amplify the meaning of this Agreement or to aid in the interpretation or construction of this Agreement.

12.13 No Member of Congress, Etc. It is agreed that no Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share of part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such corporation or company (sec. 3741, Rev. Stat., and secs. 114-116, Act of Mar. 4, 1909).

12.14 Proposal Respecting Other Property. Eyak and Sherstone shall make a good faith effort to deliver to the Council promptly a comprehensive proposal respecting the protection of the Other Property.

12.15 Savings. Nothing herein shall be construed to restrict or prohibit Eyak or Sherstone (a) from undertaking, after March 1, 1995, Commercial Timber Harvesting on the Other Property (excluding any portion of the Orca Narrows Sub-Parcel included therein), (b) from exercising, after March 1, 1995, their right to construct, use, and maintain roads, sort yards, log transfer facilities, camps, and other facilities on the Orca Narrows Sub-Parcel in connection with the conduct of Commercial Timber Harvesting on lands other than the Orca Narrows Sub-Parcel, or (c) from exercising, during the term of this Agreement or thereafter, all rights in and to the Orca Narrows Sub-Parcel other than Commercial Timber Rights.

12.16 Land Bank. Neither by entering into this Agreement nor by performing in accordance with this Agreement do the parties intend to effect the loss of any protections that may be afforded to Eyak or Sherstone or their interests by section 907 of the Alaska National Interest Lands Conservation Act, as amended, 43 U.S.C. § 1636.

EXECUTED on the date first set forth above.

THE EYAK CORPORATION

By: _____
Title: _____

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

) ss.

THIS IS TO CERTIFY that on the 6th day of May, 1994, at Anchorage, Alaska, before me personally appeared L. Borer of SHERSTONE, INC., an Alaska corporation organized and existing under the laws of the State of Alaska, to me known to be the President of said corporation, and he acknowledged before me that he executed the foregoing Agreement on behalf of Sherstone, Inc. by authority of its Board of Directors for the uses and purposes therein mentioned.

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

[Signature]
Notary Public in and for Alaska
My commission expires 5-19-97

STATE OF ALASKA

_____ JUDICIAL DISTRICT

) ss.

THIS IS TO CERTIFY that on the _____ day of _____, 1994, at _____, Alaska, the foregoing instrument was acknowledged before me by _____ of the Alaska Region of the Forest Service within the Department of Agriculture of the UNITED STATES OF AMERICA, on behalf of the UNITED STATES OF AMERICA.

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

Notary Public in and for Alaska
My commission expires _____

DATA:459034OtherVJP Documents/Agreement

EXHIBITS:

- Exhibit A: Land Description (Orca Narrows Sub-Parcel)
- Exhibit B: Conveyance (Orca Narrows Sub-Parcel)
- Exhibit C: Letter of April 28, 1994, from the Council to Eyak and Sherstone
- Exhibit D: Resolution of Exxon Valdez Oil Spill Trustee Council of May 3, 1994

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

} ss.

THIS IS TO CERTIFY that on the _____ day of May, 1994, at _____ Alaska, before me personally appeared _____ of SHERSTONE, INC., an Alaska corporation organized and existing under the laws of the State of Alaska, to me known to be the _____ of said corporation, and he acknowledged before me that he executed the foregoing Agreement on behalf of Sherstone, Inc. by authority of its Board of Directors for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires _____

STATE OF ALASKA

First JUDICIAL DISTRICT

} ss.

THIS IS TO CERTIFY that on the 6 day of May, 1994, at Tuneau, Alaska, the foregoing instrument was acknowledged before me by James A. Wolfe, Acting Regional Forester, of the Alaska Region of the Forest Service within the Department of Agriculture of the UNITED STATES OF AMERICA, on behalf of the UNITED STATES OF AMERICA.

