

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**7682 SENATE RESOURCES**

HB

411

STATE OF ALASKA  
House of Representatives  
District 27

Representative Cliff Davidson  
Chairman  
House Resources Committee

Box V, Juneau, AK 99811  
(907) 465-2487  
Box 746, K Barak, AK 99615  
(907) 486-8250

TO: Senator Lloyd Jones, Chairman  
Senate Resources Committee

FROM: Representative Cliff Davidson *CLD*

DATE: 5 May 1992

SUBJECT: House Bill 411 - Exxon Valdez Restoration Projects

In October of 1991, the U.S. government and Exxon Corporation entered into a plea agreement settling the federal criminal case against Exxon. As part of that agreement, Exxon agreed to provide \$100,000,000 as "remedial and compensatory" payments, with \$50 million going to the State of Alaska and \$50 million going to the U.S. Government.

These monies came to the state treasury with federal District Court restrictions in place. These monies "are to be used by the State of Alaska and the United States exclusively for restoration projects, within the State of Alaska, relating to the 'Exxon Valdez' oil spill." The court further goes on to say that, "Restoration includes restoration, replacement and enhancement of affected resources, acquisition of equivalent resources and services, and long term environmental monitoring and research programs directed to the prevention, containment, cleanup and amelioration of oil spills."

These monies are restitution for environmental criminal acts, specifically, violations of the Migratory Bird Treaty Act, the Clean Water Act and the Refuse Act. These monies must necessarily go for those restoration purposes which the State of Alaska and the residents of the affected region deem appropriate and beneficial.

House Bill 411 was developed by working with the residents of the affected region to produce a package of projects widely supported within the oil spill communities that meet the terms of the agreement among the state and federal governments and Exxon. Support for this bill ranges from municipalities, fishing groups and native corporations to conservation groups, education groups and archaeologists.

I request your expeditious deliberation on House Bill 411.

HOUSE BILL 411

---

*LEGAL OPINIONS*

\*\*\*\*\*

Introduced by: Mayor Selby  
Requested by: Afognak Native  
Corporation  
Drafted by: Afognak Native  
Corporation  
Introduced: 03/19/92  
Adopted: 04/02/92

**KODIAK ISLAND BOROUGH  
RESOLUTION NO. 92-11**

**A RESOLUTION SUPPORTING THE ACQUISITION OF IMPORTANT FISH, WILDLIFE,  
CULTURAL, AND RECREATIONAL LANDS ON AFOGNAK ISLAND BY THE  
STATE OF ALASKA AND THE FEDERAL GOVERNMENT AS A WISE USE OF  
CRIMINAL AND CIVIL PENALTIES CONSEQUENT TO THE  
EXXON VALDEZ OIL SPILL**

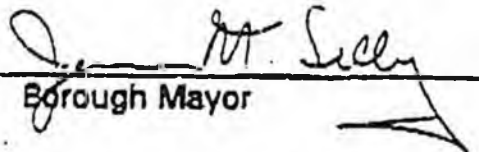
- WHEREAS,** the Exxon Valdez oil spill caused important biological, economic, and cultural damage to the lands, waters, fish, and wildlife of the Kodiak Archipelago and to its residents;
- WHEREAS,** the State and Federal Trustees of the Oil Spill Trust Fund and the State legislature are required by the courts to use civil and criminal penalties collected from the Exxon Corporation to restore the damage to the ecosystem;
- WHEREAS,** the Afognak Joint Venture has publicly expressed its willingness to sell undeveloped lands with high resource values and has worked cooperatively in that endeavor with the Kodiak Island Borough, State of Alaska, and United States Government;
- WHEREAS,** commercial fishermen, sportsmen, recreational users, and many other local residents have expressed strong support for the acquisition and protection of these valuable Afognak Island lands; and
- WHEREAS,** such acquisition will contribute to economy of the Kodiak Island Borough through diversification, investment and dividends as well as protecting existing businesses dependent on maintaining fish and wildlife habitats in natural condition.

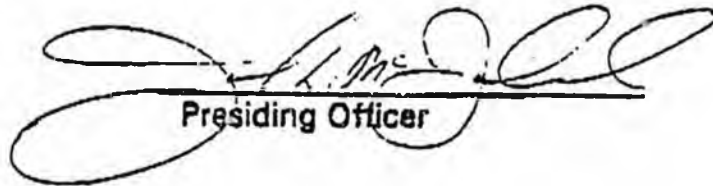
**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:**

the Assembly and the Mayor support the passage of Committee Substitute House Bill 411 and the immediate acquisition of undeveloped lands on Afognak Island by the State and Federal Trustees of the Oil Spill Trust Fund and by the Alaska State Legislature so that the criminal and civil penalties are wisely spent and so that damages to the lands, waters, fish and wildlife of the Kodiak Archipelago and to its residents are restored.

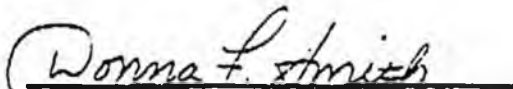
PASSED AND APPROVED THIS 2nd DAY OF APRIL, 1992.

KODIAK ISLAND BOROUGH

  
Borough Mayor

  
Presiding Officer

ATTEST:

  
Borough Clerk

Introduced by: Skogstad  
Date: 4/07/92  
Action: Adopted  
Vote: Unanimous

**KENAI PENINSULA BOROUGH  
RESOLUTION 92-41**

**A RESOLUTION SUPPORTING CS HB 411 WHICH PROVIDES REMEDIAL  
MONEY FOR RESTORATION PROJECTS WITHIN THE KENAI PENINSULA  
RESULTING FROM THE EXXON VALDEZ OIL SPILL**

**WHEREAS,** the State of Alaska has received \$50,000,000 as remedial and compensatory payments to be used exclusively for restoration projects relating to the Exxon Valdez oil spill; and

**WHEREAS,** not only were Kenai Peninsula Borough coastlines directly affected by the Exxon Valdez oil spill, but many of our rivers and estuaries sustained long term residual impacts that will require close monitoring for a number of years, along with the need to immediately implement several restoration projects already outlined; and

**WHEREAS,** CS for HB 411 specifically outlines several restoration projects that are not only critical for the long term environmental recovery of many areas of the Kenai Peninsula, but that takes steps towards helping in the immediate economic recovery within the Kenai Peninsula and Cook Inlet areas;

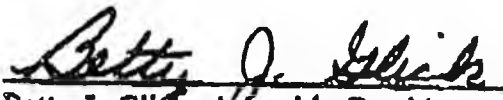
**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

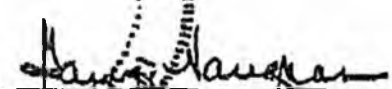
**Section 1:** That the Kenai Peninsula Borough Assembly supports passage of CS HB 411 as to the positive affects it will provide to the recovery of the environment and economy within the Kenai Peninsula resulting from the Exxon Valdez oil spill.

**Section 2:** That the Borough Clerk shall send copies of this resolution to Governor Walter Hickel, Senators Paul Fischer, Lyman Hoffman, Jalmar Kerttula, and Curt Menard; to House Representatives Cliff Davidson, Gene Kubina, Georgianna Lincoln, Mike Navarre, Gail Phillips, and James Zawacki.

**Section 3.** That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 1992.

  
Betty J. Glick, Assembly President

  
ATTEST  
  
Gaye J. Vaughan, Borough Clerk

KODIAK DAILY MIRROR 4/21/92

## HB 411 deserves our support

To the editor:

Kodiak residents should be aware of an important bill introduced by Rep. Cliff Davidson: HB 411. This legislation deals with part of the criminal penalty levied against Exxon as a result of the oil spill settlement. \$50 million of the criminal penalty was dedicated to the Alaska State Legislature and must be used for restoration work in the spill affected areas. Davidson has taken the time and effort to compile input from citizens throughout the spill-affected region.

The end result of his efforts is HB 411 which includes projects that are truly important to the people most effected by the oil spill. Davidson's leadership on this issue has inspired a spirit of cooperation which was well evident in a recent House Resource Committee hearing on HB 411. Forty-eight individuals and representatives of interested organizations from 13 communities testified; all voiced strong support for the bill except for one individual. Davidson has been able to gather and maintain strong regional support for HB 411, while at the same time dedicating a substantial portion of the \$50 million toward projects in the Kodiak area. His representation for our area has been excellent. Following is a brief outline of the Kodiak projects which would receive funding under HB 411:

—\$8.3 million for acquisition of

key fish and wildlife habitat from private landowners (native corporations) on Afognak Island.

This would include important spawning areas in the Pauls Lake/Seal Bay area. Land in the Malina Lakes area should also be purchased. It's important to note that under state management we could expect to both preserve and enhance public use of these areas.

—\$350,000 for acquisition or long-term leasing of weir sites which are recognized as important to commercial fisheries management in the Kodiak area.

—\$100,000 for long-term planning and development of the Fisheries Industrial Technology Center.

Other projects included in HB 411 which would have many benefits for the people and resources of the Kodiak area are:

—\$800,000 toward study and protection of archaeological resources. Archaeological sites were not only physically damaged by the oil spill, but their discovery by countless oil spill workers now puts them at greater risk for looting and destruction.

—\$3 million for an endowment to the Alaska Science and Technology Foundation (ASTF) to fund grants for educational projects related to oil spill and other natural resource issues. Kodiak's public radio station,

KMXT, as well as local schools, could all receive funding for projects under this endowment.

Davidson has clearly demonstrated his concern for everyone who was impacted by the oil spill by carefully compiling meaningful projects into HB 411. The development of HB 411 has been a difficult and time-consuming process for Davidson, requiring him to work with a wide variety of individuals and interest groups.

Although HB 411 continues to gain support from the local people in the spill-affected region, it still faces major hurdles in the legislative process.

Now is an important time to show that you appreciate our representative's leadership on these issues. Write him a note or letter expressing your support for HB 411.

Our local Legislative Information Office can help you send a message, or you can write to him. Below are the addresses:

Rep. Cliff Davidson  
Room 108, State Capitol  
Juneau, AK 99801  
Phone: 465-2487, or,

Legislative Information Office  
112 Mill Bay Road  
Kodiak, AK 99615  
Phone: 486-8116

Sincerely,  
Kelly Schactler,  
Director  
Area K  
Seiners Association

Thursday, March 26, 1992

## *Editorial*

# The meaning of restoration; developments in development

About this time of year — when the Alaska Legislature stops pussyfooting around and starts getting down to business — it's always good to remind elected officials not to get too wrapped up in the shifting-money game.

For example, House Bill 411 concerns itself with the fate of some \$50 million from Exxon's plea agreement in the criminal case arising from the Exxon Valdez oil spill, a notorious event that marked its third anniversary this week.

The state of Alaska is in a budget crunch and it's only going to get worse. It's understandable that even the most ardent legislators would look at a chunk of money like that and long to put it to use on their pet projects. Longing is OK. But some have gone too far and actually suggested such uses.

In this case, there's been talk of using the money to enhance schools' funding. Another alternative is a visitors' center in Seward.

Those projects have their merit. But the \$50 million is specifically earmarked for restoring and protecting those areas damaged by the spill, or some equivalent use.

That means buying up lands whose eventual development — such as by logging — would lead to degradation of fishing grounds or wildlife habitats that were damaged by the spill. Or it means buying up other lands threatened with degradation from other sources.

It doesn't mean a building for tourists. And, as important as they are, it doesn't mean schools.

Any legislator who participates in such a misuse of the funds arising from civil and criminal damages of the Exxon Valdez oil spill — whether he or she is successful or not — will only be adding further insult of the kind that the spill visited on Alaska.

• • •

April 4, 1992

Senator Fred Zharoff  
Chairman, Senate Rules Committee

Dear Senator Zharoff,

We would like to thank you and your staff for the time spent communicating with representatives of various Kodiak area groups who have an interest in HB 411 and its counterpart SB 379. Both pieces of legislation deal with the \$50 million criminal penalty from the Exxon Valdez oilspill settlement. This money was dedicated to the Alaska State Legislature under specific guidelines for restoration work in the spill affected areas.

HB 411 has received a substantial amount of input and has undergone several drafts. It now includes proposals which are important to people in all of the spill affected areas. During a recent House Resources Committee hearing on HB 411 a total of 48 individuals and representatives of interested organizations from 13 communities testified. Of this group all but one supported HB 411. The Kodiak area groups which currently support HB 411 include: Area K Seinners, Kodiak Regional Aquaculture Association, Afognak Joint Venture, Seal Bay Timber Joint Venture, the Alutiiq Cultural Center, the University of Alaska Fishery Industrial Technology Center, Kodiak Audubon, and the Kodiak State Parks Citizens' Advisory Board. The Kodiak Borough Assembly unanimously adopted Resolution 92-11 in support of the current draft of HB 411.

Of particular interest are the conservation land purchases included in HB 411. Here exists an opportunity to acquire areas which are critical for fisheries and wildlife habitat, and access by sport and subsistence hunters and fishermen, recreational users, and tourists. Under state management we could expect to both preserve and enhance public use. The state cannot lose under the current scenario by acquiring such valuable assets, namely high quality lands and development rights. Money spent for conservation land purchases would provide an economic boost in various communities when area native corporations invest the purchase funds in local projects. Local economies will also receive a boost when shareholders spend their increased dividends.

SB 379 (Sen. Curt Menard, sponsor) is identical to the initial draft of HB 411. This bill should be expanded and modified so that it is identical to the current draft of HB 411. Any input or guidance you could provide in this area would be greatly appreciated.

In closing, we would like to note that many people are dismayed and disillusioned with the Trustee Council's oversight of spill

Page Two--Senator Fred Zharoff

settlement funds. The Trustees evidently intend to use all but a pittance of the first year's restitution for reimbursing legal fees and for on going damage assessment studies; studies which may not even be available to the public because of litigation sensitivity. Even more disturbing are next year's funding projections, which include more of the same: legal fees and damage assessment studies. At this time it is unclear if these funds will ever go towards anything of substance. Many people are looking to the legislature to set an example for the trustees. HB 411 and SB 379 are the vehicles for starting true restoration in the spill affected areas.

Thank you for your attention to this important issue. Your staff has been most courteous and helpful in our contacts with your office.

Sincerely,

*Kelly Schactler*

Kelly Schactler  
Director, Area K Seiners Association

*June M. Selby Mayor Kodiak Island Borough*  
*Jerry Frank Director FITC*  
*Kelly Simonoff Kodiak Area Native Association*

*Cheryl M. Malloy - Executive Director, Kodiak Regional Association of Assoc.*  
*Howard Malloy - Chairman Afognak Joint Venture*  
*Ross F. Blackett - Chairman Kodiak State Parks Citizens' Advisory Board*  
*Doug Petrich - Conservation Chair, Kodiak Audubon*

cc: Alaska State Senate

*Philomena Krecht, KANA Alutiq Culture Center, Kodiak*



# Alaska State Legislature

## HOUSE RESOURCES COMMITTEE

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

### MEMORANDUM

TO: Representative Eileen MacLean, Co-chair  
✓ Representative Mike Navarre, Co-chair  
House Finance Committee

FROM: Representative Cliff Davidson, Chairman  
House Resources Committee

DATE: 15 April, 1992

SUBJECT: Exxon Valdez Restitution Funds

Attached is a letter I received recently from Attorney General Cole concerning the disposition of the \$50 million in Exxon Valdez restitution. I believe that it clearly illustrates the constraints under which the restitution monies can be spent.

cc: Senate Finance Committee

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

P.O. BOX K - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295

April 10, 1992

The Honorable Cliff Davidson  
Chairman, House Resources Committee  
Alaska State Legislature  
Room 108, State Capitol  
Juneau, AK 99801-1182

Dear Chairman <sup>Cliff</sup> Davidson:

Thank you for your letter of April 6, 1992 regarding the restrictions on the State's use of the \$50 million in criminal restitution payments from Exxon. You are correct that these funds are restricted in their use under the judgment entered by the United States District Court. Specifically, the funds are to be used by the State,

exclusively for restoration projects, within the State of Alaska, relating to the 'Exxon Valdez' oil spill. Restoration includes: restoration, replacement, and enhancement of affected resources; acquisition of equivalent resources and services; and long term environmental monitoring and research programs directed to the prevention, containment, cleanup, and amelioration of oil spills.

For your use I am attaching a copy of the judgments entered by the court.

These restrictions remain on the funds until they are spent for the purposes described in the judgment. It is the intention of the administration to place all of the restitution funds that are not otherwise properly appropriated by this legislature for the purposes described in the court's judgment, into a restricted account.

Letter to The Honorable Cliff Davidson

April 10, 1992

Page 2

I hope this explanation fully addresses your concerns.  
If I can be of further help, please contact me at your convenience.

