

**SB**

**64**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 7, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/16/97 am

The FINANCE Committee considered:

CSSB 64(FIN)

CS FOR SENATE BILL NO. 64(FIN)

SHUYAK ISLAND STATE PARK

"An Act relating to the Shuyak Island State Park."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) DNR 2/4/97

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DPS 2/4/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Thernault</i>	Thernault			X	
<i>Edo Mulder</i>	Mulder			X	
<i>Terry Martin</i>	Martin	X			
<i>Arussindaf</i>	Arussindaf	X			
<i>James Moses</i>	Moses	X			
<i>Bob Kelly</i>	Kelly				✓

20

CHAIR'S SIGNATURE

*Gene Thernault*  
Thernault

# FISCAL NOTE

No. 2

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

REPORTED OUT OF

Bill Version: CSSB 64 (CRA)

Revision Date: \_\_\_\_\_

HFC 4/16/97 am Dept Affected: \_\_\_\_\_

(S) Publish Date: 2-4-97

Title: An Act relating to Shuyak Island State Park

BRU: Fish and Wildlife Protection

Sponsor: Rules Committee

Component: Detachments

Requester: S. CRA

COMPONENT SERIAL NO. 0490

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ -0-

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

This Bill will have no impact on this Department's programs or budget.

Prepared By: Lt. Joel L. Hard

Phone: 269-5409

Division: Fish and Wildlife Protection

Date: January 31, 1997

Approved by Commissioner: \_\_\_\_\_

Date: 1/31/97

Agency: \_\_\_\_\_

Ronald L. Otte, Department of Public Safety

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STATE OF ALASKA  
1997 LEGISLATIVE SESSION

**FISCAL NOTE**  
**REPORTED OUT OF**  
HFC 4/16/97an

No. 1

Bill Version: CS SB 64 (CRA)

(S) Publish Date: 2-4-97

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: An Act relating to the Shuyak Island BRU: Parks & Recreation Management  
State Park Component: Parks Management  
 Sponsor: Mackie  
 Requestor: (S)CRA Component Serial No. 452

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	5.0	7.0				
TRAVEL	5.0	3.0				
CONTRACTUAL						
SUPPLIES	5.0	3.0	4.0	5.0	5.0	6.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>15.0</b>	<b>13.0</b>	<b>4.0</b>	<b>5.0</b>	<b>5.0</b>	<b>6.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	15.0	13.0	4.0	5.0	5.0	6.0
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>15.0</b>	<b>13.0</b>	<b>4.0</b>	<b>5.0</b>	<b>5.0</b>	<b>6.0</b>

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Day-to-day management of the expanded park can be handled by existing staff and volunteer levels with some additional supply monies to pay for boat gas and other supplies. These costs are necessary for expanded patrol areas. A new park brochure would need to be designed and printed in FY98.

\$10.0 is needed in FY98 and FY99 to revise the Shuyak Island State Park Master Plan. The first year is \$5.0 each for personnel and travel to gather baseline information on use patterns in the new park area. Second year is \$7.0 for personnel and \$3.0 for travel to prepare the written update and hold the requisite public meetings and public comment period leading to adoption of a revised park plan.

Prepared by: Jim Stratton, Director Phone: 269-8700  
 Division: Parks Date: 29-Jan-97  
 Approved by Commissioner: [Signature] Date: 1-29-97  
 Agency: Natural Resources

# SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

## SPONSOR STATEMENT

### SB 64, Shuyak Island State Park

I introduced SB 64 at the request of Mayor Jerome Selby and the Kodiak Island Borough Assembly. It presents one of the final actions of a long and complex effort by state and federal authorities and locally affected municipalities to compensate for the effects of the Valdez oil spill. The bill adds specific land and water areas to the Shuyak Island State Park. Shuyak Island was the first part of the borough that was heavily impacted by the westward streaming oil patches and tar balls from the 1989 accident.

The two large land owners on Shuyak Island are the state and the Kodiak Island Borough. Previous litigation had imposed management restrictions that required the state to maintain wildlife habitat and public recreation values while the borough was partially prohibited from commercial or industrial uses on its lands. In 1984 the Shuyak State Park was established from part of the state's holdings to protect the area's fish and wildlife habitat and public recreation opportunities, while maintaining customary hunting and fishing uses.

One of the provisions of the spill settlement was the establishment of a joint federal and state council to manage remediation and recovery efforts. These responsibilities include the replacement of lost fish and wildlife habitat with the acquisition and protection of other high value habitat. It is for this purpose that the Oil Spill Trustee Council selected the borough's Shuyak Island lands and purchased them in 1996. The final part of this effort is the consolidation of all public lands under the management of the Shuyak Island State Park. The responsibilities for fish and wildlife management, however, is retained in the department of fish and game.

SB <sup>64</sup>~~62~~ completes the transaction by formally incorporating all state lands on the island into the Shuyak Island State Park. The expanded park retains the management goals, purposes, and allowed uses of the original park.

# SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

## SECTIONAL

CS SB 64 (FIN), Shuyak Island State Park

**Section 1.** The purpose section for the park, AS 41.21.170, is amended to broaden the description of lands and waters that constitute the park. It also acknowledges the covenant and deed restrictions of former Kodiak Island Borough lands being added to the park which protect traditional access and usage of the lands and waters. Sport, commercial, and subsistence fishing are specifically identified as traditional activities that are protected.

**Section 2.** The current description of park lands and waters is replaced with a new description that adds new lands, waters, and tidelands to the existing park lands and waters, including land previously owned by the Kodiak Island Borough.

**Section 3.** Section 1 conforming amendments.

**Section 4.** The commissioner of fish and game, the Board of Fisheries, and the Board of Game are prohibited from permanently closing hunting, fishing, or trapping activities unless it is necessitated by a biological emergency. The closure can only be maintained as long as the biological emergency exists.

**Section 5.** The Department of Fish and Game's ability to rehabilitate, enhance, and develop habitat within the park is broadened.

**Section 6.** Possession and use of weapons in the park is protected and use of weapons can only be restricted in areas where public safety is threatened. In addition, the commissioner of natural resources is prohibited from restricting lawful hunting, fishing, and trapping activities in the park

**Section 7.** Adds new subsections to the existing statute on incompatible uses which protects public access to park lands and private land in-holdings. The commissioner of natural resources is further required to specifically state and justify any incompatibility determinations.