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

Regulene R. Swanson
Notary Public in and for Alaska
My commission expires 11/14/96

DATA:459034Other/NJP Documents/Agreement

EXHIBITS:

- Exhibit A: Land Description (Orca Narrows Sub-Parcel)
- Exhibit B: Conveyance (Orca Narrows Sub-Parcel)
- Exhibit C: Letter of April 28, 1994, from the Council to Eyak and Sherstone
- Exhibit D: Resolution of Exxon Valdez Oil Spill Trustee Council of May 3, 1994

EXHIBIT A

Orca Narrows Sub-Parcel

Those lands as contained in:

Township 14 South, Range 3 West, Copper River Meridian

Sec. 29, Lot 1;
Sec. 30, Lot 2;
Sec. 31

Containing 1,037.07 acres, as shown on plat of survey officially
filed October 24, 1991.

Township 14 South, Range 4 West, Copper River Meridian

Sec. 25, Lots 1, 2;
Sec. 26, Lots 8, 9, 10;
Sec. 34, Lots 1, 2;
Sec. 35, Lots 1, 2;
Sec. 36.

Containing 1,015.34 acres, as shown on the plat of survey officially
filed June 22, 1987.

Aggregating 2,052.41 acres.

EXHIBIT B

Conveyance of Commercial Timber Rights
(With Restrictive Covenant)

RECORD this Instrument in the CORDOVA RECORDING DISTRICT

INDEX this Instrument as follows:

Grantors: The Eyak Corporation
 Sherstone, Inc.
 United States of America

Grantee: United States of America
 State of Alaska
 The Eyak Corporation

RETURN this Instrument to:

CONVEYANCE OF COMMERCIAL TIMBER RIGHTS
(WITH RESTRICTIVE COVENANT)

(Orca Narrows Sub-Parcel)

THIS CONVEYANCE OF COMMERCIAL TIMBER RIGHTS (WITH RESTRICTIVE COVENANT) ("this Instrument") is given this ____ day of _____, 1994, by THE EYAK CORPORATION ("Eyak"), an Alaska Native village corporation the address of which is P. O. Box 340, Cordova, Alaska 99574, and SHERSTONE, INC. ("Sherstone"), an Alaska corporation the address of which is P. O. Box 340, Cordova, Alaska 99574, (Sherstone and Eyak are referred to herein as "Grantors") to the UNITED STATES OF AMERICA ("United States"), acting by and through the Forest Service within the Department of Agriculture, the address of which is P. O. Box 21628, Juneau, Alaska 99802.

FOR AND IN CONSIDERATION OF \$10.00 and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby grant and covenant as follows:

1. DEFINITIONS

For purposes of this Instrument, the following terms shall have the following meanings:

(a) "ANCSA" means the Alaska Native Claims Settlement Act as heretofore amended and supplemented (43 U.S.C. § 1601 et seq.).

(b) "Commercial Timber Harvesting" means (1) cutting and removing Merchantable Timber for sale and (2) constructing roads and other related infrastructure in support thereof.

(c) "Commercial Timber Rights" means (1) the right to conduct Commercial Timber Harvesting, (2) the right to receive any revenue in excess of removal costs resulting from the sale of Merchantable Timber cut and removed by any party incident to the exercise of its lawful rights, (3) all rights and remedies available against persons who cut or remove Merchantable Timber with no lawful right to do so, (4) in cooperation with Eyak, the right, but not the obligation, to reforest in the event then-existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar manmade or natural occurrence (excluding manmade occurrences resulting from the exercise by Eyak of its lawful rights), and (5) in cooperation with Eyak, the right to enter upon the lands in which the rights described herein have been granted to administer said rights (e.g., to establish and maintain survey corners delineating said lands or to determine if reforestation should occur).

(d) "Eyak" means The Eyak Corporation.

(e) "Eyak Bill of Sale" means that certain Bill of Sale for Forest Products dated December 11, 1986, by and between Eyak and Sherstone (then known as Steinway, Inc.). (A copy of the Eyak Bill of Sale is attached to that certain Deed of Trust given by Eyak for the benefit of Steinway, Inc. recorded on November 24, 1987, at Book 59, Page 459 (the Eyak Bill of Sale begins at Page 461), Cordova Recording District.

(f) "Merchantable Timber" means timber that can be harvested and marketed at a profit by a prudent operator.

(g) "Orca Narrows Sub-Parcel" means the surface estate in and to the real property described in Exhibit A attached hereto.