Very truly yours,

*C. E. Cole*

Charles E. Cole  
Attorney General

CEC:bkn

Encl

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

February 21, 1992

**SUBJECT:** Use of Exxon Valdez oil spill restitutionary payments (Work Order No. 7-LS1810)

**TO:** Representative Cliff Davidson  
Attn: Jay Nelson

**FROM:** George Utermohle *GU*  
Legislative Counsel

This memorandum addresses the issue of whether the restitutionary payment received by the State of Alaska as part of the Plea Agreement between the United States and Exxon Corporation and Exxon Shipping Company (Exxon) must be used exclusively for natural resources restoration projects.

### SHORT ANSWER

Two things are clear. First, under the terms of a Memorandum of Agreement, the State of Alaska and the United States have agreed to use the restitutionary payments only for restoration of natural resources. Second, the State of Alaska, the United States, and the Court intend that the restitutionary payments be used to restore natural resources and the environment in the areas affected by the Exxon Valdez oil spill. What is unclear is the extent to the State of Alaska and the United States may have agreed, subsequent to entering into the Memorandum of Agreement, to use the restitutionary funds for purposes in addition to restoration of natural resources and the environment.

### DISCUSSION

There is nothing inherent in the concept of restitution that requires the State of Alaska to use the restitutionary payment received under the Plea Agreement between the United States and Exxon for restoration of natural resources damaged by the Exxon Valdez oil spill. The victim of a crime is entitled to restitution for the loss of or damage to the property caused by the perpetrator of a crime. Money received as restitution is to make the victim whole and to restore the victim to the position the victim occupied before the crime. Generally, the victim is not required to use the

Representative Cliff Davidson

February 21, 1992

Page 2

money received to replace the specific property that is lost or damaged; the victim may use the money for other purposes.<sup>1/</sup>

However, at the specific request of Attorney General Cole, the Court included the purposes for which the restitutionary payments may be used as part of the Judgment.<sup>2/</sup> Attorney General Cole made the request so that there is no misunderstanding as to how the restitutionary payments are to be used.<sup>3/</sup> The order of restitution contained in the Judgment states, in relevant part:

The monies paid in restitution are to be used by the State of Alaska and the United States of America exclusively for restoration projects, within the State of Alaska, relating to the "Exxon Valdez" oil spill. Restoration includes restoration, replacement, and enhancement of affected resources; acquisition of equivalent resources and services; and long-term environmental monitoring and research programs directed to the prevention, containment, cleanup, and amelioration of oil spills.<sup>4/</sup>

The order of restitution does not refer expressly to restoration of natural resources. Instead, in describing what are permissible restoration projects, the order uses only

---

<sup>1/</sup> For the purposes of the Exxon Valdez oil spill Plea Agreement, the victims are the State of Alaska and the United States of America. Transcript of Proposed Change of Plea, United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Case No. A90-015 CR, p. 68, October 8, 1991. Cited as Transcript.

<sup>2/</sup> Judgment, United States of America v. Exxon Corporation, United States District Court, District of Alaska, Case No. A90-015 CR.

Judgment, United States of America v. Exxon Shipping Company, United States District Court, District of Alaska, Case No. A90-015 CR.

Cited collectively as Judgment.

<sup>3/</sup> MR. COLE: I would like to have the scope of that restitution set out in full in the Agreement, as I recall it's set out in the Plea Agreement, so there's no misunderstanding on the part of anyone as to the scope of what those restitutionary funds may be used for. That was a carefully negotiated provision.

THE COURT: All right. The Plea Agreement, and I'm looking at Page 9, says such monies are to be used by the State of Alaska and the United States exclusively for restoration projects within the State of Alaska relating to Exxon Valdez oil spill, and then there's some more.

MR. COLE: Yes. I would like that . . . .

THE COURT: I would be happy to include that expressed language in the judgment.

Transcript at 76.

<sup>4/</sup> Judgment at 4.

the broad term "resources". The failure to specifically refer to natural resources does not preclude the possibility that the order meant "natural resources" and only natural resources.

In order to determine whether the order of restitution meant "natural resources" when it said only "resources", it is necessary to look behind the order to the documents<sup>5/</sup> which the Court had before it at the time and to the representations by the parties to the Court supporting acceptance of the Plea Agreement and the restitution requirement included therein.

The order of restitution is derived virtually verbatim from the Plea Agreement between the United States and Exxon. The Plea Agreement initiated the use of the term "resources" but does not indicate whether the term should be construed narrowly to mean only natural resources.

The best support for the conclusion that the restitutionary payment received by the State of Alaska may be used for restoration of natural resources and only natural resources is found in the MOA. Under the MOA the United States and the State of Alaska agreed to dedicate all natural resource damage recoveries received as the result of the Exxon Valdez oil spill to restoration of natural resources. For purposes

---

<sup>5/</sup> Plea Agreement, United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, Alaska District, Case No. A90-015 CR., September 26, 1991. Cited as Plea Agreement.

Memorandum of Agreement and Consent Decree, United States of America v. State of Alaska, United States District Court, District of Alaska, Civil Action No. A91-081 CV, August 27, 1991. Cited as MOA.

Agreement and Consent Decree, United States of America v. Exxon Corporation et al., United States District Court, District of Alaska, Civil Action No. A91-082 CV and United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Civil Action No. A91-083 CV, filed October 9, 1991. Cited as Consent Decree.

Governments' Memorandum in Support of Agreement and Consent Decree, United States of America v. Exxon Corporation et al., United States District Court, District of Alaska, Civil Action No. A91-082 CV and United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Civil Action No. A91-083 CV, filed October 8, 1991.

Government's Memorandum in Aid of Sentencing, United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Case No. A90-015 CR, filed April 16, 1991.

Joint Sentencing Memorandum of Exxon Corporation and Exxon Shipping Company, United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Case No. A90-015 CR, dated April 16, 1991.

of the MOA "natural resource damage recoveries" is defined to include "criminal restitution, unless the parties otherwise agree that criminal restitution recoveries can be separately managed by either government consistent with this MOA."<sup>6/</sup>

The presentations made to the Court by Charles De Monaco of the U.S. Department of Justice and Attorney General Charles Cole state that the both the United States and the State of Alaska do intend to use the restitutionary payments for natural resources restoration projects, but are not wholly clear as to whether the payments will be used exclusively for natural resource restoration projects. In recommending that the Court accept the Plea Agreement, Mr. De Monaco said:

The Plea Agreement strives to settle the criminal litigation with pleas of guilty and a criminal sentence consisting of a fine in [sic] restitution. The amount of the sentence actually required to be paid within 30 days of conviction is 125 million dollars, with the bulk of the money earmarked for use in Alaska for restoration of the areas affected by the oil spill.

This oil spill was a catastrophe, and it was also an environmental crime. The criminal remedy should, likewise, in substantial part, be environmental in nature; that is 100 million dollars to be paid in restitution to be used exclusively in the State of Alaska for restoration of Prince William Sound and the Gulf of Alaska. The restitutionary components of a sentence for an environmental crime cannot be understated. The environment, as a victim, must be aided quickly through efforts funded by restitutionary payments.

...

Consequently, of the 125 million dollar sentence that is actually to be paid, 112 million dollars will go directly toward in aiding the environment for this environmental offense.<sup>7/</sup>

Mr. De Monaco also said:

The Governments urge that there be restitution now for the areas affected by the oil spill, and it should not await years of legal battles over damages and liabilities. The Plea Agreement provides and [sic] immediate infusion of money needed to continue the work of restoring

---

<sup>6/</sup> MOA at 6 - 7.

<sup>7/</sup> Transcript at 26 - 27.

the Prince William Sound and the Gulf of Alaska, while the Consent Decree provides money over the long term to insure that the restoration work can continue over time to heal the damages caused by the Exxon Valdez oil spill.<sup>8/</sup>

Attorney General Cole presented the position of the State of Alaska regarding how the restitutionary payments were going to be used, as follows:

Very important from the State's standpoint is that 100 million dollars of this Plea Agreement will be used for the restoration of the damage to the natural resources, and for, perhaps, other purposes in the State of Alaska.<sup>9/</sup> (Emphasis added.)

In addition to indicating support for the Plea Agreement and the order of restitution, this statement by Attorney General Cole highlights an ambiguity as to whether the restitutionary payments are to be used exclusively for restoration of natural resources. For what "other purposes in the State of Alaska" may the restitutionary payments be used? Is Attorney General Cole referring only to the proposed science center to study oil spills or is he allowing an opportunity for the restitutionary payments to be used for additional restoration projects for non-natural resources under the right circumstances?

It is worth noting that the Court did not balk at the suggestion that the State of Alaska may use part of the restitutionary payment for purposes other than restoration of natural resources.

At the same time that the Plea Agreement was being negotiated and completed in the criminal case against Exxon, the same parties were engaged in negotiating and completing the MOA and Consent Decrees in three related civil cases: United States of America v. State of Alaska;<sup>10/</sup> United States of America v. Exxon Corporation et al.;<sup>11/</sup> and United States of America v. Exxon Corporation and Exxon Shipping Company.<sup>12/</sup> In each of these cases the parties provided in detail for the

---

<sup>8/</sup> Transcript at 32 - 33.

<sup>9/</sup> Transcript at 39.

<sup>10/</sup> United States of America v. State of Alaska, United States District Court, District of Alaska, Civil Action No. A91-081 CV.

<sup>11/</sup> United States of America v. Exxon Corporation et al., United States District Court, District of Alaska, Civil Action No. A91-082 CV.

<sup>12/</sup> United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, Civil Action No. A91-083 CV.

establishment and use of a trust fund for restoration of natural resources damaged by the Exxon Valdez oil spill. Each of the agreements and consent decrees used and defined the term "natural resources".<sup>13/</sup> The MOA also included a definition of "restoration" that discussed restoration only in the context of natural resources.<sup>14/</sup> If the State of Alaska and the United States intended to limit restoration projects funded through the restitutionary payments to only those projects involving natural resources, they could have expressly provided for such, as they did in the civil agreements and consent decrees.

The restitutionary provisions of the Plea Agreement were "carefully negotiated"<sup>15/</sup> by several skilled and experienced attorneys so it is difficult to believe that any ambiguity in such a basic provision of the agreement was not the result of a conscious decision of the parties.

The extent to which the restitutionary payments may be used for other purposes is a matter known only to the parties who negotiated the Plea Agreement and the Court, because only they know why they used the term "resources" instead of "natural resources", what they intended the term "resources" to mean, and what subjective or implied constraints they intended to place on the use of the payments.

The Court was concerned that the money received in the settlement of the civil and criminal cases, including the restitutionary payments, is spent as the Court intended. The Court stated its continuing interest in seeing that the money is spent on the right things and imposed an obligation on the parties to the settlement, including Attorney General Cole, to monitor how the money is spent. If the money is being misdirected then the parties would have to bring it to the attention of the Court.<sup>16/</sup> If the legislature is potentially subject to being brought before the federal District Court for

---

<sup>13/</sup> MOA at 6.

Consent Decree at D-10.

<sup>14/</sup> "Restore" or "Restoration" means any action, in addition to response and cleanup activities required or authorized by state or federal law, which endeavors to restore to their pre-spill condition any natural resource injured, lost, or destroyed as a result of the Oil Spill and the services provided by that resource or which replaces or substitutes for the injured, lost or destroyed resources and affected services. Restoration includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services.

MOA at 6 - 7.

<sup>15/</sup> Transcript at 76 and 77.

<sup>16/</sup> Transcript at 73.

Representative Cliff Davidson

February 21, 1992

Page 7

misusing the restitutionary payment, it is important, and only fair, that one of the participants in the drafting of the Plea Agreement inform the legislature of the constraints on the use of the payment.

Attorney General Cole is a key person in determining how the money is to be spent. As representative of the State of Alaska in the Exxon Valdez oil spill settlement negotiations, an active participant in those negotiations, one of the state trustees for the Exxon Valdez settlement trust, and "court appointed monitor" of the expenditures of the money received in the civil and criminal settlements, Attorney General Cole is an important resource available to the legislature to resolve the ambiguity as to what the State of Alaska, the United States of America, and the Court meant when they used the term "resources" in the order of restitution and Plea Agreement. Attorney General Cole can also resolve whether the restitutionary payments may be used for anything other than restoration projects relating to natural resources.

If I may be of further assistance, please advise.

GU:pl

92-118.plm



Sunrise, Mt. McKinley

Ansel Adams

# SIERRA CLUB LEGAL DEFENSE FUND, INC.

*The Law Firm for the Environmental Movement*

325 4th Street Juneau, Alaska 99801 (907) 586-2751 FAX (907) 463-5891

## MEMORANDUM

### ALASKA OFFICE

Robert B. Briggs  
Eric P. Jorgensen  
Thomas S. Waldo  
*Staff Attorneys*

\* Marilyn J. Twitchell  
*Associate Attorney*

David M. Chambers, Ph.D.  
*Mining Analyst*

Kavlene Farley  
*Office Manager*

### REGIONAL OFFICES

Denver, Colorado  
Honolulu, Hawaii  
New Orleans, Louisiana  
San Francisco, California  
Seattle, Washington  
Tallahassee, Florida  
Washington, D.C.

**TO:**

**FROM:** Eric Jorgensen

**RE:** Limitations on oil spill restitution funds

**DATE:** February 12, 1992

My review of the plea agreement entered to resolve the criminal charges against Exxon Corporation arising out of the Exxon Valdez spill leads me to conclude there are stringent limits on the purposes for which the State of Alaska may spend the restitution payments it received pursuant to that agreement. This memo briefly summarizes my views on this issue. I would be happy to discuss this with you at greater length if you wish.

Fundamentally, I believe the plea agreement must be interpreted with an eye toward the violations underlying the agreement. Exxon pled guilty to violations of three environmental statutes--the Clean Water Act, Refuse Act, and Migratory Bird Treaty Act. All three statutes are designed to foster protection of the environment, wildlife and water quality in particular. The plea agreement describes the restitution payments as "remedial and compensatory." I would interpret the document to provide generally only for use of these funds in a manner which remedies the injuries addressed in the criminal complaint--that is, injuries to the environment and natural resources. Any other use--subsidizing development projects, for example--would not remedy or compensate for this injury and therefore should be barred.

This interpretation is confirmed if one reviews the statements made at the hearing on the approval of the plea agreement conducted by Judge Holland. There are numerous references to the restitutionary payments during the discussion of the plea agreement by the lawyers for the United States and Alaska, as well as Judge Holland, which indicate clearly that the parties and the court

intended the plea agreement to limit carefully the expenditure of funds to projects related to restoration of the natural environment. See, e.g., Plea Agreement Hearing Transcript at pages 26, 27, 32, 33, 40, 47-48, 68. The only possible exception provided for in these discussions is for an oil spill research center in Alaska. Attorney General Cole made a careful effort to explain to the court that this was the one area which might not fit the traditional definition of restoration, but which the State had explicitly negotiated to facilitate with the restitutionary payments. See Transcript at 77, 39, 47.

Given that this is the only project which may not fit the strict definition of restoration that was specifically mentioned by the State, I would argue that any other project not directed toward restoration of the natural environment be prohibited. Clearly, the State was aware of the narrow limits imposed by the agreement and required by the court and yet chose to insist on only this one exception. This is a clear indication that the parties and the court expected and agreed that this would be the only exception.

This interpretation of the agreement is also supported by a careful examination of the definition of "restoration" in the agreement. The first half of the definition, describing restoration, replacement and enhancement of affected resources and acquisition of replacement resources, is based on the similar provisions of the Clean Water Act, 33 U.S.C. section 1321(f)(5) and should be similarly interpreted. The main addition to the Clean Water Act definition is the specific reference to "long-term environmental monitoring and research programs." This is the oil spill research center so carefully preserved by the remarks of Attorney General Cole. Thus, both the language of the agreement and the Attorney General Cole's interpretation of the agreement at the hearing support a two part definition of the proper uses of the funds: first, restoration of the natural environment in the traditional sense as described in federal law; and second, long-term monitoring and research relating to oil spills. See Plea Agreement Hearing Transcript at 39 and 47.

Though arguments might be made to broaden the scope of the plea agreement, none of them is persuasive. It is true that the plea agreement uses the word "resources" to define the object of restoration efforts, in contrast to the consent decree entered to settle the civil litigation, which uses the term "natural resources". Thus, it might be argued that the plea agreement payments can be used to restore a broader group of resources than the "natural resources" benefitted by the civil

settlement. This argument should fail, however, because it conflicts with the clear understanding expressed by the parties at the plea hearing and, more fundamentally, with the idea that the payments must be used to remedy the injury for which the criminal charges were brought--environmental injury. In other words, properly interpreted in context, "resources" should be understood to mean natural resources, with the sole identified exception for a spill study center.