**Section 8.** The water estate is included in the prohibition of eminent domain acquisitions.

SENATE DISTRICT C  
KODIAK ISLAND  
SOUTHEAST ISLANDS



handout 4/16/97 am

STATE CAPITOL  
JUNEAU ALASKA 99801-1132  
907 465-4025  
MAIL ROOMS: TOLL FREE  
907 465-3517 FAX

# SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

March 13, 1997

Mr. John Shively, Commissioner  
Department of Natural Resources  
400 Willoughby Ave.  
Juneau, Ak 99801-1724

Re: SB 64, Shuyak Island State Park.

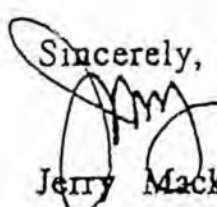
Dear Commissioner Shively,

I have had several questions from other senators regarding the proposed additions to Shuyak Island State Park as presented in SB 64. Basically, the bill adds three large blocks of land to the existing state park. They are the Kodiak Island Borough's holdings on the island that were purchased with EVOS funds, approximately 9,000 acres of unreserved state land on the island's east side, and the surrounding state tide lands. The questions concern the subsurface mineral estate of these lands. What is their status if SB 64 is enacted?

Secondly, I believe there are two mining claims in the area. One was grandfathered into the existing park and the other is on the state land that will be added to the park. What is the status of these claims and what is the department's intentions for their future.

Thank you for your prompt response.

Sincerely,

  
Jerry Mackie

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 485-2400  
FAX: (907) 485-3808

3601 C STREET, SUITE 1210  
ANCHORAGE, ALASKA 99503-6821  
PHONE: (907) 782-2483  
FAX: (907) 582-4871

March 17, 1997

The Honorable Jerry Mackie  
Alaska State Senate  
State Capitol, Rm #427  
Juneau, AK 99801

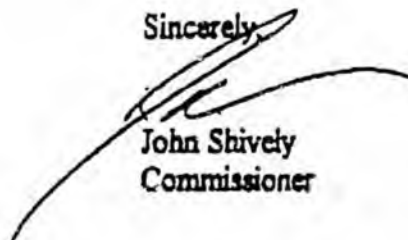
Dear ~~Senator Mackie,~~ 

I am in receipt of your letter with questions about the status of the subsurface mineral estate within the proposed Shuyak Island State Park. All subsurface rights are and will be owned by the Department of Natural Resources for the citizens of the State of Alaska. If the proposed park bill passes, the mineral rights will continue to be held by DNR.

The two existing mining claims will remain in effect as long as the permittees maintain valid and current permits for their activities. The proposed park will have no adverse impact on these claims.

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

Sincerely,

  
John Shively  
Commissioner

handout 4/16/97a



# Kodiak Island Borough

710 MILL BAY ROAD  
KODIAK, ALASKA 99615-6398  
(907) 486-9300

March 14, 1997

Senator Bert Sharp  
Alaska State Legislature  
Mailstop 3100 State Capital  
Juneau, AK 99801-1182

Post-it brand fax transmittal memo 7671		# of pages	6
To	Sen. Bert Sharp	From	John C. ...
Co.	Kodiak Island Borough	Co.	K.I.B.
Dept.		Phone #	907-486-9300
Fax #	907-3517	Fax #	907-9374

Dear Senator Sharp:

I understand you have some concerns with the Shuyak Island State Park bill, Senate Bill No. 64. I want to provide you with some additional information which I hope will address your concerns and win your support for this bill.

I understand you are concerned about the Kodiak Island Borough holding mineral rights to the 26,000 acre area that was sold to the Exxon Valdez Oil Spill Trustee Council for the State of Alaska. The Kodiak Island Borough has never held mineral rights to this land, as we were only granted surface estate in the municipal land selection program. The state has always retained the mineral rights under all municipal lands. Therefore, the mineral rights remain with the State of Alaska and would be administered as all other mineral rights, by the State of Alaska.

With regard to the existing mining claims, access is assured through Section 7 of the bill, containing an additional section under d stating that..."The Commissioner shall allow additional access to (2) private land within the Park." Private mining claims are, therefore, assured of continued access in the park.

I also understand you are concerned about putting the state lands on the East side of the island into the park, which were not part of the land sold by the Kodiak Island Borough. The Kodiak Island Borough is requesting that this land be included in the park bill. In addition, you need to be aware that the State of Alaska, in a court settlement Agreement and Consent Decree, agreed in Section 8 (attached) that this particular parcel of land "shall be at all times classified and managed by the state in a manner maintaining and enhancing such lands for wildlife habitat and public recreation purposes". This court order was entered into the record on August 12, 1981 and signed by Anchorage Superior Court Judge, Daniel Moore. The rest of that section was a commitment by the State of Alaska to place these lands into a state game refuge or the proposed Shuyak Island State Park.

The area you question happens to be some of the most important habitat on the island, and is, therefore very critical to the entire ecosystem of this small island. The different species

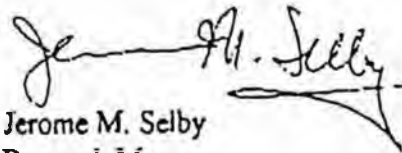
Senator Bert Sharp  
March 14, 1997  
Page 2

that use this particular east area of the island very heavily are beaver, land otter, red squirrels, brown bear, blacktail deer, bald eagles, raptors including peregrine falcons, willow ptarmigan, and sea birds. There are at least 23 colonies of sea birds found on Shuyak. Common goldeneyes, mallards, American mergansers, pintails, scooters, harlequins, and other ducks are either year round residents or winter on Shuyak. Sea otter are also abundant in the area. Harbor seals and sea lions are generally present and several species of whales have been reported in the nearshore waters. This eastern area also prime deer winter range. The importance of beach front timber to deer has been well documented in research from Southeastern Alaska. Deer are dependent on these beaches for travel and foraging, particularly in heavy snow conditions. Brown bear and bald eagles feed extensively on Eastern Shuyak beaches. The heavy rows of beach drift contain dead birds, marine mammals, fish and invertebrates, which are prime attractions for bears and eagles. Several intertidal lagoons are heavily used by waterfowl, land otters, brown bears and eagles. These lagoons contain major components of the habitat for these species and should properly be included in the park. Two of the largest lagoons are nearly enclosed by land with only narrow entrances to saltwater, and thus, very rich estuaries. These same tidelands are also very important access routes for hunters, trappers, beach combers, fishermen, and other park visitors. It is only logical that these access routes should be included in the park to assure that well managed utilization by folks can be maintained. To not include these access areas into the park, with all of the provisions that we have for use in this park bill would mean that in the future, some commissioner would be able to preclude access from the east side of the island into some of the very best hunting and fishing areas on the island. The language you folks have crafted into the park bill is far superior to the language in the court order in restricting departmental regulation and allowing maximum use for hunting, fishing, trapping and other uses. If this area is left out of the bill, then the land can be regulated as "wildlife habitat and public recreation purposes" on the whim of the departments. We are, therefore, requesting that you leave this area in the park bill, so that the entire island can be managed as one ecosystem with access from around the entire island assured for people to be able to hunt, fish, and use this land recreationally for everyone's benefit.