(h) "Sherstone" means Sherstone, Inc. Sherstone was formerly known as Steinway, Inc.

(i) "United States" means the United States of America.

2. GRANT

Grantors hereby CONVEY and WARRANT, as set forth in Paragraph 3 below but not otherwise, unto the United States the Commercial Timber Rights in and to the Orca Narrows Sub-Parcel, to have and to hold forever.

Eyak hereby RESERVES unto itself, its successors, and assigns, all rights in and to the Orca Narrows Sub-Parcel other than the Commercial Timber Rights, including but not limited to the following:

- (a) all rights to undertake all residential, commercial, or industrial development on the Orca Narrows Sub-Parcel other than Commercial Timber Harvesting, including but not limited to the right to construct, use, and maintain roads, sort yards, log transfer facilities, camps, and other facilities in connection with the conduct of Commercial Timber Harvesting on lands other than the Orca Narrows Sub-Parcel (except to the extent that Eyak has agreed in Paragraph 6 of that certain Agreement dated May 6, 1994, by and among Eyak, Sherstone, and the United States to suspend until March 1, 1995, all

Commercial Timber Harvesting on both the Orca Narrows Sub-Parcel and certain other lands);

- (b) the right to cut, remove, and sell timber on the Orca Narrows Sub-Parcel incident to the exercise of the foregoing reserved rights, subject to the right granted to the United States to receive all revenues in excess of removal costs resulting from the sale of timber cut and removed incident to the exercise of such rights.

3. WARRANTY OF TITLE

Eyak hereby represents and warrants that as of the date hereof it is the sole owner of the Orca Narrows Sub-Parcel as and to the extent conveyed to it pursuant to ANCSA by Interim Conveyance No. 127, free and clear of any defects, liens, encumbrances, or other interests other than the interest of Sherstone under the Eyak Bill of Sale.

Sherstone hereby represents and warrants that as of the date hereof it is the sole owner of the rights granted to it under the Eyak Bill of Sale insofar as such rights extend to the Orca Narrows Sub-Parcel, free and clear of any defects, liens, encumbrances, or other interests.

Eyak and Sherstone hereby jointly and severally agree to indemnify, defend, and hold harmless the United States from and against any loss or failure of title to the Commercial Timber Rights in and to the Orca Narrows Sub-Parcel arising out of or resulting from the assertion of any claim under section 14(c) of ANCSA, 43 U.S.C. § 1613(c).

4. RESTRICTIVE COVENANT

The United States hereby covenants, in perpetuity for the benefit of the State of Alaska and Eyak, not to conduct or permit to be conducted any Commercial Timber Harvesting at any time on the Orca Narrows Sub-Parcel. The United States hereby agrees that this restrictive covenant may be enforced either (a) by the State of Alaska, individually or in its capacity as owner of tidelands and submerged lands adjoining or otherwise within ten miles of the Orca Narrows Sub-Parcel, or (b) by Eyak, individually or in its capacity as owner of other lands conveyed to Eyak by Interim Conveyance No. 127 within ten miles of the Orca Narrows Sub-Parcel.

Nothing in this restrictive covenant shall prohibit the United States, in connection with its exercise (in cooperation with Eyak) of its right to reforest, from salvaging dead or downed timber in the event of blowdown or other similar manmade or natural occurrence or from receiving any revenue in excess of removal costs resulting from the sale of such salvaged timber.

5. GENERAL PROVISIONS

5.01 Binding Effect. This Instrument shall inure to the benefit of and bind the parties hereto and their respective successors and assigns.

5.02 Interpretation. This Instrument shall be interpreted, construed, and enforced in accordance with, and otherwise governed in all respects by, the laws of the State of Alaska and the United States.

5.03 Statement of Support. Eyak hereby states that it supports and intends to continue to support the United States in its efforts to protect important wildlife habitat and

viewsheds in the area affected by the *Exxon Valdez* oil spill, but such statement of support and intent shall not limit, diminish, or otherwise affect in any way the exercise by Eyak of the rights reserved by Eyak from the grant made by this Instrument.