An argument could also be made that because the definition of restoration in the plea agreement is not exclusive (it says restoration "includes" rather than "means", or some other exclusive term) that other uses of the money are possible. In light of all the other evidence to the contrary, I do not believe this argument standing alone can prevail. Moreover, the force of the argument is severely limited by the general rule of contract and statutory interpretation which provides that if a definition is not exclusive, other possible meanings must be of the same nature or general type as the listed meanings. In this case, the definition of restoration in the agreement lists specific activities which are permissible. Even if the use of the word "includes" is interpreted to mean that other uses of the funds are appropriate, those uses must be of the same general nature as the specifically listed uses.

I have not discussed in this memo any arguments that might be made based on the briefs filed by the parties in support of the plea agreement. I simply did not have time to review them. If it would be helpful to you, I will try to find the time later in the week.

HOUSE BILL 411

---

*CORRESPONDENCE*  
&  
*PROPOSALS*

\*\*\*\*\*

*HABITAT*  
*ACQUISITION:*

**COOK INLET**



# Cook Inlet Seiners Association

P.O. Box 4311  
Homer, Alaska 99603  
235-2656

## Memo

Date: February 10, 1992

To: Theo Matthews

From: Chris Moss & Ken Castner

Subject: HB 411 and Other Restoration Funds

Post-It™ brand fax transmittal memo 7671		# of pages > 2
To Jay Nelson	From Pam Brodie	
Co. House Resources	Co. Sierra Club	
Dept.	Phone # 276-4048	
Fax # 465-3444	Fax # 258-6807	

Cook Inlet Seiners Association has the following projects and requests for funding for restoration of fisheries resources impacted or lost due to the oil spill of 1989 caused by the wreck of the *Exxon Valdez*.

1) We generally support the concept of acquisition of uplands habitat as a way of mitigating future adverse impacts to fisheries. This is, in a sense, a proactive "restoration", a prevention of loss before it occurs. In lower Cook Inlet there are few areas that make any sense on a fisheries protection rational.

2) If lands are purchased, we would insist that the land managers allow uplands fish enhancement projects. We are currently prevented from doing any stocking or lake fertilization work on lands in the Kenai Fjords National Monument, Katmai National Park, Lake Clark National Park and the federal moose range. It would be ironic to allow the acquisition of lands that, by some management scheme, preclude the ability to mitigate impacts of the spill.

3) We would like the state, through HB 411, to purchase lands near the mouth of the Rocky River, located on the outer coast of the Kenai Peninsula. The site should be large enough to provide for a hatchery and airstrip. We also would like to have the state acquire a conservation (strict water quality and flow reservation) easement for the Rocky River watershed.

4) We would like a provision inserted in HB 411 allowing the Department of Natural Resources to lease not more than two acres (one location) in the Kachemak Bay Wilderness Park for the storage and support of restoration

programs in Port Dick. The programs would be supported by the Rocky Bay hatchery facility.

5) We would like HB 411 to also provide funds to do a sockeye program in outer Resurrection Bay (Thumb Cove).

6) The estimated costs (HB 411) for the land acquisition and the sockeye program will not exceed three million dollars.

7) We will ask Senator Stevens to help us with the funds needed for the hatchery construction, and the Trustees for the operating funds for the time necessary needed to fulfill the restoration mandate. It would be a combined facility for finfish and shellfish to do mitigation for both fishery and subsistence losses.

We have considered other projects, such as Paint River stocking, but feel very strongly that the money be spent in the area that sustained the most damage from the oil spill. There is no debate that Port Dick, Rocky Bay, and Windy Bay were among the most heavily impacted habitats. While Rocky Bay and Windy Bay, and most of the other private land on the outer coast, have already been logged off, we still see real benefit in the land acquisition.

Please call if you have any questions concerning this proposal.

## BEAR CREEK WEIR PROJECT

In the summer of 1989, oil spilled by the Exxon Valdez flowed out of Prince William Sound impacting the Kenai Peninsula coast all along the Gulf of Alaska. The spill damaged a variety of resources utilized by the resident and visitor populations of Seward.

### Background

Bear Lake is located about 5 miles north of Seward, Alaska (Figure 1). The Alaska Department of Fish and Game (ADF&G) initiated a coho salmon enhancement program in Bear Lake in 1962. Since that time Bear Lake has been the centerpiece of the coho salmon enhancement program in Resurrection Bay. Annual releases of coho fingerling in Bear Lake and coho smolt in Seward Lagoon have made Resurrection Bay the second largest sport fishery for coho salmon in the State (Vincent-Lang et al. 1988).

Initially Bear Lake was treated with a fish poison in an effort to eliminate sockeye and stickleback populations which were thought, at that time, to compete for food with young coho salmon. A weir was constructed at the lake outlet to allow for enumeration of migrating salmon and to prevent recolonization of the lake by stickleback. Despite massive efforts, sockeye salmon were never eliminated from the system; eventually it became policy to each year allow a token number of adults to pass upstream into the lake's spawning grounds. ADF&G applied fertilizer to Bear Lake from 1981 through 1986 in order to increase its carrying capacity for young salmon.

In July of 1988 Cook Inlet Aquaculture Association (CIAA) took over operation of the State's Trail Lakes Hatchery. All coho fingerling stocked into Bear Lake are incubated and reared at Trail Lakes Hatchery.

In December 1988, the Alaska Board of Fisheries modified its Bear Lake Management Plan allowing for re-establishment of a commercially significant sockeye run. It is currently believed that both sockeye and coho smolts can be grown in the lake without effecting each other because they occupy separate rearing areas. Since spawning area in Bear Lake is extremely limited and cannot often furnish proper numbers of fry to maximize production, enhancement of sockeye and coho stocks is to proceed simultaneously. CIAA first collected sockeye salmon eggs for release into Bear Lake during the summer of 1989.

In 1990 CIAA took over responsibility for operating ADF&G's Bear Creek weir. Use of the weir is essential for monitoring and evaluating smolt production from, and adult return to the lake. All coho broodstock utilized for CIAA's fingerling stocking program and ADF&G's Resurrection Bay smolt stocking program are held for ripening in the associated raceway.

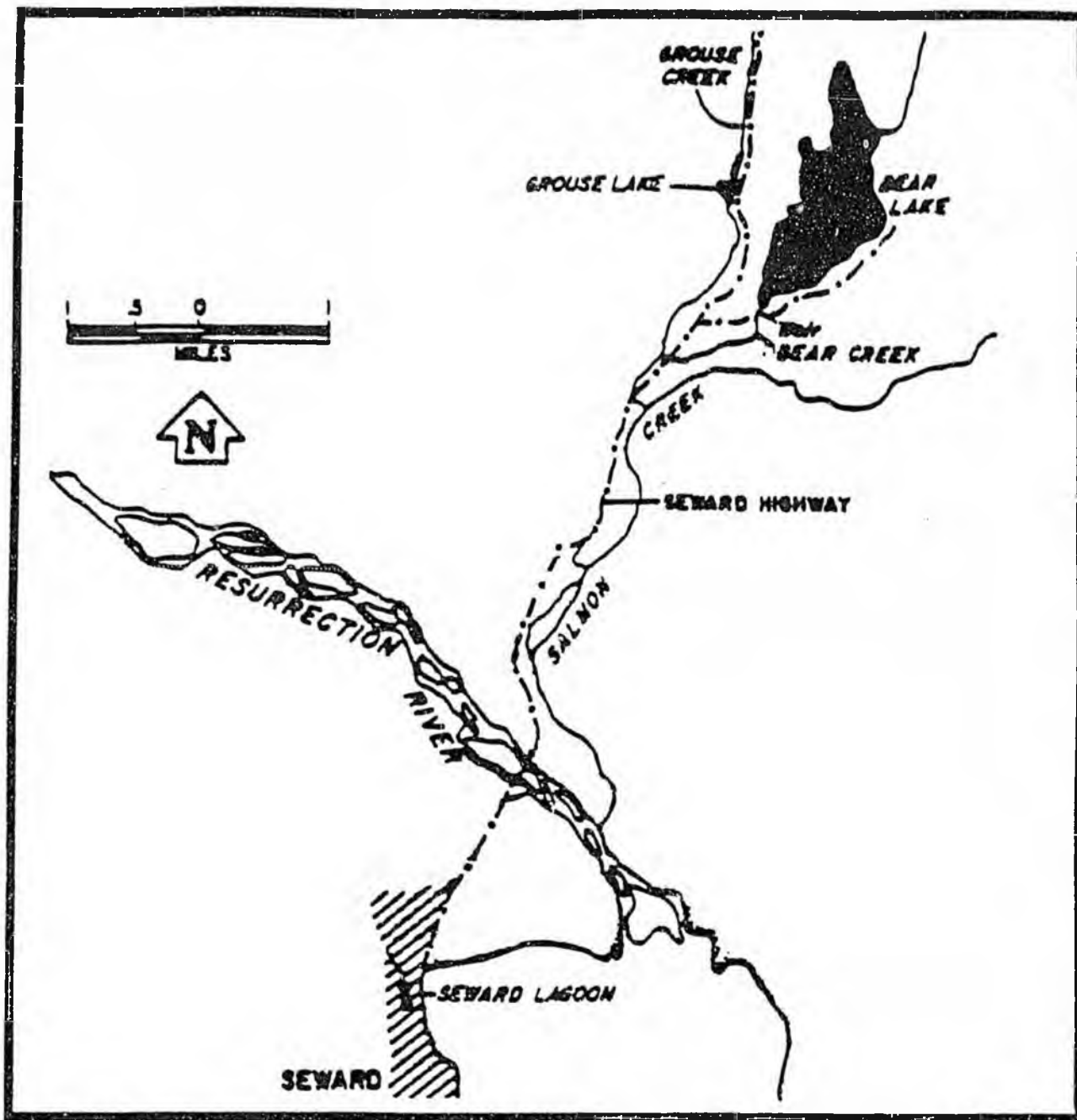


Figure 1. Location of Bear Creek Weir

With continued stocking of coho and sockeye fingerling and resumed fertilizer applications, Bear Lake can be expected to produce about 90,000 coho smolt (Koenings and Petanovitch 1986) and 440,000 sockeye smolt (Koenings and Burkett 1987) which will result in annual returns of more than 6,000 adult coho and, beginning in 1992, returns of up to 90,000 adult sockeye.

Coho are harvested exclusively in the Resurrection Bay sport fishery. Sockeye, worth about \$750,000 annually, will be harvested in a springtime commercial purse seine fishery.

### Existing Bear Creek Facilities

The Bear Creek weir site is a State owned, triangularly shaped property of about 0.25 acres. The two long legs of the triangle are comprised of Bear Creek and Bear Creek Road (Figure 2).

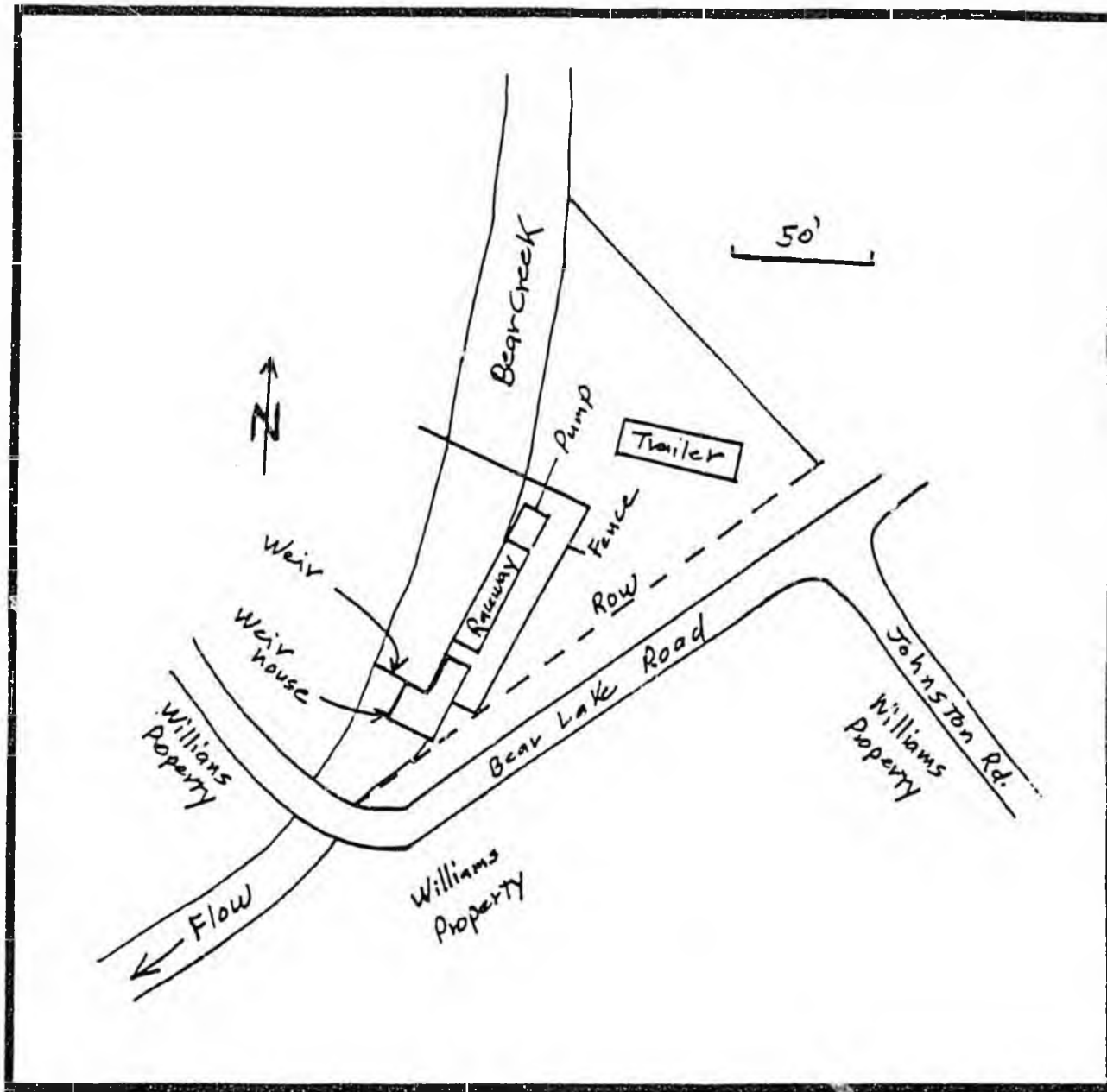


Figure 2. Bear Lake Weir Site.

Facilities were constructed by ADF&G at various times since 1962. The "fish-proof" weir is a low-head dam comprised of concrete piers and wooden gates (dam boards). Facilities for capture of adults and smolts are incorporated into the weir and are enclosed in a heated building.

An associated concrete raceway is used as a release site for hatchery-produced smolts and as a ripening area for coho broodstock. Creek water is pumped to the raceway.

Since commencing operation of the site CIAA has spent at least \$20,000 remodelling the State-owned weir and raceway facilities in order to make them more functional, reliable and in conformance with State electrical and safety codes. Additional major maintenance will be required.

A State-owned 30 ft. house trailer (1971 model) is provided for crew housing. The floor coverings, walls, ceilings, appliances and furnishings are badly worn. A secondary roof was built over the trailer some years ago. Well water is not drinkable. There is no disposal method for gray water. The outhouse is located too close to Bear Creek to be legal. The property is too small and too near the Creek for construction of an approved septic tank and leech field.

#### Land and Facilities Acquisition

CIAA became aware the parcel of land (Kenai Peninsula Borough Tax Number 125-010-32, hereafter called the Williams property) across Bear Creek Road from the weir site is for sale. The unsurveyed parcel within the N 1/2 of the N.E. 1/4 of Section 13, T1N, R1W consists of 33 wooded acres more or less. A portion of Salmon Creek also crosses the property. The Borough assessment for this property is \$87,400.

CIAA has an option to purchase the Williams property for \$75,000 which expires June 30, 1992. The Williams property uniquely satisfies CIAA's need for additional space within close proximity to the Bear Creek weir site.

The Williams property offers an excellent location for construction of crew housing, indoor shop/storage and outdoor storage facilities. Housing CIAA crew members near the weir is essential any time fish are being held in the raceways and desirable during the remaining work periods. Presence of the crew members nearby insures prompt response in case of electrical or pump failures and minimizes loss of broodstock to poachers.

Construction of significant indoor and outdoor storage on the Williams property would allow CIAA to remove a small and unsightly fenced storage area from the weir site. All of the boats, fork lifts, trucks, pumps, fertilizer barrels, etc. associated with Bear Lake fertilization could be stored on the Williams property.

Removal of the existing house trailer, outhouse and outdoor storage areas from the weir site would allow that space to become available for an additional raceways, visitor parking and an interpretive display. As sockeye salmon returns build additional space near the weir will be necessary for fish handling equipment (totes, icing station, steam cleaning area).