I appreciate your interest in this bill, and if you have any other questions, please feel free to give me a call at 486-9300. I'll be glad to provide you with any additional information that we have. Thank you for your consideration.

Sincerely,

**KODIAK ISLAND BOROUGH**



Jerome M. Selby  
Borough Mayor

and  
CONSENT DECREE

The parties to this agreement are the State of Alaska, Department of Natural Resources, through its Division of Forest Land and Water Management ("the State") and the Kodiak Island Borough ("KIB").

Whereas, pursuant to AS 29.18.201-.213 KIB is entitled to select 56,500 acres from state general grant land within its boundaries, and has filed such selections in the manner provided by statute; and

Whereas, a considerable portion of the land selection filed by KIB were rejected by the State on the grounds that the lands selected had been previously classified by the State for a use or purpose which disqualified those lands for conveyance KIB pursuant to AS 29.18.201 et seq., or had been designated a state interest lands pursuant to AS 38.05.047; and

Whereas, by reason of said selections by KIB and rejections by the State, the parties are currently involved in three separate judicial appeals from administrative decisions which are now pending in the Superior Court, Third Judicial District under case numbers JAN-80-3070 (Woody Island), JAN-80-6710 (Land Classification); and JAN-81-1385 (Shuyak Island); and

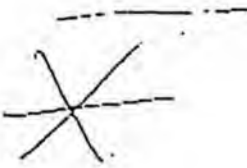
Whereas, both parties desire to settle finally the question of those lands which will be conveyed to KIB in satisfaction of its statutory land entitlement, and further desire to resolve this question in the near future without extended litigation, and to resolve pending litigation.

Now, therefore, the parties agree as follows.

MAR 1957 03:30 P.M. KIB

ould create a state game refuge denominated the "Aleksandr Baranov State Game Refuge" consisting of the lands described in Exhibit E. KIB agrees to support introduction of such legislation beginning with the 1981 legislative session, and support early passage of such legislation, provided that KIB is not obligated to support inclusion of tide or submerged lands except upon mutual agreement with the state with respect to the regulatory implications of such inclusion. The State agrees to support such legislation in good faith, by such oral and written testimony as may be appropriate.

7. KIB agrees to attempt to obtain introduction and passage of legislation in the Alaska State Legislature creating state park denominated the "Shuyak Island State Park" and consisting of all lands described in Exhibit F. KIB agrees to support introduction of such legislation beginning with the 1981 legislative session, and to support early passage of such legislation, provided that KIB is not obligated to support inclusion of tide or submerged lands except upon mutual agreement with the state with respect to the regulatory implications of such inclusion. The State agrees to support such legislation in good faith, by such oral and written testimony as may be appropriate.



8. In the event that lands to be included in the proposed "Aleksandr Baranov State Game Refuge" or the proposed "Shuyak Island State Park", referred to in Paragraph 6 and 7 respectively, are not finally included by legislation in the proposed game refuge or park, such lands shall be at all times classified and managed by the State in a manner maintaining and enhancing such lands for wildlife habitat and public recreation purposes. Otherwise KIB shall be entitled to select those lands not so classified and managed, and the State shall thereupon promptly transfer the selected lands to KIB. Upon transfer of such lands to KIB, KIB shall reconvey equivalent acreage to the State from Shuyak Island in the manner provided in Paragraph 4 and thereafter in the manner provided in Paragraph 5.

12. The State and K.I. agree that this Agreement, together with its Exhibits A through H, embodies all of the terms and conditions of the Agreement for settlement of pending litigation and for conveyance of all lands due to KIB pursuant to AS 29.14.201-.211, and that no additional enforceable agreement or commitments exist between them with regard to this subject which are not contained in the text of this Agreement and its Exhibits. The parties reserve the right, by mutual consultation and agreement, to correct if necessary any technical errors or omissions in the specific land descriptions comprising Exhibits through H herein, so as to more nearly conform to the mutual intentions of the parties with regard to implementation of this Agreement

DATED this 19<sup>th</sup> day of June, 1981.

DEPARTMENT OF NATURAL RESOURCES

KODIAK ISLAND BOROUGH

[Signature]  
Commissioner

[Signature]  
Borough Mayor

STATE OF ALASKA

Attest: [Signature]  
Borough Clerk

[Signature]  
Director, Division of Forest,  
Land & Water Management

Attest: [Signature]  
Municipal Land  
Selections Officer

APPROVED AS TO FORM:

[Signature]  
Thomas E. Overman  
Assistant Attorney General  
State of Alaska

[Signature]  
Richard W. Garnett III  
Attorney, Kodiak Island  
Borough

ORDER

IT IS ORDERED, that the foregoing Agreement of Settlement and Consent Decree is hereby adopted and approved