IN WITNESS WHEREOF, the parties have executed this Instrument effective as of the date first set forth above.

THE EYAK CORPORATION

By: _____
Title: _____

SHERSTONE, INC.

By: _____
Title: _____

**UNITED STATES OF AMERICA, acting by
and through the Forest Service within the Department
of Agriculture**

By: _____
Title: _____

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

)
) ss.
)

THIS IS TO CERTIFY that on the ____ day of _____, 1994, at _____, Alaska, before me personally appeared _____ of THE EYAK CORPORATION, an Alaska Native village corporation organized and existing under the laws of the State of Alaska, to me known to be the _____ of said corporation, and he acknowledged before me that he executed the foregoing Instrument on behalf of The Eyak Corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires _____

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

)
) ss.
)

THIS IS TO CERTIFY that on the ____ day of _____, 1994, at _____, Alaska, before me personally appeared _____ of SHERSTONE, INC., an Alaska corporation organized and existing under the laws of the State of Alaska, to me known to be the _____ of said corporation, and he acknowledged before me that he executed the foregoing Instrument on behalf of Sherstone, Inc. by authority of its Board of Directors for the uses and purposes therein mentioned.

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

Notary Public in and for Alaska
My commission expires _____

STATE OF ALASKA

____ JUDICIAL DISTRICT)

) ss.

THIS IS TO CERTIFY that on the _____ day of _____, 1994, at _____, Alaska, the foregoing instrument was acknowledged before me by _____

_____ of the Alaska Region of the Forest Service within the Department of Agriculture of the UNITED STATES OF AMERICA, on behalf of the UNITED STATES OF AMERICA.

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

Notary Public in and for Alaska
My commission expires _____

EXHIBIT A: Orca Narrows Sub-Parcel

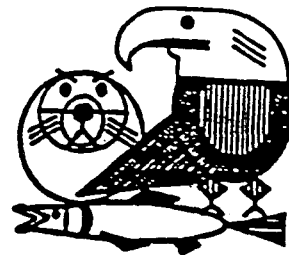
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Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 "G" Street, Suite 401, Anchorage, AK 99501-3451

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



April 28, 1994

**Donna Nadell, President
Eyak Corporation
PO Box 340
Cordova, AK 99574**

**Luke Borer, President
Sherstone, Inc.
PO Box 340
Cordova, AK 99574**

Dear Ms. Nadell and Mr. Borer,

Thank you for your letter of April 11, 1994. We appreciate your sincere efforts to work with us. Your letter states that Sherstone, Inc. anticipates resumption of timber harvest operations this summer on some of the Eyak Corporation's lands. We recognize that Sherstone's harvesting activities will be conducted with the protection of fisheries, wildlife, and scenic values in mind. Because of the *Exxon Valdez* oil spill and the resultant stresses placed on resources and services injured by the spill, the Trustee Council continues to be interested in providing additional protection for those injured resources and services through acquisition and protection of habitat on the Eyak Corporation lands. The areas of prime interest are: 1) the "core lands" around Power Creek, Eyak Lake, and Eyak River, 2) "Areas of Special Biological Importance" which includes Sheep Bay, Windy Bay/Deep Bay, and Port Gravina, and 3) "Areas Contributing to Restoration" which includes Orca Narrows.

1) "Core lands"-The Council is interested in acquiring fee title to the core lands. The Trustee Council recognizes the Eyak Corporation's interest in development of hydroelectric potential in the Power Creek area and is willing to discuss proposals from Eyak Corporation to retain ownership and development rights to the Power Creek hydroelectric site. The Trustee Council also recognizes that the Eyak Corporation may wish to retain a portion of the core lands for the Eyak Shareholder Land Use Program.

2) "Areas of Special Biological Importance"-The Trustee Council also wants to discuss additional protection measures for Sheep Bay, Windy Bay/Deep Bay, and Port Gravina. These areas have been identified by Trustee Council staff as being of particular value for

Trustee Agencies

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

restoration purposes. The Council would prefer to acquire fee title to these areas, but is willing to consider alternative proposals to protect injured resources and services while at the same time providing for the Eyak Corporation's needs for economic development and the Eyak Shareholder Land Use Program.