### Project Budget

Phase I- purchase the Williams property	\$ 75,000
Phase II- construct facilities	
Crew housing	90,000
Indoor shop/storage (40'x60')	<u>132,000</u>
Total	\$297,000

### LITERATURE CITED

- Koenings, J.P. and G. Petanovitch, 1986. Production of coho (O. kisutch) smolts from Alaskan Lakes: the importance of a littoral zone defined by light penetration. Ak. Dep. Fish and Game, F.R.E.D. Division, 27p.
- Koenings, J.P. and R.D. Burkett. 1987. Population characteristics of sockeye salmon smolts relative to temperature regimes, euphotic volume, fry density and forage basin within Alaskan lakes, p. 216-234. In H.D. Smith, L. Margolis and C.C. Wood (ed.) Sockeye salmon (Oncorhynchus nerka) population biology and future management. Can. Spec. Publ. Fish. Aquat. Sci. 96.
- Vincent-Lang, D., D. Bernard and D. N. McBride, 1988. Evaluation of past enhancement of coho, chinook, and sockeye salmon stocks of Bear Lake and Resurrection Bay, Alaska, with recommendations for the future. AK. Dep. Fish and Game, Fishery Manuscript Series No. 6. 46p.

HOUSE BILL 411

---

*CORRESPONDENCE  
&  
PROPOSALS*

\*\*\*\*\*

*HABITAT  
ACQUISITION:*

**KACHEMAK  
BAY**

1/7/92

**SELDOVIA NATIVE ASSOCIATION, INC.**

**P.O. Drawer L**

**Seldovia, Alaska 99663**

**(907)234-7625 Fax 234-7637**

December 31, 1991

Honorable Representative Cliff Davidson  
P.O. Pouch V (MS 3100)  
Juneau, AK 99811

**Re: Kachemak Bay State Park Trade  
HB 83 and SB 148**

Dear Representative Davidson:

With the 1992 Legislative session due to start soon, I am writing this letter to explain and hopefully clarify the current status of the Seldovia Native Association (SNA) Lands within the Kachemak Bay State Park (KBSP), and the proposed State buyout of this land.

The Seldovia Native Association, Inc. is an Alaska Native Corporation established pursuant to the Alaska Native Claims Settlement Act, Public Law 92-203.

SNA's Land Entitlement in the Seldovia withdrawal area is 69120 acres. SNA's first land selections were at Seldovia Bay and Valley, Jakalof Bay, and Tutka Bay. The State filed protests against SNA selections in the Jakalof Bay and Tutka Bay areas, because these lands were selected by the State under the State Mental Health Land Selection Act.

With the uncertainty of being able to secure these selections SNA then selected Land within the boundaries of the Kachemak Bay State Park.

On February 5, 1975, SNA with the help of Clem Tillion (a founder of the KBSP) met with Governor J. Hammond. SNA and Gov. Hammond agreed we could work out a land trade which would transfer to the State SNA's inholding in the KBSP and give to SNA land which could generate revenue for the corporation. Initially SNA was interested in the State owned land at the Penland Trailer Park in Anchorage. That land became unavailable for trade when it was used for the Anchorage Municipal Land Entitlement.

The Kenai Peninsula Borough Land Entitlement also had priorities on lands which SNA had expressed an interest in. The Cook Inlet Region Incorporated (CIRI) Land Trade removed land from the State pool also. State Agency reviews and public hearings as well as Department of Natural Resources (DNR) inhouse decisions took land away from the trade.

On May 9, 1979, the Seldovia Native Association, Inc., the Kenai Peninsula Borough, the Cook Inlet Region Inc. and the State of Alaska entered into a four party agreement to facilitate the States acquisition of SNA's surface rights and CIRI's subsurface rights to about 30,000 acres of land within the Kachemak Bay State Park.

CIRI traded about 10,000 acres of it's subsurface estate for some of the Kenai Gas Field, thus CIRI has about 20,000 subsurface acres in the park remaining.

Two partial trades totaling 5000 acres were accomplished by DNR and SNA. Further trades stalled over land value disagreements and the State DNR's inability to make land available that was satisfactory to SNA. SNA now has 24,000 acres in the Park.

In 1976 the State Department of Fish and Game began using SNA's land at China Poot Bay for a sport and dip net Fishery. This project was done without permission of SNA, in fact without notice to SNA . The State posted signs directing the public use of SNA Land for the dip net fishery.

This has become a popular sport, commercial and personal use Fishery with people Statewide.

The State has also started a new Fish program at Hazel Lake and the Wosnesenski River. This program had its first Red Salmon return this year (1991). With Hazel Lake and the Wosnesenski River fronting SNA land, there will be more public use of SNA land by sport and personal use Fishermen.

These Fishery enhancement programs are very popular with all Alaskans, yet they encourage trespass on our land. If the State buys this Land from SNA, all problem of trespass would be resolved.

In 1988, after negotiations with the State DNR to trade land for land broke down, SNA made a proposal to sell it's inholdings to the State for cash. Senator Paul Fischer introduced a bill for this purpose. Hearings were held by the Senate Resource Committee. DNR spoke against the bill and it died in committee. After the State decided it would not buy the land, SNA took this to mean the 1979 agreement was ended.

With no further interest shown by the State, SNA sold timber in the area to Timber Trading Co. (TTC). Thus although SNA still owns the land, TTC owns the trees.

Because of concerned citizen's requests and input, the State again said it wanted to acquire SNA's land for Park purposes. SNA and TTC both agreed to work with DNR to put together a package deal for the State Legislator's approval.

For this renewed trade, SNA agreed to appraise its corporate land and the State agreed to appraise the State land. When the SNA appraisal of 25 million dollars was done, the State rejected it. SNA's appraiser then did a supplemental appraisal, which conformed to the State's land appraisal regulations. This second appraisal stated that SNA's land in the KBSP is valued at 22.7 million dollars, as Park and Public interest land.

The State then hired a firm to do another appraisal of SNA's land for market value. This came in at 11.9 million. Three appraisers then did a review of the SNA appraisal and the State appraisal. This review panel gave SNA's land a cash value of \$15,490,000. (without the TTC trees).

From Feb. 1975 to Feb. 1990 the State DNR and SNA have worked at a "value for value" land trade. There have been many ups and downs through the years. State regulations require DNR to hold local public hearings wherever proposed trade lands are located. Most public comments have not been favorable to SNA acquiring land adjacent or near to those responding.

Along with the two small trades actually accomplished there have been several other attempts to trade, which did not work out.

Finding replacement timber for TTC's trees in the Park also brought several unsolvable problems.

At a meeting, Feb. 28, 1990, The State offered to pay SNA \$15,490,000 cash for it's inholdings of The Kachemak Bay State Park. The State also offered TTC \$4,510,000. for its timber in the park.

Recognizing the improbability of trading land and timber for land and timber of equal value both SNA and TTC agreed to accept the States offer.

By accepting this offer SNA will be receiving \$7,210,000 less than the appraised value of its land. TTC also will be accepting substantially less than value for it's trees.

During the 1990 Legislative session House Bill 590 and Senate Bill 536 were introduced. Both bills were to effect the buyout plan.

Both bills were introduced late in the session. They did not get through the various legislative committees prior to the end of the 16th session, and they then died.

When the 17th session started in 1991 H-B 83 and S-B 148 were introduced H-B 83 made its way through committees and was approved by the State House of representatives.

S-B 148 did not get acted on - Senate C.S. for H-B 83 was introduced by the Senate Labor and Commerce Committee. This bill did not reach the Senate floor for action, and remained in the Senate resources committee.

The second half of the 17th session will start in January 1992. As I understand the procedure, the Senate resources committee has the present bill before it.

Included in the Bill is \$2,000,000 to buy the remaining CIRI subsurface. I do not know how many acres of subsurface CIRI has remaining in the Park. Previously CIRI and the State made a trade for about 1/3 of CIRI's holdings for some of the Kenai Gas field.

As the State legislators and Governor address this issue again, we need to look at the options available.

#### IS THE BUYOUT A GOOD DEAL FOR THE PARTIES ?

(A) It is good for the State because the State will have the Kachemak Bay State Park whole again, instead of two parcels separated by private lands. The China Poot sport and dip net Fishery will be able to continue. The Wosnesenski River Fishery will be totally on State land.

The future of Kachemak Bay as a reachable recreation area for all Alaskans will be assured. The SNA land at 3 miles distance is the closest land to Homer Spit.

The State will acquire \$22,700,000 of SNA land for \$15,490,000. The State will acquire the TTC Timber valued at \$6.4 million for \$4,510,000.

I cannot speak about subsurface values. They are owned by the Cook Inlet Region Inc. which did make one trade with the State.

(B) Is the deal good for T.T.C.? They are in the business of buying standing timber, cutting it and marketing logs. This is why they bought the SNA trees.

TTC prides itself on being a logging company that is sensitive to logging without damaging the environment as much as possible. They recognize the timber stand is in a park area, and highly visible.

They have stated a willingness to sell the Timber to the State for \$4,510,000 but at the same time, they are actively pursuing the necessary permits to begin harvesting.

(C) Is the deal good for SNA ? SNA is an ANCSA Native Corporation with a 69,000 acre land entitlement in the Seldovia area. It's main land activities are homesite and recreation leases. SNA does not offer its land for sale.

SNA agreed to sell this land to the State when the land for land trade did not work out. This land sale agreement is to the State only. The terms of 68 cents for each dollar of value is not available to any others.

After all the years spent trying to accomplish and finalize a mutually satisfactory deal, I would say the buyout plan is good for SNA.

SNA has worked very hard at being a good corporate citizen. Finalizing the plan to restore this land to State ownership would be another demonstration of our efforts.

IF THE STATE DOES NOT COMPLETE THE PROPOSED BUYOUT, WHERE ARE WE ?

Most likely the Legislative session will be over and any bills not acted on will die.

People and groups that lobbied for the buyout will be disappointed. Some may file lawsuits or try to interfere with the logging when it starts.

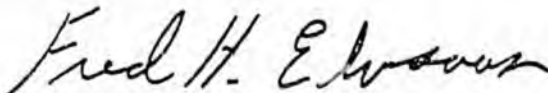
SNA will offer three additional sections (1920 acres) of timber in the China Foot Bay area for sale. These three sections were not part of the initial timber sale.

TTC will begin timber cutting, road and camp construction.

SNA has an obligation to TTC that it must honor, and it will, although this may put SNA in an adverse position with the conservation groups.

SNA feels the proposed buyout is best for all concerned and we support the concept.

Sincerely,



Fred H. Elvsaa President  
Seldovia Native Association, Inc.

STATEMENT OF INTENT

WHEREAS, the Seldovia Native Association (SNA), Timber Trading Company (TTC), and Cook Inlet Region, Inc. (CIRI), collectively referred to as "the Parties," own certain property and timber rights within the Kachemak Bay State Park (KBSP); and

WHEREAS, during its 1991 session the Alaska Legislature proposed legislation authorizing the State of Alaska to purchase all property and timber rights of the Parties within the KBSP for a total purchase price of twenty two million dollars (\$22,000,000).

NOW THEREFORE, the Parties agree that they will sell their collective property rights within the KBSP to the State of Alaska subject to the following terms and conditions:

1. The Legislature approves a \$22,000,000 1992 appropriation for the purchase of the property and timber rights of the Parties within the KBSP;
2. The Governor does not veto the appropriation;
3. The Boards of Directors of the Parties approve the subsequent purchase agreement presented to the Parties by the Alaska Department of Natural Resources and receive the appropriated funds; and
4. Purchase is completed by July 1, 1992.

Nothing in this Statement of Intent shall restrict TTC's ability to pursue permits necessary for timber harvest operations; provided, however, TTC shall not commence timber harvest operations until such time as this Statement of Intent has expired.

AGREED TO THIS 14 DAY OF FEBRUARY, 1992.

Seldovia Native Corporation

Timber Trading Company

By: Fred H. E. Johnson

By: Neil J. Stinson

Its: President

Its: President

Cook Inlet Region, Inc.

By: Carl H. Hines

Its: Savior, Vice President

RECEIVED FEB 27 1992

11001 Hideaway Trail  
Anchorage, AK 99516  
February 25, 1992

Mr. Cliff Davidson  
State Capitol Rm. 108  
Juneau, AK 99801

Dear Mr, Davidson:

On a recent trip to Homer we were shown the vast area across Kachemak Bay that is currently scheduled for clear-cut logging. Having seen the results of this kind of logging in certain areas of Washington State, and having been Alaskan residents for thirty-three years, we find it difficult to believe that Alaska does not have laws already in place to prevent such an operation here. Besides destroying one of the most beautiful areas of our state, the clear cutting of timber would impact dozens of bird species which nest there, including bald eagles. The animals of this forest would also be harmed. One of the worst ecological disasters would result in future years as tons of soil would wash off these steep slopes into the clear waters of the various bays which are now very productive in terms of salmon, halibut, and a variety of shellfish. A beautiful recreation area would be devastated.

The kind of logging proposed is the very worst kind for the environment. A proposed slide for the logs into Peterson Bay would fill the area with floating bark, sawdust and soil.

One financial consideration is the loss of taxes from the owners of private land in the logging area as this recreation land becomes worthless due to the noise and crowding caused by the logging operation itself as well as the ruination of the view and the loss of the recreational value of the area.

Please try to preserve this area by voting for the state to buy back ~~these~~ timber rights. Please do not let Alaska become a horrible ~~example~~ to be used in other states to fight this kind of environmental abuse.

Thank you,

*Jack Sprague*  
Jack and Jeanne Sprague

*Jeanne Sprague*

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: SUSAN REILLY  
TITLE:  
ADDRESS: 1833 CINDYLEE LANE  
CITY: ANCHORAGE ZIP: 99507  
PHONE: 562-1024

BILL NO:  
SUBJECT: KACHEMAK BAY BUY BACK  
MESSAGE: KACHEMAK BAY IS A JEWEL IN OUR CROWN. AS A FREQUENT VISITOR TO THE SOUTH SIDE OF THE BAY I APPRECIATE THE WILDERNESS EXPERIENCE OFFERED TO FAMILIES WITH LIMITED TRAVEL BUDGETS. MY FAMILY'S VACATION DOLLARS ARE SPENT IN ALASKA ON KACHEMAK BAY. WE SUPPORT THE BUY BACK OF TIMBER AND MINERAL RIGHTS. /JSM

POMID: 03132338  
DATE: 92/02/27  
TIME: 13:23:38  
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES SENATORS

BAKER	COLLINS
PARNELL	STURGULEWSKI
CARNEY	
FINKELSTEIN	
HUDSON	
IVAN	
LEMAN	
LINCOLN	
MOYER	
ZAWACKI	
DONLEY	
ELLIS	
GRUENBERG	
GRUSSENDORF	
MARTIN	
TAYLOR	

HOUSE BILL 411

---

*CORRESPONDENCE  
&  
PROPOSALS*

\*\*\*\*\*

*HABITAT  
ACQUISITION:*

**KODIAK ISLAND AREA**

coastal areas of  
particular  
concern  
recreation, scenic and heritage  
resources



**kodiak  
archipelago**

DRAFT

Recreation, Scenic and Heritage  
Areas of Particular Concern:  
Kodiak Archipelago