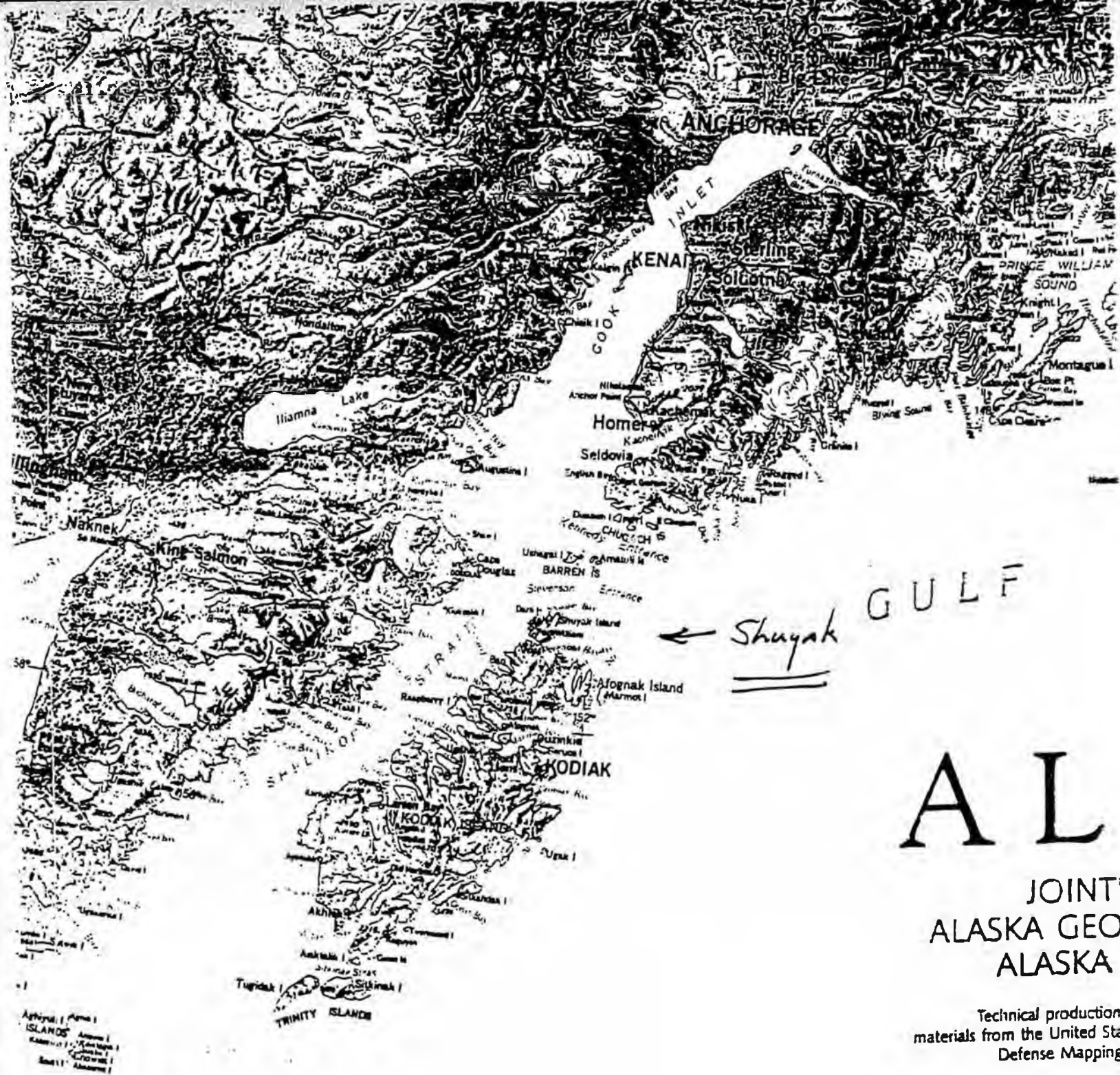


*Handwritten signature*  
 JUDGE OF THE SUPERIOR COURT  
 1981

*Handwritten signature*  
 JUDGE OF THE SUPERIOR COURT

MADE THIS 12 day of August, 1981  
 SHOULD BE ENFORCEABLE AS A JUDGMENT OF THE COURT.

12  
 9



GULF

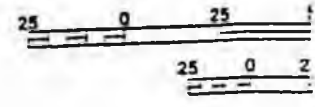
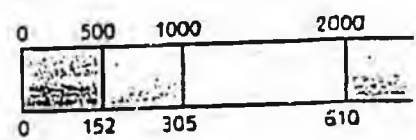
← Shuyak

AL

JOINT  
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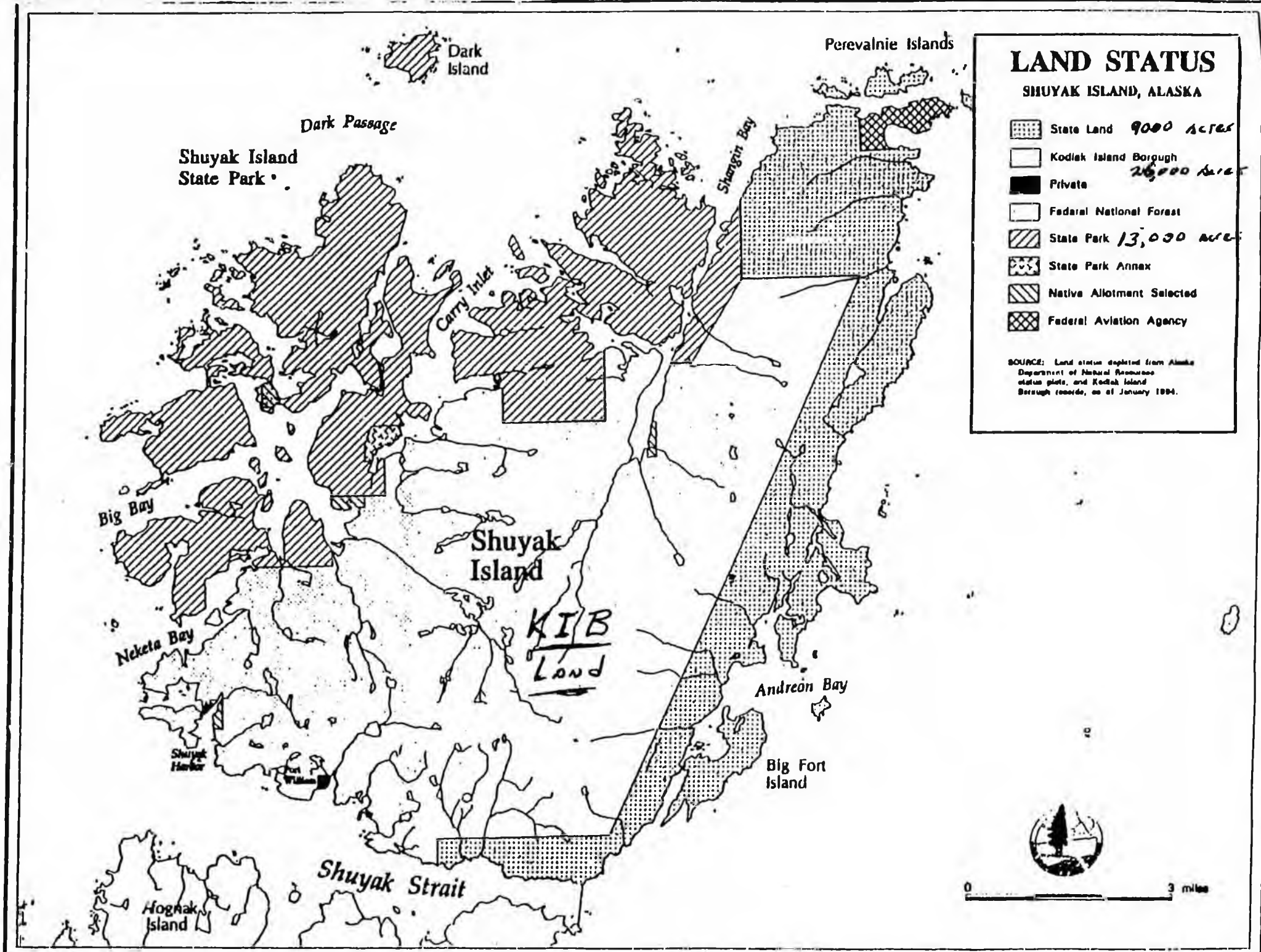
Technical production  
materials from the United States  
Defense Mapping