3) "Areas Contributing to Restoration"-Orca Narrows is an area of importance both for recreation and tourism. It is the desire of the Trustee Council and the community of Cordova to protect the scenic viewshed in that area. Accordingly, if Eyak Corporation agrees, the Council wants to discuss proposals to do so.

The Council requests that the Eyak Corporation grant public access to all lands on which less than fee title interests are acquired by the United States. To the extent permitted by law, such grant of public access would apply only to lands which are "unimproved" as that term is defined in AS 09.45.795, and would apply only so long as AS 09.45.795, or a substantially similar statute, continues in force. The Council acknowledges the Eyak Corporation's needs to reasonably regulate uses on those lands.

The price the Trustee Council is willing to pay for lands and interests is fair market value as determined by an appraisal. The fair market value will be determined, and the appraisal conducted, pursuant to standardized appraisal specifications being used by the state and federal trustee agencies.

The Trustee Council shares your belief that this or any other acquisition proposal must be subject to approval by the shareholders.

To facilitate discussions, any lands or interests in lands, including commercial timber interests, not owned by the Eyak Corporation or its wholly owned subsidiaries need to be identified at the outset of any negotiations.

We are requesting a detailed proposal from your Boards of Directors that accommodates your interests while meeting the terms of protection outlined in this letter. Upon reaching mutual agreement regarding the proposal, we will proceed with an appraisal.

As an interim measure, the Trustee Council is interested in acquiring protection for those Corporation lands on which timber harvesting is scheduled prior to April 1, 1995. It is the Trustee Council's understanding that these lands comprise a sub-parcel of the Orca Narrows parcel from which Sherstone, Inc. plans to harvest an estimated 8MMBF of timber between now and April 1, 1995.

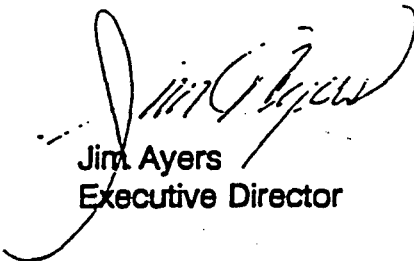
Should the Boards of Directors of the Eyak and Sherstone Corporations wish to offer to the Trustee Council sale of the commercial timber rights to this sub-parcel, the offer should recognize that the sale would be at fair market value as determined by an appraisal. Further, the offer should include a properly executed action of the respective Boards of Directors of the Eyak and Sherstone Corporations which certifies that, as a condition of the sale of the commercial timber rights to the Orca Narrows sub-parcel, that no other commercial timber harvesting will occur on Corporation lands subject to this letter prior to April 1, 1995, notwithstanding subsequent actions, if any, prior to April 1 1995 by the

Trustee Council, the Boards of Directors of the Eyak and Sherstone Corporations or the shareholders thereof with respect to a more comprehensive protection package.

Upon receipt of an offer and properly executed Corporate action regarding Orca Narrows as outlined above, the Trustee Council is prepared to act expeditiously on such offer, and if such action is favorable, to immediately execute a purchase agreement and order the necessary appraisal for the Orca Narrows sub-parcel on a priority basis.

We stand ready to meet with you at your earliest convenience to discuss a detailed proposal. Thank you again for your patience and work with the Trustee Council.

Sincerely,



Jim Ayers
Executive Director

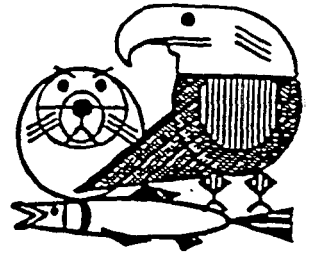
cc: Trustee Council

Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 "G" Street, Suite 401, Anchorage, AK 99501-3451

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



RESOLUTION OF THE EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

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 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;

(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:

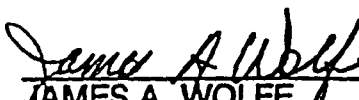
(h) there shall be no commercial timber harvest on these lands;

(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


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. SOTELHO
Attorney General
State of Alaska

Dated 5/3/94

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