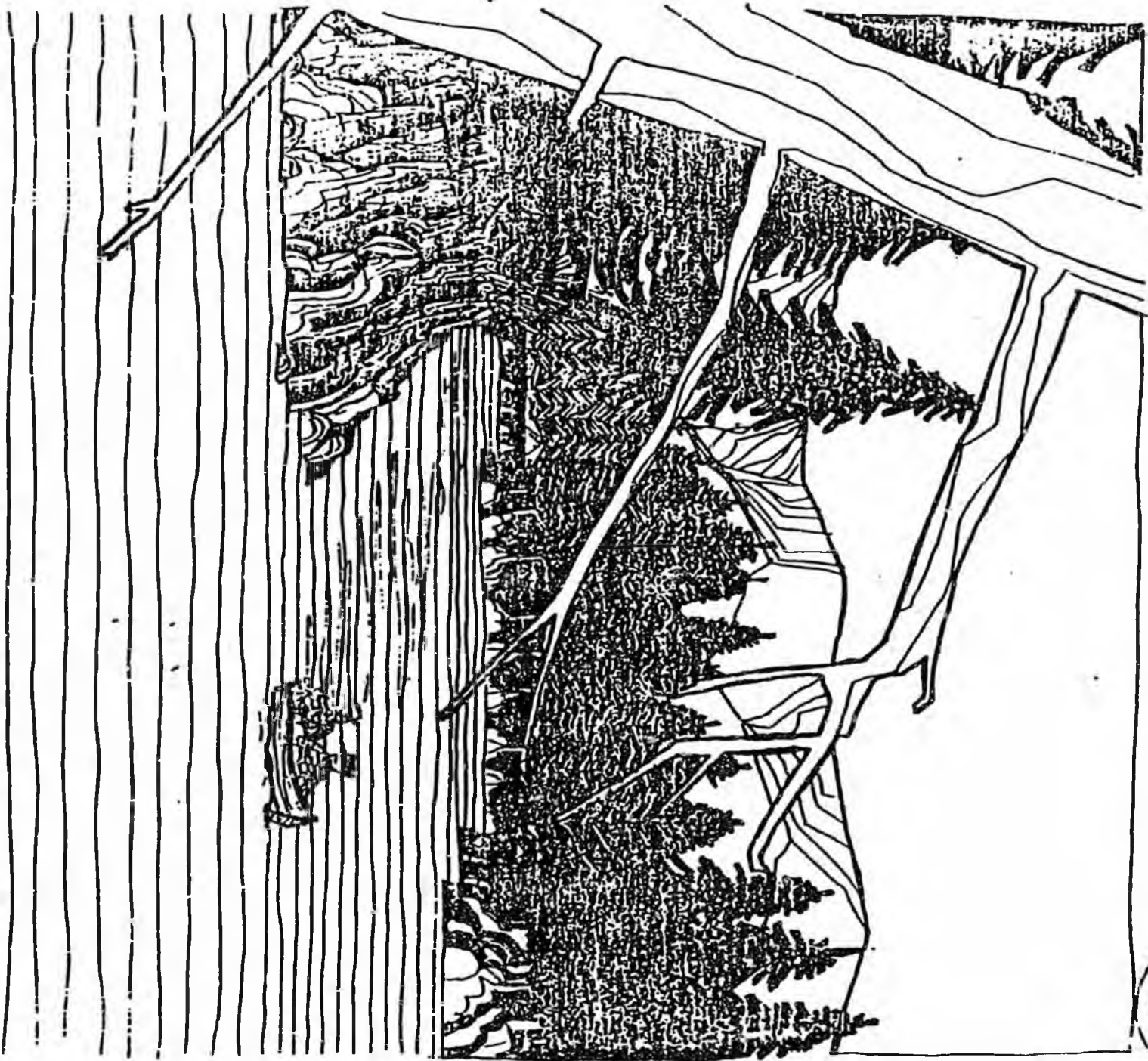
A Report by  
Alaska Division of Parks  
Department of Natural Resources

Kathryn A. Troll  
with initial research by  
Pete Martin and  
Jo Antonson Mohr

This project was supported through funds provided by the Coastal Zone Management Act of 1972, as amended through the Coastal Energy Impact Program, administered by the Office of Coastal Zone Management, National Oceanographic and Atmospheric Administration U. S. Department of Commerce and administered for the State of Alaska by the Department of Community and Regional Affairs.

July, 1979

3



stognek and neigghoorng  
istards

226

ACE 6074940

## AFOGNAK AND NEIGHBORING ISLANDS

The only villages in the area, Afognak and Port Williams, were abandoned some time ago, leaving this area free of human development. Afognak Island is surrounded by Raspberry Island to the south, Shuyak Island to the north, and Marmot Island to the east.

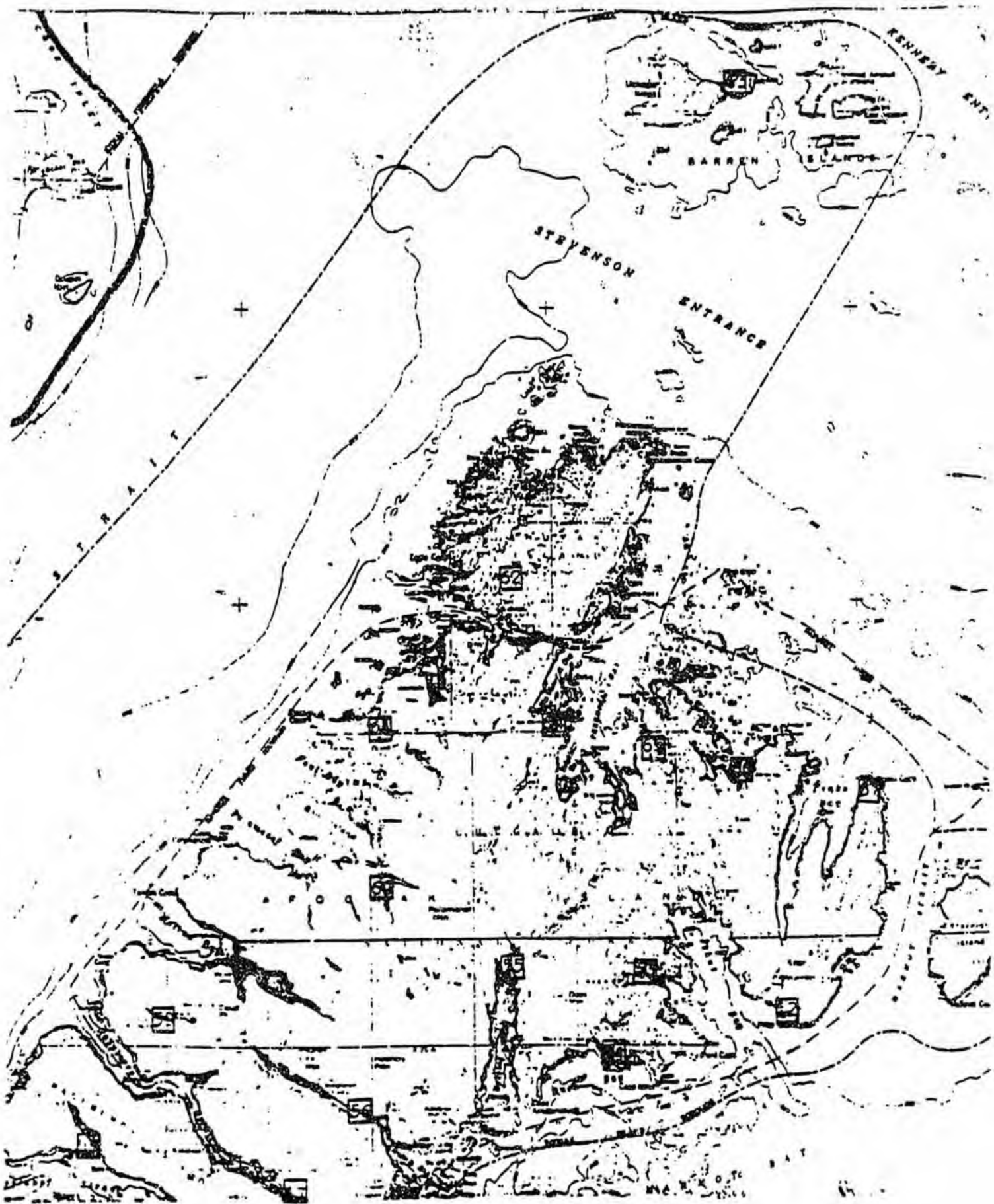
The vegetation on Afognak Island and adjacent islands is unique in that the forests are devoid of western hemlock, and serve as the vanguard of forest invasion into the grasslands. The pattern of vegetation is generally a combination of grasslands and Sitka spruce stands. Along the indented bays and on scattered islands, Sitka spruce stands tall and thick. The exception to this pattern are the tundra areas in the west and on the exposed capes.

Afognak's wildlife is spectacular with brown bear, elk, bald eagles, and Sitka black-tail deer inhabiting the area in pockets of high concentrations. Along the coast there are many areas where sea birds, sea lions, sea otters are just as much a part of the summer scenery as the sea cliffs.

Recreational opportunities in this area impress even the casual visitor. Much of the recreational activity consists of bear, elk and deer hunting, and boating by those with sizeable watercraft. Anton Larson Bay, where many boaters originate, is nearby making Afognak's southern bays and Raspberry Straits accessible for exploration and enjoyment, even for those in skiffs. In 1976, 33% of all deer harvested and 50% of all bear hunted and all elk successfully hunted in the Kodiak Archipelago came from this area. Attesting to the recreational opportunities yet to be fully realized in this area is the existence of a recreation camp and a wilderness lodge.

Some of the Native village corporations of Kodiak have formed a timber management company named KONCOR. Logging is currently ongoing on part of Afognak Island and can be expected to expand to other parts of Afognak in the future. Kazakof Bay has been identified as a potential base site for outer continental shelf (OCS) oil development and liquified natural gas (LNG) facilities. It is likely that more suitable sites may be ascertained in studies for leasing of additional oil and gas tracts.

Multiple use management can integrate resource values in a manner that stresses use compatibility. For instance, timber operations can open up new areas to recreationists as well as be designed to mitigate impacts to wildlife and to the scenic qualities of an area. Since, Afognak Island is being logged and other neighboring islands may be logged or developed in some fashion, identification of resource values in this area is paramount to the initiation of timely multiple use management of the area. APC's identified herein should assist any such efforts.



Numbers refer to individual APC's  
as referenced on area maps.

# A COASTAL AREA OF PARTICULAR CONCERN

1) Name of Area: Malina Lakes

2) Value Classification

• Primary: Recreation

• Associated: Scenic, Wildlife

3) Location

• Region/Subregion: Southcentral Region/Kodiak Archipelago

• Latitude/Longitude: 58° 11' N, 153° 13' W

• Community/Orientation/Distance: Malina Lakes are about 48 air miles northwest of the City of Kodiak and 36 boat miles from Anton Larsen Bay.

• Topographic Quad/ 1:63,380: Afognak A-4

4) Upland Acres (Hectares): 5,987 acres (2395 hectares)

5) Seaward Distance for Protection: 1 mile

6) Existing Ownership: The entire area is in federal ownership. Litnik, Inc. and other native corporations have selected the area, pursuant to the Koniag D-2 amendment and historical place selections.

7) Existing Management: Until conveyance all federal lands are managed by the U.S. Forest Service as part of the Chugach National Forest.

8) Adjoining Ownership/Management: All adjoining lands are federally owned lands with similar selections.

9) Area Description

• Dominant Physical/Biological Features: Malina Lakes are two, mile-long lakes surrounded by mountains and ridges on three sides. A small freshwater creek, Malina Creek drains the lakes and flows into Shelikof Straits where a wide sandy beach lies at the mouth. The vegetation on the lower slopes is comprised of alder and willow mixed with grasslands, while the higher slopes are predominately alpine tundra. While seals and sea lions are only seen on occasion, sea otters congregate in high density near the mouth of Malina Creek. The grasslands surrounding the beach serve as an elk winter range. The uplands provide habitat for elk and deer during the summer. Malina Creek provides spawning habitat for pink salmon while upper Malina

Lake provides spawning habitat for silver and red salmon. Brown bear concentrate around the lakes in spring. Small mammals common to the area include muskrat, beaver, weasel, land otter, and red fox.

• **Recreation, Scenic, Heritage or Wilderness Significance:** Malina Lakes receive significant use by Kodiak residents as they offer good to excellent elk hunting, sportfishing, and hiking. The Forest Service maintains a recreational cabin at upper Malina Lake and has constructed trails that link up to Afognak Lake and Muskomee Bay. The protection from winds and bad weather, and the ease of hiking will continue to attract hunters to this area. The scenery at Malina Lakes enhances the recreational attributes of the area. The high, steep mountain peaks around Cloud Peak are a beautiful backdrop as one looks over the clear blue waters of the lake and the lush green, grassy hills. The historic fishing village of Nuniliak is located at the mouth of Malina Creek.

• **Other Significant Resource/Land Use Values:** There are no forest stands of commercial value within this area. While the grasslands may hold some grazing potential it is unlikely that this area would be used for such purposes as there are better grasslands closer to the City of Kodiak. A small amount of gold was located in Malina Bay in 1937. No productive mining is known to have occurred. If offshore oil production does occur in Shelikof Straits this area may be considered suitable for an OCS terminal base, however, more protected waters are nearby. Site suitability studies for oil and gas leasing and production in Shelikof Strait have not been initiated. Soils and slopes in this area are generally unfavorable for development. Silver and lead lodes have been identified toward the mouth of Malina Creek.

10) **Recommended Management:** Malina Lakes' management emphasis should remain as recreation. The village corporations and the State Division of Parks should seek a cooperative management agreement to ensure that the recreation and scenic values of the area are maintained and enhanced.

11) **Allowable Uses** Hunting, trapping and sportfishing as managed by the Alaska Department of Fish and Game should continue. Grazing activities should be allowed provided that there is sufficient regulation and management at the appropriate time to protect public recreation values and access to these lands.

## 12) Information Sources

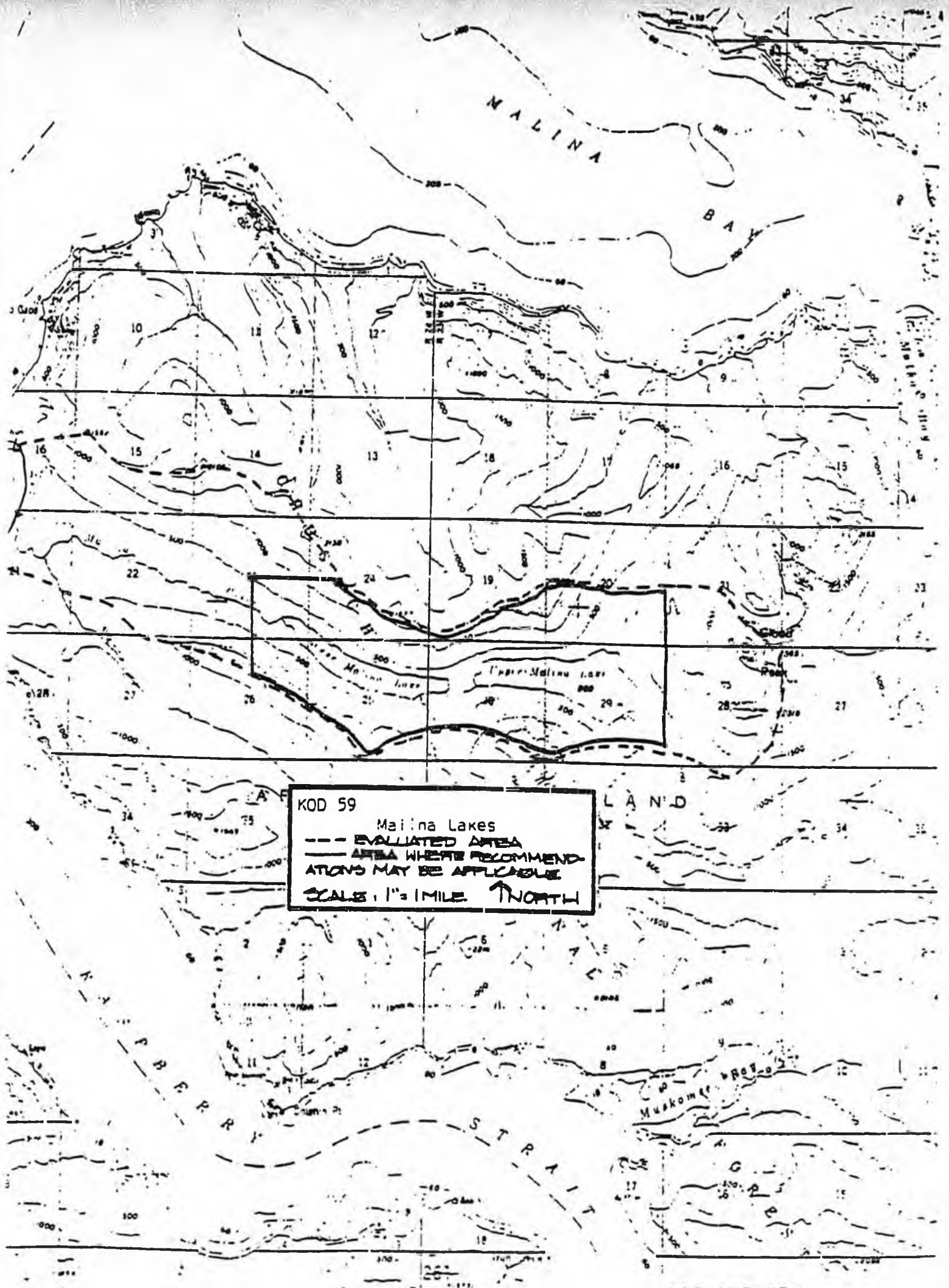
### Literature:

U.S. Forest Service, Chugach National Forest, 1979. Inventory and use records. Kodiak, Alaska.

U.S. Forest Service, 1974. Final Environmental Statement: Chugach National Forest Land Use Plan. Prepared by Chugach National Forest in accordance with federal statutes and regulations. Anchorage, Alaska.

### •Knowledgeable Contacts:

Roger Smith, Alaska Department of Fish and Game, Kodiak.  
Lee Culbertson, U.S. Forest Service, Anchorage.  
Dave Wanderaas, U.S. Forest Service, Kodiak.  
Kate Troil, Alaska Division of Parks, Anchorage.