Base Map ©



ISLANDS

Chukchi I.



# LAND STATUS

SHUYAK ISLAND, ALASKA

-  State Land 9000 ACRES
-  Kotlik Island Borough 26,000 ACRES
-  Private
-  Federal National Forest
-  State Park 13,000 ACRES
-  State Park Annex
-  Native Allotment Selected
-  Federal Aviation Agency

SOURCE: Land status depicted from Alaska Department of Natural Resources status plots, and Kotlik Island Borough records, as of January 1984.



0 3 miles

S.M.; then east along the N 1/2 line of Sections 32 and 33 approximately 0.3 miles to the NW 1/4 corner of Section 33, T18S, R19W, S.M.; then northeasterly approximately 1.5 miles to the section corner common to Sections 22, 27, 28, and 21, T18S, R19W, S.M.; then north along the west boundary of Sections 22 and 15, T18S, R19W, S.M., to the point of mean high tide in Shangin Bay. (§ 1 ch 167 SLA 1984)

**Sec. 41.21.174. Designation of management responsibility.** (a) The state uplands and freshwater bodies described in AS 41.21.172 are assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.170 — 41.21.178.

(b) The Department of Fish and Game is responsible for the management of fish and game resources in the Shuyak Island State Park, consistent with the sustained yield principle and the purposes and provisions of this chapter. The Board of Fisheries, the Board of Game and the commissioner of fish and game are responsible for adopting regulations governing uses of fish and game in accordance with AS 16. The fish and game habitat and breeding areas shall be managed to ensure that the fish and game resources of the park continue on a sustained yield basis.

(c) The department shall consult with the Department of Fish and Game before adoption of regulations governing public use of the Shuyak Island State Park.

(d) The Department of Fish and Game shall consult with the department before adoption of regulations governing fish and game management in Shuyak Island State Park.

(e) The regulations established under this section shall be adopted in accordance with AS 44.62 (Administrative Procedure Act).

(f) The commissioner shall permit reasonable camping within the Shuyak Island State Park on an extended basis on request.

(g) Nothing in AS 41.21.170 — 41.21.178 prohibits the Department of Fish and Game from engaging in stream rehabilitation enhancement and development under AS 16.05.092 on land within the Shuyak Island State Park.

(h) The Department of Public Safety and the Department of Fish and Game shall have necessary access for fish and game management, research, and enforcement purposes. (§ 1 ch 167 SLA 1984)

**Editor's notes.** — Section 3, ch. 167, SLA 1984, provides: "Subject to the availability of funds, the Department of Natural Resources shall construct public use cabins within the Shuyak Island State Park."

Section 4, ch. 167, SLA 1984, provides: "The commissioner of natural resources shall identify the

boundaries of the Shuyak Island State Park by posting each inland boundary described in AS 41.21.172 as enacted in sec. 1 of this Act or as added under sec. 2 of this Act at its beginning and its end and not less often than each one-eighth of a mile."

**Sec. 41.21.176. Incompatible uses.** (a) The commissioner may designate by regulation incompatible uses within the park uplands and freshwater bodies.

(b) Use of a weapon in the Shuyak Island State Park shall be allowed except in unique areas that may be closed for purposes of public safety by regulation by the commissioner.

(c) The regulations governing public use of the Shuyak Island State Park shall provide ample access for legal sport and subsistence hunting and fishing, trapping, and recreational uses. Except to protect public safety the commissioner may not restrict the exercise of sport or subsistence fishing or hunting, or trapping permitted under law or under a regulation of the Board of Fisheries or the Board of Game within the Shuyak Island State Park. (§ 1 ch 167 SLA 1984)

**Sec. 41.21.178. Additions to park.** Land may be added to the Shuyak Island State Park only by an act of the legislature. The commissioner may not acquire land within the boundaries of the Shuyak Island State Park by eminent domain. (§ 1 ch 167 SLA 1984)

Revisor's no: 1984, the follow Island State Par — 36: T18S, R1.

**Sec. 41.21.180 —** acquired lan purposes of ational and . for hunting :

(b) The le the Point Br further reco to the reside private land land to seek

Legislative letter of intent (Res)), see 198-

**Sec. 41.21.182 a** water withi

All state Township Section 1 Section 1 Section 1:

A-061005 Section 1 408 Section : Section ! Section 2 Section right-of-wa

Revisor's : numbered in

**Sec. 41.** land, the c purchase o or otherwi. acquired b State Park

Revisor's Renumbered

**Sec. 41.** land and maintena- 41.21.180

# Exxon Valdez Oil Spill Trustee Council

Restoration Office

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

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



## MEMORANDUM

L.B.A. Request

**TO:** Nancy Slagle  
Director  
Division of Budget Review  
Office of Management and Budget

**FROM:** Molly McCannan  
Executive Director

**DATE:** December 20, 1995

**RE:** Exxon Valdez Oil Spill RPL <sup>10-6-4011</sup> ~~11-6-8883~~

In accordance with Chapter 1, FSSLA 1992, the Department of Natural Resources requests authority to receive and expend \$42,000,000 from Exxon Valdez oil spill settlement trust funds to purchase 26,665.62 acres of surface estate on Shuyak Island from the Kodiak Island Borough.

This parcel of land was evaluated as part of the Trustee Council's Comprehensive Habitat Protection Process - Large Parcel Evaluation and Ranking (November, 1993) and found to be among the highest ranked parcels in the spill area.

This land provides important habitat for several species of fish and wildlife for which significant injury has been documented. These include harlequin ducks, black oystercatchers, marbled murrelets, pigeon guillemots, river and sea otters, harbor seals, Pacific herring, pink salmon, and Dolly Varden. Restoration of these injured species will benefit from acquisition of this important habitat through protection from activities and disturbances which may adversely affect their recovery. The area has exceptional scenic qualities and supports wilderness-based recreation activities including sport hunting and fishing. The area also possesses significant cultural resource values with fifteen documented historical/archaeological sites.

These lands will be managed by the Alaska Department of Natural Resources, with protection of fish and wildlife habitat and populations as the highest management

### 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

priority. Under the terms of the agreement, public use of these lands must be allowed and must include sport, personal use, and subsistence hunting, fishing, trapping and recreational uses, consistent with public safety and permitted under law or regulations of the Board of Fisheries and Board of Game. Limited commercial use may be allowed if consistent with state and federal laws and the goals of restoration.

As reflected in the Trustee Council resolution, the Trustee Council's appraisal process resulted in a finding that the Shuyak parcel has a fair market value in the range of \$27 million to \$33.32 million. Taking into account the basis for the various appraisal numbers, the position of the landowner as to its minimum selling price, and given the exceptional restoration values of the Shuyak lands, the Council felt an offer at the upper end of that range was appropriate. The appraised value is based upon a single cash payment of \$33.32 million. Because the payments will be over a period of eight years, in lieu of interest, the purchase price has been adjusted to a total purchase price of \$42 million. It should be noted here that the Kodiak Island Borough commissioned three separate appraisals on their own, and these ranged in value from \$36 million to \$54 million.

There has been widespread support for this acquisition. The Kodiak Island Borough has committed \$6 million to be received through this sale to expand the existing Fisheries Technology Center. This expansion, referred to as the Near Island Research Facility, will provide for the consolidation of federal and state fisheries agencies in Kodiak, which will greatly increase their ability to respond to fisheries management and research needs. Borough Mayor Jerome Selby has provided additional information on this facility in his enclosed letter of endorsement.

Additional documentation supporting this request is also being provided:

- Trustee Council Resolution dated December 11, 1995
- Restoration Benefits Report
- Map
- Appraisal information (selections)
- Endorsement from Kodiak Island Borough
- Photos
- Letters of support

Since this is a capital project, authority to receive and expend subject to AS 37.25.020 is requested. If you have any questions about this RPL, please do not hesitate to contact me at 278-8012.

Department of Natural Resources

OK -- NO OBJECTION

**RPL # 10-6-4011**

**CIP**

**Exxon Valdez Trustee Council Projects**

**\$42,000,000 Exxon Valdez Oil Spill Settlement Trust Funds**

**Statutory Authority: AS 37.14.405**

The Department of Natural Resources requests authority to receive and expend \$42,000,000 in EVOSS trust funds for purchase of approximately 26,665.6 acres of surface estate on Shuyak Island from the Kodiak Island Borough.

The Exxon Valdez Trustee Council adopted a resolution in December, 1995 finding that purchase of the Shuyak Island land is consistent with its final restoration plan for natural resources injured by the Exxon Valdez oil spill. The land was found to include habitat for injured species that will benefit from protection from activities that might adversely impact habitat and water quality. In addition, the Trustee Council found that the land has significant scenic, cultural resource, and recreational values.

An appraisal of the land prepared for the Trustee Council determined that the present fair market value was from \$27,000,000 to \$33,320,000. Appraisals prepared for the Kodiak Island Borough determined the fair market value to range from \$36,000,000 to \$54,000,000. The lowest price the Borough will accept is \$33,320,000, based on a single cash payment. A purchase price of \$42,000,000 has been agreed upon which is to be paid over a seven year period, as follows: \$8,000,000 at closing; \$2,194,266 on October 1, 1996; \$4,000,000 on October 1, 1997; \$4,000,000 on October 1, 1998; \$4,000,000 on October 1, 1999; \$4,000,000 on October 1, 2000; \$4,000,000 on October 1, 2001; and \$11,805,734 on October 1, 2002. This payment schedule is predicated on a rate of approximately 6.45% on the unpaid balance due, assuming a closing date of October 1, 1995. The payment schedule will conform with the cash flow requirements of the EVOSS trust fund, which cannot provide a single cash payment of \$33,320,000.

If the sale is completed, the Kodiak Island Borough will use at least \$6,000,000 of the sale proceeds for construction of its proposed Near Island Research Facility. Remaining sale proceeds will be deposited in the Borough's facilities fund, the earnings on which will provide funding for maintenance of Borough facilities.

✓  
**Legislative Fiscal Analyst's recommendation: Approval of the request.**

Transmittal Memo (or) # of pages: 7

To: <i>Develeray</i>	From: <i>Larley</i>
Co.:	Co. <i>Leg. Budget</i>
Dept.:	Phone #:
Fax # <i>3517</i>	Fax #:

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The meeting  
that evening

at 5:00 p.m.

Chairman Terry Martin RECONVENED the January 8, 1996 meeting of the Legislative Budget and Audit Committee at approximately 5:02 p.m.

REVISED PROGRAMS

10-6-4011      Natural Resources      Requesting \$42,000,000 of EVOS Trust Funds to Purchase Shuyak Island. Approved

Sen. Adams MOVED to approve the action and discussion ensued.

Sen. Zharoff explained that the project would entail one month and that the EVOS Trustee Counsel had completed a number of appraisals and approved of the investment for the State. Sen. Zharoff described the area as rich in fish and wildlife. Chairman Martin requested clarification regarding the agreement with the Trustee Counsel, in view that a number of special interest groups in the past have requested State monies to purchase land, and then have subsequently resold the land to another special interest group. Sen. Zharoff expressed his concern that the agreement would also allow for public use to continue.