KOD 59  
 Malina Lakes  
 --- EVALUATED AREA  
 - - - AREA WHERE RECOMMENDATIONS  
 MAY BE APPLICABLE  
 SCALE: 1" = 1 MILE    NORTH ↑

# A COASTAL AREA OF PARTICULAR CONCERN

1) Name of Area: Pauls and Laura Lakes

2) Value Classification

•Primary: Recreation

•Associated: Scenic, Wildlife, Historic

3) Location

•Region/Subregion: Southcentral Region/Kodiak Archipelago

•Latitude/Longitude: 58° 21' N, 152° 11' W

•Community/Orientation/Distance: Pauls Lake is 42 air miles directly north of the City of Kodiak and some 60 boat miles.

•Topographic Quad/ 1:83,380: Afognak B-1

4) Upland Acres (Hectares): 4674 acres (1870 hectares)

5) Seaward Distance for Protection: Two miles

6) Existing Ownership: Pauls and Laura Lakes lie in federal ownership. All federal lands have been selected by Shuyak, Inc. and by other native corporations.

7) Existing Management: Until conveyance the lands are managed by the U.S. Forest Service as part of the Chugach National Forest.

8) Adjoining Ownership/Management: The lands adjoining this area are U.S. Forest Service lands that have been similarly selected.

9) Area Description

•Dominant Physical/Biological Features: The coast of Pauls Bay is primarily a protective cove wherein lies a gravel beach and small offshore islands. The Bay and the lakes are surrounded by a tall, mature Sitka spruce forest underlain by a carpet of mosses and lichens. Pauls Lake is connected to the bay by a narrow passage which can be traveled at high tides. Laura Lake is a large lake (the largest on Afognak) with a highly convoluted shoreline. There are occasional grass and alder openings in the forest. Within Pauls Bay harbor seals can be found in high densities, while sea otters and sea lions are seen less frequently. Bird life consists of a small gull rookery and extensive nesting by a variety of waterfowl at Pauls

and Laura Lakes. A few eagles can also be found nesting in the area. Both Pauls and Laura Lakes serve as major fisheries for Dolly Varden, rainbow trout, pink salmon, silver salmon, red salmon, and steelhead. Accompanying these salmon runs is a high concentration of brown bear throughout the area. The forest surrounding Pauls Lake and Bay provide winter habitat for elk. Deer, land otter, beaver, muskrat, short-tailed weasel, and red fox are common mammals to this area.

• **Recreation, Scenic, Heritage or Wilderness Significance:** Pauls and Laura Lakes receive significant recreation use as many residents have identified this area as a "fine" fishing spot. Due to the many small lakes surrounding Pauls and Laura Lakes this area offers an excellent opportunity to establish a canoe/portage system with excellent sportfishing. There is a private recreation cabin in the area. Some deer, bear, duck, and elk hunting occurs, but not in high numbers. There is a possibility of logging roads eventually connecting up to Danger Bay (Kazakof Bay) which may cause an increase in recreational use. Due to the rolling topography, the towering Sitka spruce, and the highly irregular shorelines with many secluded coves, Pauls and Laura Lakes offer lake and forest scenery at its best. Two archaeological sites of unknown significance can be found near Pauls Bay.

• **Other Significant Resource/Land Use Values:** The spruce forests are within an area considered to be "Afognak's quality timber area". Stand volume is variable ranging from less than 10 MBF per acre to 35 MBF per acre in individual patches. Logging roads were once proposed throughout the area. No known mineral deposits or claims can be found in this area. Located offshore in Pauls Bay is a major purse seining area for salmon. Soils and slopes are generally favorable for development.

10) **Recommended Management:** Multiple-use resource management practices should be closely implemented in this area in order that the scenic qualities, key wildlife habitat, and recreational attributes are protected and provided for in the design of timber sales. Stream and shoreline buffers, landscaping patch clearcuts, logging in the off seasons, minimization of roads, etc. are all mitigation measures that should be practiced in this area of outstanding resource value. The development of a canoe/portage system and campsites should be considered, wherein the Division of Parks could be consulted for assistance.

11) **Allowable Uses** Hunting, trapping and sportfishing as managed by the Alaska Department of Fish and Game should continue. Some residential development could be allowed. Setback controls and greenbelts to protect the scenic and recreation values of the area should be considered if residential

development were to occur.

## 12) Information Sources

### Literature:

U.S. Forest Service, 1974. Final Environmental Statement: Chugach National Forest Land Use Plan. Prepared by Chugach National Forest in accordance with federal statutes and regulations. Anchorage, Alaska.

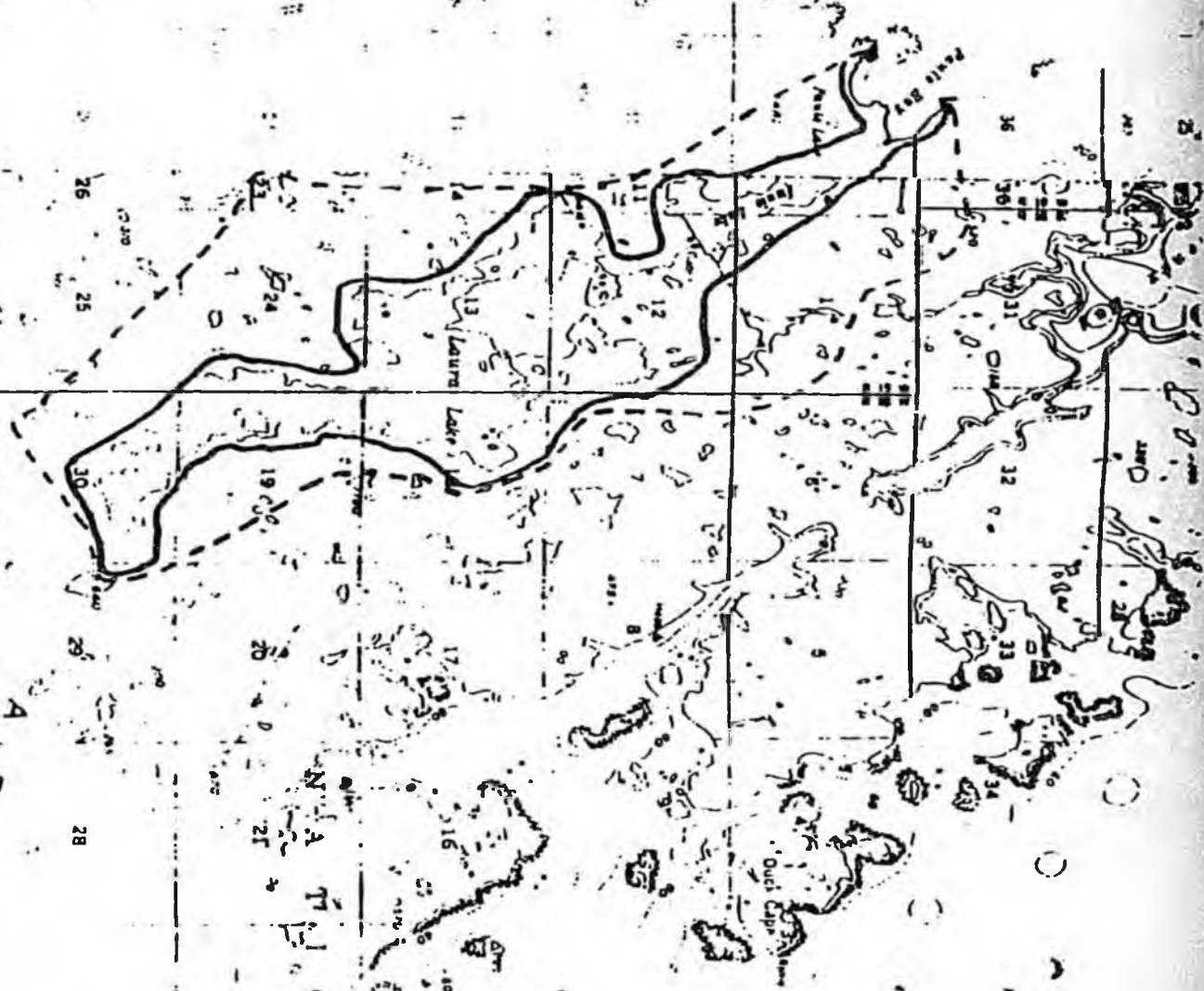
U.S. Forest Service, 1974. Final Environmental Statement: Perenosa Timber Sale. Prepared by Chugach National Forest in accordance with federal statutes and regulations. Anchorage, Alaska.

### • Knowledgeable Contacts:

Roger Smith, Alaska Department of Fish and Game, Kodiak.  
Lee Culbertson, U.S. Forest Service, Anchorage.  
Dave Wanderaas, U.S. Forest Service, Kodiak.  
Kate Troll, Alaska Division of Parks, Anchorage.

Discoverer Bay  
N D

KOD 65  
PAULS & LAURA LAKES  
--- SWALLETTED AREA  
--- AREA WHERE POSITIONING  
--- ACTIONS MAY BE APPLICABLE  
SCALE: 1"=1 MILE ↑ NORTH



285

HOUSE BILL 411

---

*CORRESPONDENCE  
&  
PROPOSALS*

\*\*\*\*\*

*HABITAT  
ACQUISITION:*

**PRINCE WILLIAM  
SOUND**

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE  
LABOR & COMMERCE COMMITTEE  
RESOURCES COMMITTEE  
RULES COMMITTEE  
CHAIRMAN, SPECIAL COMMITTEE ON  
DOMESTIC & INTERNATIONAL  
COMMERCIAL FISHERIES



P O BOX 143  
SITKA, ALASKA 99835

P O BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4916

FAX (907) 465-4928

MEMORANDUM

TO: Rep. Eileen MacLean, Co-Chair  
Rep. Mike Navarre, Co-Chair  
House Finance Committee

FROM: Sen. Dick Eliason *Dick Eliason*

DATE: March 24, 1992

RE: HB 411, making appropriations for restoration projects  
relating to the Exxon Valdez oil spill

The House Finance Committee has scheduled a hearing this afternoon on CSHB411(Res), making appropriations for restoration projects relating to the Exxon Valdez oil spill.

I'd like to take this opportunity to state my strong support for the provisions in this bill (Sec. 5) relating to transfer of the timber rights on the Cape Suckling parcel to the Dept. of Natural Resources. This is a legitimate expenditure of the compensatory payments on "acquisition of equivalent resources." Accomplishing this transfer will settle a protracted dispute between the University of Alaska and the Dept. of Natural Resources, and will also resolve many concerns of the citizens and government of Yakutat. The inclusion of the Cape Suckling provisions in the legislation has been supported from the outset by Yakutat and Cordova, and is considered an integral part of the package.

Please give the provisions in the bill relating to Cape Suckling your favorable consideration. Thank you.



# Southeast Alaska Conservation Council

SEACC 419 Sixth Street, Suite 328 Juneau, Alaska 99801 (907) 586-694

## Southeast Alaska Conservation Council Testimony on HB 411 House Resources Committee -- March 5, 1992

Good afternoon, my name is Theresa Svancara and I am representing SEACC, the Southeast Alaska Conservation Council. SEACC is a grassroots coalition of fifteen local community, volunteer conservation groups in twelve communities across the Alaska panhandle, from Ketchikan to Yakutat. SEACC's individual members number well over one thousand, and are Alaskans from all walks of life. On SEACC's Board of Directors we have a pulp mill worker, several former loggers, a number of commercial fishermen, tourism business operators, teachers, biologists, and local community volunteers.

SEACC supports House Bill 411 and the acquisition of habitat as an appropriate use of the Exxon Valdez settlement funds. The funds received by the state under the criminal plea agreement can be used most effectively for restoration which includes replacement and enhancement of affected resources, and acquisition of equivalent resources.

We support acquiring habitat which prevents further environmental stress resulting from timber harvesting or other industrial activities. Timber and land acquisition will assist the recovery of the already damaged coastal estuaries.

As policy makers discuss options to enhance the recovery and restore the oil damaged resources, we urge you to think in terms of the entire ecosystem affected by the tragic Exxon Valdez oil spill. This entails careful consideration of the shoreline, estuaries, and upland forest habitat areas as well as the waters themselves.

For example, imminent logging, road construction, and related activities compound the impacts of the oil spill and threaten areas available for replacement of impacted resources. Clearcut logging and road building create soil erosion, muddying streams and suffocating life in the streams and on the ocean floor near the mouths of streams. These are habitats that support salmon, shellfish, and marine mammals. Protecting forest habitat is essential near salmon streams because the trees maintain a moderate in-stream temperature and prevent silt from eroding stream banks from suffocating the salmon eggs.

Marbled murrelets, a bird severely damaged by the Exxon Valdez oil spill, not only spends time in the water but also nests in old growth forests.

Animals that we commonly think of as forest dwellers such as brown and black bear, deer, mink, and other small mammals also use the intertidal areas to forage for food and have been impacted by the Exxon Valdez Oil Spill. Studies have shown that both brown bear and deer in the oiled areas, have elevated oil levels in their tissue and fecal samples. Preserving their forest habitat will help them recover.

People in the communities impacted by the spill will also benefit from habitat acquisition. Jobs tied to intact forest and coastal habitat include commercial fishing, hunting and fishing guiding, recreation, and tourism. Cultural lifestyles are possible when habitat to allow subsistence use is preserved.

House Bill 411 makes sense. Common sense tells us if you're trying to nurture a stressed area back to health and revive fish and wildlife populations you don't clearcut and destroy the forests where they live.

Habitat acquisition is what the public wants. I've participated in several public meetings addressing how the restoration money should be spent. At each meeting citizens consistently and overwhelmingly called for restoration purchase of critical coastal forest habitat. The public is sending a clear message that habitat acquisition is a high priority for the settlement money.

HB 411 represents a chance to solve statewide conservation area protection issues. It provides for habitat acquisition in Prince William Sound, Afognak Island, Kachemak Bay, and Cape Suckling.

The area that SEACC is particularly interested in is Cape Suckling. It is highly valued as an economic resource by our member group the Yakutat Resource Council and SEACC has a long standing concern for this area.

Cape Suckling, the Suckling Hills, and the watersheds encompassed therein, will provide equivalent subsistence, sport, and commercial fishing, recreation and tourism opportunities to replace those resources essential to Cordova and other Prince William Sound communities that were damaged by the oil spill.

The Cape Suckling area is state land just east of Cordova, adjacent to the Yakataga State Wildlife Refuge. The timber rights, which the Alaska Department of Natural Resource has yet to convey properly to the University of Alaska, include the Suckling Hills in a 32,000 acre parcel between Cape Suckling and the Seal River.

When the Yakutatuga refuge bill passed in 1990 legislators recognized the valuable habitat of Cape Suckling and placed a moratorium on timber cutting until the timber rights were repurchased. This repurchase remains unachieved, however, because of a stalemate between the University of Alaska and the Department of Natural Resources. Sadly, cutting could begin in this valuable coastal habitat in 1993. Now, money appropriated from HB 411 to repurchase timber rights at Cape Suckling can fulfill a legislative goal and preserve one of the most valuable habitat areas in the state.

Appropriating money to Cape Suckling serves multiple purposes. First, it replaces resources that were damaged by the oil spill. Impacts to Prince William Sound and other regions increase our reliance on potential replacement habitats, such as Cape Suckling. Cordovans have a history of using Cape Suckling for fishing, guiding, and tourism and is very economically important to them.

Second, critical fisheries will be safeguarded. The Suckling Hills is laced with several anadromous salmon streams boasting some of the best Coho habitat on the Pacific Coast. The Kiklukh River is commercially fished by Prince William Sound and Yakutat gillnet fishermen. Thirty gillnet fishermen holding permits for Eshamy in Prince William Sound can also fish in the Cape Suckling area with their permits. Both the Kiklukh and Seal Rivers host intensive commercial set net fisheries. The Okalee and Tashalich rivers are other important salmon streams. This rich salmon resource is not only important to commercial fishermen but also lures sport fishermen and sustains subsistence fishermen.

Third, a thriving wildlife habitat will be protected. Mountain goats live in the Suckling Hills of Boone and Crockett record size. Adjacent areas once held Alaska's largest goat population, but in the last 10 years have suffered a 75% decline, in part due to logging. Exceptional populations of brown bear, black bear, and moose are found in the Cape Suckling area. A guide from Cordova told me he counted 40 bears in a single strawberry patch. Bird life in this region is astounding. The nearby Eastern Copper River Delta nesting and migration areas are world-famous, and Cape Suckling includes significant expanses of contiguous habitat.

A fourth purpose served by appropriating money to Cape Suckling is an investment in the University of Alaska. Money allocated to purchase the timber rights will go into a trust fund available for educating Alaskans. This is an investment in our citizens, our children, and our future.