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**JEROME SELBY**, Mayor of the Kodiak Island Borough, expressed his view that the land acquisition is the best land purchase that the Exxon Valdez Trustee Counsel will consider, and the best investment that the State of Alaska could make with the \$900 million settlement. He further explained that the State of Alaska owns the rest of Shuyiak Island, with the exception of the parcel in question; with the acquisition of the parcel, the State of Alaska will own the entire island, enabling the implementation of a comprehensive land management plan.

In terms of land restoration, Mr. Selby described the parcel as a prime habitat in terms of impact on species damaged by the Exxon Valdez oil spill, thereby maximizing the opportunity for recovery. The parcel is also a heavily used recreational property for the State of Alaska, with a great deal of hunting and fishing activity on Shuyiak Island from residents of Anchorage, the Kenai Peninsula, and Kodiak. Therefore, the acquisition presented a unique opportunity whereby the State may forward the recovery of fish and wildlife species, while encouraging public activities, and implement land management. One third of the island is a state park; one quarter of the island is a state wildlife refuge. The parcel is situated to the southwest of those two parcels and completes the island.

Mr. Selby expressed his view that the acquisition is in full keeping with the Municipal Lands Act as a means to convert a capital asset. He further explained that \$6 million of the funds will be used to develop the Near Island Research Facility, which is a part of a \$16 million dollar facility planned to provide fisheries research in the Gulf of Alaska. Scientists from Federal National Fisheries, Alaska Fish and Game, and the University of Alaska will be co-located into the facility, where they will share research efforts to produce "world class" fisheries data to be used to managed fisheries in the Gulf of Alaska. Mr. Selby expressed his concern that if a research project was not implemented, fisheries in Alaska would face long-term jeopardy. The Near Island facility would be completed at no additional cost to the State. The balance of the funds would then be placed in a Facilities Fund by the Kodiak Island Borough, in order to maintain school facilities, thereby preventing future appropriation requests for the purpose. Mr. Selby reiterated that the acquisition would convert a capital asset, an island parcel worth \$42 million, into programs which would benefit the State in many areas.

Sen. Frank recalled an earlier purchase of property of the Exxon Valdez Trustee Counsel that required its conversion into a State Park, and questioned if there were any such restrictions placed on the State in the current acquisition agreement.

MOLLY MC CAMMON, Executive Director of the Exxon Valdez Oil Spill Trustee Counsel, explained that the current acquisition proposal contained no such language as was put forth in the Seal Bay Acquisition, to which Sen. Frank referred. Ms. McCammon explained the intent of the Department of Natural Resources to manage the Shuyak Island parcel as State land for recreation and wildlife habitat, with no "blackmail clause" stating that if is not placed in a State Park that it will be reverted to the Nature Conservancy or the Federal Government. In response to a question by Sen. Phillips, Ms. McCammon explained that the current acquisition proposal takes into account the legislature's response to language in the prior agreement.

Sen. Davis requested clarification as to whether there was written agreement guaranteeing that the balance of the funds, minus \$6 million for fisheries research, will be placed in a facilities fund, and whether annual earnings on the fund will be known to the public. Mr. Selby explained that the fund has already been established to manage the \$36 million, and that an ordinance restricted spending to interest only for the following uses: maintaining existing facilities, renovating existing facilities, and repaying bonded debt on existing facilities. In addition, he explained that 15% of the interest would return to the principal each year to keep the fund up with inflation. Responding to a question by Sen. Phillips, Mr. Selby explained that the ordinance required a public bill in order to be changed.

In response to a question by Sen. Phillips, Ms. McCammon pointed out that the Counsel was currently committed to spend approximately \$450 million, roughly half of the total settlement. Of that expenditure, close to \$200 million was spent on land acquisition. She further noted that in September, during her presentation on the Counsel's overall work plan, it was discovered that many people desired to spend the entire \$900 million on land acquisition, while others wanted to spend the entire amount on research projects. The Counsel adopted a plan three years ago committing approximately one third of the funds toward habitat protection. Following the commitment, they met with Federal counterparts to determine the priorities for Federal and State acquisitions. She explained that the Counsel continues to proceed according to the restoration plan.

Providing further clarification for Sen. Phillips, Ms. McCammon explained that approximately 60% of the settlement funds would be placed in research efforts. The Counsel has adopted a restoration reserve, in anticipation of further development over the next 15 to 20 years; currently \$36 million are placed in the restoration reserve earning interest, with a commitment of to place \$12 million in the reserve. By the year 2000, this amount would reach a total of \$150 million, and, if inflation-proofed, could provide \$5 to \$6 million a year of revenue for the Counsel.

Addressing Sen. Phillips' concern that the Counsel would once again approach the Legislature to request funding for land acquisition, Ms. McCammon confirmed the Counsel's intention to request a state, joint venture acquisition of a large parcel on Frog Neck Island. In addition, she explained that there are smaller, discreet areas which the Department of Natural Resources would like to use for marine parks and recreation. She also referenced the small parcel program for lands under one thousand acres, through which the Counsel has authorized agencies to make offers on approximately \$16 million's worth of small properties, in areas such as Seward, Palmer, and other locations along the Kenai River, which are key habitat areas. As the transaction progress, the Counsel intends to approach the Legislature for approval.

In response to a question by Sen. Bunde, Ms. McCammon explained the restrictions on the use of the land acquisition. Since the main purpose for the acquisition was to ensure protection of habitation, commercial timber harvest is restricted. Other activities on State Lands, such as hunting and fishing, would still be allowed.

**CRAIG TILLERY**, Assistant Attorney General, Civil Division, Environmental Section, Alaska Department of Law, responded to Sen. Halford's question about the language of these restrictions by referring to the Conservation Easement, on page 9 of Exhibit B. He also referenced the Warranty Deeds themselves, containing a covenant which states that "public use of land shall

be so guaranteed: hunting, fishing, trapping' etc. Mr. Tillery explained that all the language was subject to existing rights.

In response to a concern voiced by Sen. Phillips regarding restriction of motorized vehicles, Ms. McCammon clarified the use of motorized boats or planes was not prohibited. Mr. Tillery explained that the tide lands are not part of the acquisition, and therefore airplanes or boats would not be able to reach the acquired parcel. All access to the island is salt water borne; no ATV's or snow machines have ever gained access to the area.