When it comes to Cape Suckling the Legislature cannot go wrong by investing in coastal forest habitat at Cape Suckling and the University of Alaska.

We encourage you to support House Bill 411 with the inclusion to re-purchase Cape Suckling's timber rights.

RECEIVED JAN 30 1992



## CORDOVA DISTRICT FISHERMEN UNITED

P.O. Box 939

Cordova, Alaska 99574

(907) 424-3447

January 27, 1992

Representative Cliff Davidson, Chair  
House Resource Committee  
P.O. Box V, Room 108  
Juneau, Alaska 99811

Dear Representative Davidson:

The Board of Directors for CDFU appreciates your willingness to consider our input for using the State's Exxon settlement money and we thank you for providing us an opportunity to work with you and your staff on HB 411. The Board has held several workshops to review the bill and we would like to offer the following comments and recommendations:

**\$7 Million:** CDFU strongly supports the purchase of lands on Afognak Island, particularly since timber harvesting on Afognak may impact Steller sealion rookeries in the area.

**\$11 Million:** The purchase of timber in-holdings within Kachemak Bay State Park is also a priority item. The fact that other funding alternatives may exist through unexpended monies from the Bradley Lake project and Rep. Navarre's HB 83 make it difficult to decide how much of the settlement should be earmarked for the project.

Since the price tag for Kachemak Bay has been quoted at approximately \$22 million, CDFU suggests putting aside \$11 million for the Kachemak timber buy-back. This amount is roughly half of the total cost for the Kachemak Bay timber and it can be used in combination with the anticipated funding from Bradley Lake or to reduce the fiscal note on HB 83.

**\$6 Million:** CDFU has also identified the Suckling Hills timber tract near Cape Yakataga as a high priority for acquisition. We are aware of the on-going difficulties with the University of Alaska in determining a fair price for the Suckling Hills timber rights, but we've heard indications that the University might settle for \$12 million. At this point, we suggest an initial budget of \$6 million to begin negotiations. CDFU feels that there's plenty of wiggle-room in HB 411 to shift dollars around and accommodate various buy-back projects. This initial suggestion of \$6 million is simply an arbitrary starting point for beginning negotiations with the University of Alaska. We fully expect the actual purchase price for the Suckling Hills timber to be much higher and we intend to support the necessary increases to fund the acquisition.

**\$17 Million:** At this point, the combined allocations which we've proposed for Kachemak Bay State Park and Cape Suckling amount to \$17 million. This leaves \$17 million of the initial \$34 million set aside in HB 411 for timber buy-backs for use in Prince William Sound. Realistically, \$17 million may not buy a great deal of timber, but it would certainly provide us with a tool to begin talking with various timber owners in the Sound.

CDFU has identified several critical areas in PWS for potential timber acquisitions:

- a. Tatitlek Village Corporation holdings around Port Fidalgo; particularly Fish, Whalen and Landlocked Bays.
- b. Chenega Village Corporation holdings in the Southwest district; particularly the areas around San Juan Hatchery on Evans Island and the area which includes Chenega Island and Eshamy Bay.
- c. Chugach Native Corporation holdings on Montague Island at Macleod Harbor and Patton Bay.

CDFU will be contacting the Tatitlek, Chenega and Chugach corporations to determine their interest and willingness to negotiate buy-backs of their lands and/or timber holdings.

**\$9 Million:** CDFU recognizes the need to direct funds toward spill-related projects and supports the general intent for the proposed allocation of \$9 million to appropriate state agencies. However, we wish to see these monies directed to specific projects rather than just giving discretionary money to various state departments.

In the PWS region, there are a number of on-going salmon tagging and enumeration projects which are in danger of being cut from this year's ADF&G budget. CDFU recommends allocating \$5 million to ADF&G to continue research in PWS to assess spill damage to salmon and herring resources and to conduct resource restoration projects.

Although we are not aware of any particular projects being conducted by DEC, it is our opinion that funding would be better utilized for funding fish and habitat-related activities through ADF&G. Since DEC has access to the 470 Fund for spill-related projects, we feel that \$2 million is a reasonable allocation for that agency.

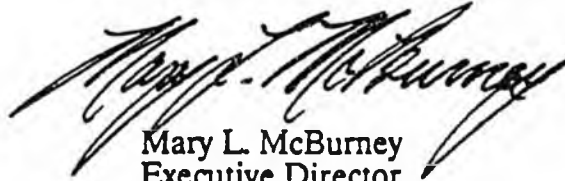
The CDFU Board also strongly recommends directing a portion of the money designated for the DOE to funding public radio stations in Valdez, Kodiak and Homer. During the oil spill, KCHU Radio played a critical role in providing current and accurate information to the communities around PWS. Since that time, KCHU has dedicated a great deal of time and effort to keep the public informed on various environmental issues related to the Exxon Valdez oil spill, marine oil transportation, and the Alyeska oil terminal. We suggest that \$0.5 million be allocated to the Department of Administration to be divided equally between the public radio stations in Valdez, Kodiak and Homer.

Finally, if there are appropriate education projects which require state funding, we propose allocating the remaining \$1.5 million to the Department of Education.

In summary, the Board of CDFU would like to see the bulk of the settlement monies spent on timber acquisition and resource enhancement projects in the spill impacted areas. The CDFU Board of Directors looks forward to working with you and other interested groups on HB 411. We appreciate your assistance and consideration.

Sincerely,

CORDOVA DISTRICT FISHERMEN UNITED

A handwritten signature in black ink, appearing to read "Mary L. McBurney", written in a cursive style.

Mary L. McBurney  
Executive Director  
for the Board of Directors

cc: Representative Gene Kubina  
Senator Jay Kerttula  
Senator Curt Menard



## **THREE GOOD REASONS TO SUPPORT BUYBACK OF CAPE SUCKLING TIMBER RIGHTS IN HB 411**

**1) Buyback of Cape Suckling timber rights would protect critical habitat and compensate Cordova and other spill impacted communities with an acquisition of equivalent resources authorized under the settlement.**

Cape Suckling is among the highest value fish and wildlife habitats in Alaska. People in Cordova and Prince William Sound rely on the the coastal ecosystem for their livelihoods and recreation. As a result of the oil spill damage, alternate resources become increasingly important. Commercial and sport fishermen, hunting guides, tourism operators and recreationists from Cordova and other spill impacted communities rely on Cape Suckling for jobs and recreation. Repurchase of Cape Suckling timber is an appropriate use of Exxon settlement monies. The criminal penalty settlement authorizes repurchase of equivalent resources.

Cape Suckling contains some of the best coho salmon habitat in the state supporting commercial, sport and subsistence fisheries. Over 1000 bald eagles from heavily oiled western Prince William Sound migrate to Cape Suckling for fall and winter Coho runs. The area also supports exceptional populations of mountain goats, brown and black bear, and moose.

**2) Buyback of Cape Suckling timber rights would fulfill a long-term legislative and community goal.**

Thanks to the hard work of local communities, the University and many others, the Alaska Legislature designated the Yakataga State Game Refuge in 1990. This legislation specified that once a repurchase agreement is worked out, the Cape Suckling area would be added to the adjacent Game Refuge.

**3) Buyback of Cape Suckling timber rights is an investment in the University of Alaska.**

Because the timber rights are held by the University, money spent to purchase Cape Suckling timber rights will go into a trust fund for education Alaskans. This is an investment in our citizens, our children, and our future.

**VOTE "YES" ON HB 411!**

## **STATEMENTS OF SUPPORT FOR HB 411 - Exxon Settlement Monies**

**“We have listened to the people in the oil spill affected areas and HB 411 represents how they want the Exxon Valdez restoration money spent.”**

**--Representative Cliff Davidson, Chairman House Resource Committee and sponsor of HB 411.**

**“Cordova District Fishermen United supports the intent of HB 411. CDFU also urges the legislature to give primary consideration...for preserving critical habitat areas such as the Cape Suckling tract and easements along anadromous fish streams...”**

**--CDFU Position Paper on HB 411.**

**“I’d like to take this opportunity to state my strong support for the provisions in this bill (Sec. 5) relating to transfer of the timber rights on the Cape Suckling parcel to the Dept of Natural Resources. This is a legitimate expenditure of the compensatory payments on “acquisition of equivalent resources.”**

**--Senator Dick Eliason, President of the Senate in a letter to the House Finance Committee**

**“We support HB 411 and in particular the inclusion of Cape Suckling as it will resolve a longstanding dispute between local governments, the University, the state and conservation interests.”**

**--Brian Rogers, Vice President of the University of Alaska, testimony to the House Resource Committee.**

**VOTE “YES” ON HB 411**

# CHENEGA CORPORATION

POST OFFICE BOX 8060  
CHENEGA BAY, ALASKA 99574-9999  
TELEPHONE (907) 573-5118 TELECOPIER (907) 573-5155

## FACSIMILE COVER PAGE

TO: REPRESENTATIVE Cliff Davidson DATE: 02-14-92  
Attn: Jay Nelson TIME: 9:50 A  
telecopier 465-3444

FROM: Carol K. EVANOFF

RE: 02/13/92 Kubina Itr.

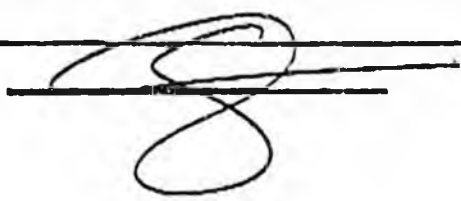
We are transmitting \_\_\_ pages (including this cover page) with a SHARP FO-010, if you do not receive all pages, please contact \_\_\_\_\_ at (907) 573-5118 immediately.

--Originals will follow this transmission via \_\_\_\_\_  
--Originals will not follow this transmission unless requested.

\* \* \* \* \* MESSAGE \* \* \* \* \*

Mr. Nelson: Thought I'd share this Itr. from  
Chenega Corp to Kubina on our  
prelim. thoughts.

Thank you for talking w/me.



# CHENEGA CORPORATION

Post Office Box 60  
Chenega Bay, Alaska 99574-0060  
(907) 573-5118

February 13, 1992

Representative Gene Kubina  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Kubina:

I am responding to a letter written to Rep. Cliff Davidson, Chairman of the House Resource Committee from the Cordova District Fishermen United on January 27, 1992.

Chenega Corporation is carefully considering the language in the proposed Bill, where \$41 million is outlined for acquisition of resources in Prince William Sound, the Kenai Peninsula and Kodiak.

It has long been the position of Chenega Corporation as one of the larger private timber holding companies in PWS, that outright sales of our lands goes in direct conflict of our acquiring these lands under the Alaska Native Claims Settlement Act.

I am supportive of your position whereby you, at this time, are not supporting this bill until you hear debate on the Bill. It is evident that debate is ensuing by CDFU's letter to Rep. Davidson.

Chenega Corporation does not have the financial resources to research options of the State buying land, timber or development rights in PWS. But, is willing to participate in PWS coastal community public meetings should they occur.

If for instance, Chenega Corporation elects to offer select timber stands that are in high environmental risk areas i.e., fisheries, tourism, aquaculture, and it gets placed in National Park status, what is our assurances that the State or Federal Government wouldn't become in direct conflict with any of our economic endeavors for the future? Disenfranchise the Corporation's ability to compete for economic opportunities on behalf of the public's interest? In reality, the only access into PWS is by air or boat, use and enjoyment is seasonal, mostly summer months, and opportunities are for those with money.

What would be the parameters of "non development easements" if the public wants easy access or simply the comforts while enjoying PWS scenic beauty?

Selling Chenega Corporation lands, fee simple, may not be the way to go for us. The quick money it would bring would be. But, that's a tradeoff our shareholders would never accept.

Proposing a PWS Resource Council that would enable the coastal communities to work together by consensus to identify common public use areas for fisheries, sport fishing, tourism, recreation, development, and management has a lot of appeal. Currently, as you are aware, the state and federal government whose representatives do not even remotely live in the area, set the rules and we have to live by them.

Proposing infrastructure to better serve the public is very appealing. I would propose the development of a refueling station in Chenega Bay where fuel sales to boats, and float planes is a reality.

A Research Center in Chenega Bay. Studying the effects of the Oil Spill is an immediate and future requirement. But studying habitat, fisheries and ecosystems to support commercial, sport and subsistence resources is also needed. The glacial erosion in our environment and the health of our resources are in question. The use of interpol and customblen, bioremediation agents, used on all the PWS beaches, by Exxon is a constant threat to the ecosystem in the PWS.

Communication links with the larger communities in PWS and South Central Alaska are still in the dark ages and a direct health and safety hazard. There are no Repeaters in areas south of Whittier in PWS. Repeater site stations could be identified under the Fund.

Clean-Up. Chenega Corporation lands were hard hit. Oil contamination is still present. Many beaches have not been restored as they were before the Spill. The only thing that is preventing that restoration, is the Federal Government and Exxon. I am very tired of the Government's disregard to our "public" statements that oil is still present on the beaches. The free flowing and subsurface oil must be removed. I propose future clean up monies come from the Fund.

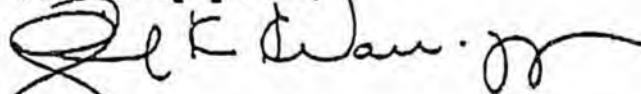
For Comment purposes, I am at a loss as to what interest a fish marketing company, CDFU, would take electing Chenega Corporation's privately owned lands for acquisition by the Fund without first consulting us on the matter. To this date we have not been contacted by CDFU for any meetings.

February 13, 1992

I am not supportive of Chenega Corporation selling any of its land in the interest of the public. I think we could best serve the public by land lease arrangements. Chenega Corporation works well with recreationalists and the general public when there is a land use interest. Chenega Corporation allows maximum use with maximum control.

We with the Chenega Corporation would appreciate receiving any kind of supplemental material to HB 411 and/or information regarding calendar hearings on the EVOS Fund.

Sincerely yours,



Gail K. Evanoff  
Vice-President of Corporate Operations

jlk/GKE

pc: file

## RESOLUTION 91-92

A RESOLUTION OF THE CITY OF CORDOVA, ALASKA, EXPRESSING SUPPORT FOR THE STATE/FEDERAL TRUSTEES FOR NATURAL RESOURCES DAMAGED BY THE EXXON-VALDEZ OIL SPILL TO NEGOTIATE WITH WILLING SELLERS THE ACQUISITION OF PRIVATELY HELD TIMBER RIGHTS IN AND AROUND PRINCE WILLIAM SOUND IN THE INTEREST OF RESTORATION

WHEREAS, the Exxon Valdez Oil Spill caused enormous biological, economic, sociological, and psychological damage to PWS, Cordova, and its residents, and

WHEREAS, the State/Federal Trustees are required by law to use damages collected from Exxon to attempt to return the damaged ecosystem to its pre-spill condition, and

WHEREAS, the pre-spill condition of the impacted ecosystem included fully forested coastal uplands, and

WHEREAS, the Eyak Corporation and the Sherestone Corporation have publicly expressed their sincere willingness to sell their timber assets in the highest public interest, and

WHEREAS, the commercial fishing industry, recreational users, tourism industry, and many other local residents have expressed strong support for the acquisition and protection of coastal forests, and

WHEREAS, such acquisitions will resolve a highly contentious and divisive issue in Cordova to the satisfaction of all parties, and

WHEREAS, such acquisitions are probably the only way to resolve this conflict,

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS: that the Mayor and the City Council support the concept that the highest priority use of Exxon settlement monies be the acquisition of timber assets in and around Prince William Sound in order to conserve coastal forests for the public good and in the interests of oil spill restoration, and that the Trustees act immediately to secure lease/option arrangements on these forests that would fairly compensate timber owners in the region in exchange for a 2-3 year moratorium on all timber harvesting activities so that the Trustees can methodically assess all acquisition options and integrate them into a systematic Restoration plan, without such options being foreclosed.

PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF December, 1991

\_\_\_\_\_  
Mayor, Kelley Weaverling

\_\_\_\_\_  
City Clerk

HOUSE BILL 411

---

*CORRESPONDENCE  
&  
PROPOSALS*

\*\*\*\*\*

*EDUCATION AND  
MISCELLANEOUS PROPOSALS*

# Alaska State Legislature



Representative Eugene Kubina

Chairman  
State Affairs  
Committee  
  
Legislative Council  
  
Transportation  
Committee

During Session:  
State Capitol  
P.O. Box V  
Juneau, Alaska 99811  
(907) 485-4850

During Interim:  
P.O. Box 2463  
Valdez, Alaska 99686  
(907) 835-2111

## Memo

To: Representative Mike Navarre, Chairman  
House Finance Committee

From: Representative Gene Kubina

Date: 23 April 1992

A handwritten signature in cursive script, appearing to read "Gene", written over the printed name "Representative Gene Kubina".