Sen. Rieger raised a question as to how heavily the Near Island fisheries research project figured into the Trustees justification for the \$42 million acquisition. Mr. Tillery confirmed that the \$6 million for fisheries technology was a consideration in deciding to proceed with the current acquisition, since the State trustees viewed the research as a valid restoration benefit. Regarding the Federal Trustees, Ms. McCammon explained that they considered the fisheries facility as an added benefit, and not a driving factor in the acquisition. Mr. Tiller noted that the resolution adopted by all EVOS Trustees contains a statement that the Near Island Research Facility will have a positive benefit on natural resources injured by the Exxon Valdez oil spill.

Rep. Bunde expressed his concern regarding inflated appraisals which occurred in the past, and their reflection on future land acquisitions proposals. Rep. Bunde questioned whether the Conservation Easements applied to other state land already in the state park, and Mr. Tiller explained that it the defined terms applied only to the land transferred from the Kodiak Islands.

Chairman Martin raised a concern regarding the cost of managing these lands, and requested a list of long range and immediate cost to the State of land management. Ms. McCammon explained that the majority of current land acquisitions exist within Federal or State land holdings, thereby facilitating better quality and ease of land management. State Trustees believe that the proposed acquisition should be managed by personnel currently managing adjacent state lands, and would not increase management costs.

In response to Chairman Martin's suggestion that a portion of settlement funds be set aside for land management costs, it was pointed out that during 1995 such a motion was made regarding Seal Bay State Park, and was defeated; Federal Trustees did not agree to allocating such funds. The Department of Natural Resources do not believe that there will be any additional management costs with the proposed acquisition. Mr. Tiller agreed to inquire about language which would guarantee that, in the case that management costs did increase in the future, these monies would come from the settlement fund and not from the state.

In response to a question by Sen. Frank, Jerome Selby clarified that it was a unanimous decision by the Kodiak Island Assembly to approve the acquisition plan. He went on to explain that they did not consider a local designation of the land, because Shuyak is

not located near enough to Kodiak Island in order to adequately manage the land, making it more effective to delegate the management to state park personnel. Sen. Adams questioned whether current cash flow necessitated the payment plan proposed in the RPL, and it was explained that it was difficult to ascertain cash flow demands over the next eight years, and payment over time appears to be a more conservative course. Funds are currently earning interest, and there are plans to move them to a higher interest bearing account.

Rep. Kohring expressed concern over the intent behind the proposed acquisition, whether that be to assist programs for Kodiak Island or for the benefit of the entire State, and questioned whether there was an impending threat to the land or resources of the island that necessitated the proposed purchase. Mayor Selby pointed out that some of the greatest bird losses resulting from the oil spill occurred on the Barons Island to the north of Shuyak Island, making it critical habitat for these bird species, as well as for sea mammals in that area which were hard hit by the spill. From the standpoint of restoration of species damage, the area is a priority.

Regarding the fishing industry, it was pointed out that the area contains excellent salmon streams for preservation. Mayor Selby conceded that while Kodiak Island stood to benefit from the acquisition, the benefits clearly impact the entire state of Alaska. He also pointed out the opportunity for tourism development in the Kodiak archepeglio, which would benefit the economy of Kodiak and the State. In addition, Mayor Selby reiterated the benefit of adequate facilities to fisheries researchers in the State and University. Molly McCammon pointed out that the Seward research facility would be used predominantly for marine mammals, sea bird and fisheries genetics, while the facility in Kodiak is oriented toward commercial fisheries technology, byproducts, processing techniques, etc. Rep. Zharoff pointed out that the research facility in Kodiak is one of only five of its kind in the nation.

Molly McCammon explained that the Trustees have examined the expenditure of funds in order not only to address restoration needs, but to leave lasting benefit to communities within the spill area. Therefore, any major acquisitions and research projects implement not only restoration benefits, but also community benefits.

**CARL ROSIER**, retired Trustee Member and member of the Alaska Outdoor Council, explained that the Council believes there to be many benefits from the land acquisition. The benefits include state management of lands, hunting and fishing resources, restoration of wildlife species, and conservation of habitat. The Council believes that the benefits will be clarified during the years to come and strongly supports passage of the RPL.

Sen. Adam's MOTION on RPL 10-6-4011 to approve appropriation of \$42 million for the purchase of Shuyak Island was continued. No

objections being raised, the motion was APPROVED by unanimous consent.

Discussion Regarding Anchorage Data Center

Motion to Conduct Special Audit of Department of Information Systems, Amended to include Statewide Analysis of customer service.  
Approved.

MARK BOYER, Commissioner, Department of Administration, supported by KAREN MORGAN, Deputy Director of Division of Information Services, and RON HENSLING, addressed concern over the decision to realign data processing in the State of Alaska. He explained that the realignment was a business decision, based on economics, and referenced two studies conducted relating to state data processing, pointing to the direction of consolidating into one center that utilized a client/server format for accessing data.

Mr. Boyer referred to a study reportedly done by an earlier administration, which indicated that a shift away from Anchorage to Juneau would cost millions of dollars; he and his staff have been unable to locate such a study in their research. Rep. Bunde requested that the search for the study be continued and offered the assistance of an outside auditor, questioning the long term operating expense involved in the realignment.

Mr. Boyer pointed out cost savings in the near term, stating that the long term situation was difficult to determine due to the nature of change in the computer industry. In the next fiscal year, the Department of Administration (DOE) anticipates cost savings of nearly \$1 million, manifested through a combination of factors -- not purchasing duplicate licenses, nor additional software caused by redundant operations in Anchorage, in addition to reducing four vacant PCNs in the 1997 budget. A total \$925,000 in anticipated savings would be reflected in the budget introduced by the Governor.

In addition to direct savings, Mr. Boyer noted costs avoided by a change in business methods, such as adding additional disc drive space which would cost \$250,000, and adding uninterrupted power supply to the Anchorage facility which would cost \$150,000, as well as ongoing hardware maintenance costs of \$21,000 per month, and \$48,000 per month of software expenses.

Rep. Bunde expressed concern over the Governor's increase in the budget of \$5.8 million for telecommunications. Chairman Martin clarified that the figure refers to the Department of Administration's increase of software and enhancement of telecommunication.