Re.: Amendment to CS for House Bill 411

---

Enclosed is a packet of material outlining five projects that I believe should be included within HB 411. Based upon my discussions with members of the Attorney General's legal staff, I believe that each of these projects has valid justification for being funded via the Exxon Valdez Oil Spill penalty monies.

I think that the specific funds to pay for this comprehensive \$5,985,000 package could be realized in the following manner:

- A. Fund Cape Suckling land purchases from University of Alaska at \$6,000,000. My discussions with members of the University lead me to believe this is reasonable.
- B. Trim \$2,985,000 from the approximately \$18,000,000 destined for projects in District Five.

I believe this approach would leave adequate revenues to fund all projects currently listed in HB 411 while providing the \$5,985,000 funds needed for these projects. I appreciate your assistance in this matter.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



# Alaska State Legislature



Representative Eugene Kubina

Chairman  
State Affairs  
Committee

Legislative Council

Transportation  
Committee

During Session:  
State Capitol  
P.O. Box V  
Juneau, Alaska 99811  
(907) 485-4859

During Internt:  
P.O. Box 2483  
Valdez, Alaska 99686  
(907) 835-2111

Date: 27 March 1992

## Capital project list for amendment to CS for HB 411

1. Alaska Oil and Hazardous Training Center	(Vdz.)	\$3,500,000
2. Prince William Sound Science Center	(Cdv.)	\$ 500,000
3. Chenega Bay Saltery Removal & Cleanup	(ChB)	\$ 585,000
4. Shellfish Hatchery	(Sew)	\$ 800,000
5. Alaska Sealife Center	(Sew)	\$ 600,000

Total: \$5,985,000

### Brief descriptions of each project:

#### Alaska Oil and Hazardous Training Center (AOHTC).

OAHTC would be composed of two programs:

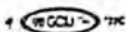
1. The Cold Weather Oil Spill School
2. The Oil Spill Cooperative Training Center

The Cold Weather Oil Spill School would be established to study and research the state-of-the-art techniques for response and prevention of oil spills in Alaska. Texas A&M University has an oil spill school but it deals predominantly with warm weather clean-up techniques--air and water temperature differences being significant factors.

The U.S. Coast Guard directed Oil Pollution Act of 1990 (OPA-90) recommends that tanker crews should have oil spill response training.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



The Cold Weather Oil Spill School located in Prince William Sound could fulfill this educational need.

The Oil Spill Cooperative Training Center would incorporate training in a wider scope than the Cold Weather School, including reforestation efforts, and animal and fish projects. The Training Center would provide both training and certification via classes set up to meet the requirements of the public and private sectors.

The Alaska Oil and Hazardous Substances Training Center (AOHSTC) would work in concert with other state wide resources, utilizing the University of Alaska, its resources and faculty, the Sitka security training (State Police-VSPO) site, the Anchorage fire fighting training facility, and other such related facilities around the state.

-----

#### Prince William Sound Science Center

This Center, located in Cordova, was established in 1989 for the purposes of doing biological research related to oil spills in the marine environment and provide a central repository for scientific information. The work performed by the Center since its creation has included the "Ecosystem Overview of the Prince William Sound/Copper River/Gulf of Alaska," a comprehensive database that will provide information and focus for future research, monitoring, and educational programs.

-----

#### Chenega Bay Saltery Removal

The village of Chenega is the site of a dilapidated herring saltery. Located next to the village's dock, the site contains oil and other contaminants, as well as being a structural danger. Removal will include destruction of the old facility, and evacuation of buried fuel tanks that have leaked into the surrounding area.

DNR, DEC, and DOT have included \$30,000 in their joint Contaminated Sites FY 93 Clean-up CIP to prepare a cost estimate for removal of hazardous substances and soil sampling.

-----

#### Shellfish Hatchery

In January of this year, a Department of Fish and Game report on aquatic farming activities in Alaska noted that "a major component

lacking in Alaska is a hatchery industry to provide a dependable supply of [shellfish] seed to aquatic farms."<sup>1</sup>

A shellfish hatchery, built under the direction of the Chugach Regional Resources Commission (CRRC), would be a significant step forward in assisting such villages as Tatitlek and Chenega to continue to develop their mariculture activities. Approximately 700,000 oysters will be harvested this summer, one year ahead of schedule.

The CRRC is currently looking for matching funds for this project.

-----

#### **Alaska Sealife Center**

This center will have as its primary mission research on the endangered species in the region and develop solutions to halt their alleged decline. No similar facility that includes research, education, and rehabilitation exists or is planned in the world.

Research projects are anticipated to draw \$10 to \$12 million of research funds and employ 60 to 70 scientists year round. Basic seasonal employment at the facility will be 200 to 400 new jobs. It is estimated 400,000 tourists will visit the facility annually.

---

<sup>1</sup>Report on Aquatic Farming Activities in 1991. Alaska Department of Fish and Game, Division of Fisheries, Enhancement and Development. Prepared by James O. Cochran, Mariculture Coordinator.

**PRINCE WILLIAM SOUND  
SCIENCE CENTER**

**\$500,000**



P.O. Box 705  
Cordova, AK 99574  
(907) 424-5800 FAX: (907) 424-5820

---

The Prince William Sound Science Center is a non-profit research organization established in Cordova shortly after the 1989 Exxon Valdez oil spill (EVOS). Prior to EVOS citizens and researchers recognized the need for establishing the Center to conduct impartial scientific studies related to natural resource and ecological processes in Prince William Sound, and studies relating how these resources and processes might be influenced by natural and human-induced perturbations. For nearly two decades, researchers working in Prince William Sound have advocated development of a centralized research facility to generate an interdisciplinary analysis of the diverse ecosystems in the region. The 1989 oil spill reiterated the need for basic and applied ecological research on the effects of oil spills in subarctic regions. EVOS also emphasized how limited the ecological database available was to assess the spill's damage.

The Science Center is the only private, non-profit scientific facility within Prince William Sound. The Center has adopted the "monitored ecosystem" approach to develop the long-term data necessary for a better understanding of its critical ecosystems.

#### Organizational Mission and Values

The mission of the Prince William Sound Science Center is to contribute effectively to the comprehensive description, sustained monitoring, and more complete ecological understanding of Prince William Sound and its wetlands, river systems, and drainage basins, and thereby to serve as an information resource for decision-makers responsible for the development and conservation of this diverse and complex ecosystem.

The Science Center's bylaws demand that it be objective, productive, professional, and completely open in communicating information from monitoring and research programs to the public. The Science Center will be steadfast in upholding the ethics of research: truth, due credit, tolerance, collaboration, and self-criticism.

#### Research and Education Programs

- Organized the March 1990 conference titled "Research for the 1990's in Prince William Sound and the Copper River Delta", attended by 115 participants including scientists from both the private and public sectors, resource managers, several legislators, and the general public. The meeting's purpose was to identify research topics important to the long-term health and biodiversity of the region, with particular attention to long-term impacts from the Exxon Valdez oil spill.

Page Two - PWS Science Center

- Published the Prince William Sound/Copper River/North Gulf Ecosystem document, presenting an initial overview of the primary components of the region and demonstrating the importance of a better understanding of ecosystem interdependence in order to maintain ecological features critical to the production of renewable resources.
- Continuous development of a geographic information system to improve and promote the quality and quantities of regional ecological research.
- Hosted a workshop held in November 1991 on the "Biological interactions of natural and enhanced stocks of salmon in Alaska." An Interim Group Report from this meeting will be available in mid-April, 1992 and individual papers will be published in a scientific journal later this year.
- Contracted the services of marine mammal researchers to conduct field studies to determine the effects of the Exxon Valdez oil spill on sea otters in Alaska (a cooperative project with the U.S. Fish & Wildlife Service).
- Provided logistical support and office services for several other oil spill related studies, particularly the U.S. Fish & Wildlife Service bald eagle research project and a socio-economic impact study conducted by the University of South Alabama, Mississippi State University and the University of Pennsylvania.
- Produced the Alaska Oil Spill Curriculum, a teaching guide for grades pre-school through 12, and distributed it to school systems throughout Alaska and the nation.
- Developed a community science education program in cooperation with the Cordova Public Schools, the U.S. Forest Service, and the Prince William Sound Community College. Program elements include an after-school Science Club for elementary school children, field trips and lectures for all ages and an Adopt-a-Scientist program for the schools.

Sources of support funding (Over \$1 million to date)

City of Cordova  
 Alaska State Legislature  
 Pew Charitable Trust  
 Murdock Charitable Trust  
 Conservation International  
 Alyeska Pipeline Service Co.  
 BP Exploration, Inc.  
 Ecotrust

Skaggs Foundation  
 ARCO Marine, Inc.  
 Davis Super Foods, Cordova  
 Prince William Sound Aquaculture Corporation  
 Cordova District Fishermen United  
 Prince William Sound Community College

## Staff

Director: *Dr. G.L. Thomas* - Ph.D. University of Washington, Fisheries Science, 1978. Experience: conducted basic and applied research since 1971 for Scripps Institute of Oceanography (UC), Fisheries Research Institute (UW), Cooperative Fisheries Research Unit (UW), and Applied Physics Laboratory (UW). Administratively, served as Assistant Leader of the Cooperative Fishery Research Unit and as Internal Director of the North Pacific International Chapter of the American Fisheries Society.

Administrative Coordinator: Nancy Bird  
Office Manager/Bookkeeper: Penelope Oswalt  
Education Coordinator: Elizabeth Trowbridge

### Board of Directors

Dr. Pete Mickelson - Wildlife ecologist  
R.J. Kopchak - Commercial fisherman  
Lisa Rotterman - Research associate  
Spencer Beebe - Pres., Ecotrust  
Dr. Ken Hill - Veterinarian

### Citizens Advisory Panel

Capt. Jerald Aspland, ARCO Marine, Inc.  
Robert Donald, City of Valdez  
Christopher Gates, City of Seward  
David Janka, PWS Conservation Alliance  
Doug Miller, National Wildlife Federation  
Jerry Sanger, City of Whittier  
Stan Stephens, Stan Stephens Charters

### Scientific Advisory Council

Dr. Harriet Christensen, Copper River Delta Institute, Cordova  
Dr. John P. Harville, Founding Interim Director, PWS Science Center  
Dr. John Goering, University of Alaska  
Dr. John Gordon, Yale University  
Ken Hill, D.V.M., Cordova  
Jerry Imm, Minerals Management Service, Anchorage  
Dr. William J. McNeil, Hatfield Marine Science Center, Newport, Oregon  
Jon M. Nelson, U.S. Fish & Wildlife Service, Anchorage  
Dr. Riki Ott, Cordova  
Dr. Stan Rice, Alaska Fisheries Science Center, Auke Bay  
Dr. Donald B. Siniff, University of Minnesota  
Dr. Lavern J. Weber, Hatfield Marine Science Center, Newport, Oregon  
Dr. George West, Homer  
Dr. Francis S.L. Williamson, Institute of Arctic Biology, Fairbanks  
Rosita Worl, Smithsonian Institution

## Future

A major grant from the Murdock Charitable Trust and federal funding of the Prince William Sound Oil Spill Recovery Institute (OSRI) by NOAA has allowed Dr. Thomas to assume a full-time position and move to Cordova. He will be working on developing the Oil Spill Recovery Institute and the annual workshops -- 1991: Biological Interactions of Natural and Enhanced Salmon, and 1992: Timber, Fish and Wildlife -- sponsored through a major grant from the Few Charitable Trusts.

**CHENEGA BAY SALTERY  
REMOVAL & CLEANUP**

**\$585,000**



# United States Department of the Interior



## NATIONAL PARK SERVICE

IN REPLY REFER TO

ALASKA REGIONAL OFFICE  
2525 Gambell Street, Room 107  
Anchorage, Alaska 99503-2892

N2219(KEFJ)

05 JUN 1990

Dr. A. J. Paul  
P.O. Box 1197  
Seward, Alaska 99664

Dear Dr. Paul:

Thank you for your letter of May 1 requesting our support for the proposed Marine Mammal Center in Seward. We agree that Seward seems to be an ideal place for such a center and that the time for a project of this nature is ripe. Such a center could add vital dimensions to the knowledge and protection of sea mammals and benefit many parties, especially our sister agency, the Fish and Wildlife Service. They have the primary responsibility for the protection and management of sea mammals.

I have enclosed a copy of a letter to Mayor Bill Noll from Kenai Fjords Superintendent Anne Castellina regarding the center. I have also asked Ms. Castellina to contact her counterpart at Alaska Maritime National Wildlife Refuge and let him know of this project. She will contact you as events progress.

Good luck with your efforts to establish this important scientific and educational facility.

Sincerely,

Paul F. Hensel

Acting Regional Director

Enclosure



**TEXAS A&M UNIVERSITY AT GALVESTON**

Marine Mammal Research Program  
Department of Marine Biology  
P.O. Box 1675  
Galveston, TX 77553-1675

Director: (409)740-4413  
Technician: 740-4420  
Students: 740-4425  
FAX: 762-8276

July 24, 1990

Mayor William Noll  
Seward Association for the Advancement of Marine Science  
P.O. Box 730  
Seward, AK  
99664

Dear Mr Mayor

I am an Assistant Professor of Marine Mammalogy at Texas A&M University at Galveston and have been active in marine mammal research for 11 years. I am writing in support of the proposal to build a marine research facility in your city. I think that such a facility would be incredibly useful from both the research perspective and public education. I have only recently moved to Texas from California, where I was located at the University of California at Santa Cruz, and previous to that was at the University of Guelph, in Canada. Both of these facilities had the capability of holding captive marine mammals and I am now in the position of attempting to create a research program without that capability for the first time. I dearly miss it. The capability to hold marine mammals in captivity, even for short periods of time, allows us to learn things about their biology that we could never learn in the wild state. This knowledge will expand our capabilities for the better protection of endangered species as well as possibly preventing other species from becoming threatened. I enthusiastically support the development of a facility in Seward and would very much like the opportunity to make use of those facilities at some time in the future.

Sincerely yours

*Graham A.J. Worthy*  
Graham A.J. Worthy  
Assistant Professor of Marine Mammalogy



# United States Department of the Interior

## NATIONAL PARK SERVICE

Kenai Fjords National Park

1212 Fourth Avenue

Post Office Box 1727

Seward, Alaska 99664

IN REPLY REFER TO:

N2219

May 23, 1990

William C. Noll  
Mayor, City of Seward  
P.O. Box 167  
Seward, AK 99664

Dear Mayor Noll,

Kenai Fjords National Park would like to take this opportunity to offer its support for the proposed Seward Marine Mammal Center outlined in your May 10, 1990 letter. The goals of scientific research, public education, and rehabilitative services for distressed or injured mammals are consistent with Kenai Fjords' Congressional mandate to:

"...maintain unimpaired the scenic and environmental integrity of the...coastal fjords and islands in their natural state; and to protect seals, sea lions, other marine mammals, and marine and other birds, and to maintain their hauling and breeding areas in their natural state..."

Recognition by Congress of this area's outstanding natural environment, diverse ecosystems, and abundant wildlife led to the establishment of the park in 1980. Since then the park has worked to study, protect and interpret the living laboratory of change characterized by the 580,000 acres within the park boundaries.

Over the past ten years we have become increasingly concerned by the as yet unexplained decline in seal and sea lion populations, the long term effects on marine mammals of oil spills and other pollution, and the possible adverse effects of increasing numbers of visitors and commercial operators in the fjords. These, and other areas of concern, deserve study. The National Park Service in Alaska is currently engaged in strengthening and expanding its efforts in resource management. The "Alaska Science Initiative" was endorsed by Congress and partially funded in 1990 and shows promise of receiving additional funding in 1991 and beyond. Kenai Fjords will benefit from this initiative with the addition of several resource management specialists. Their ability to interact with scientists at a Marine Mammal Center such as the one proposed would greatly enhance their work. Park interpreters involved in environmental education programs would also reap the benefits from the Center as would the community of Seward and the larger worldwide scientific community.

The City of Seward, Kenai Fjords National Park, the Alaska Maritime National Wildlife Refuge, and the Institute of Marine Science, Seward Marine Center would all gain from the establishment of a Marine Mammal Center in Seward as would the growing number of visitors and schoolchildren to this area. Seward offers a unique location for this facility. The study subjects are here in abundance and easily accessible. Federal and State agencies concerned and mandated to protect the marine mammals are already based in Seward. There cannot be many other areas in Alaska (if any) where all of these factors mesh as well as they do here.

We look forward to working with you and the Seward Association for the Advancement of Marine Science (SAAMS) as your objectives and plans continue to expand and clarify.

Sincerely,

A handwritten signature in cursive script that reads "Anne D. Castellina". The signature is written in dark ink and is positioned above the typed name and title.

Anne D. Castellina  
Superintendent