

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8068 HOUSE RESOURCES**

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Whereas, the State intends to indemnify, defend and hold the Conservancy harmless from certain liability and costs resulting from this Agreement, the Purchase Agreement and the Conservancy's ownership of the Property, to the extent provided herein;

Now, therefore, the parties agree as follows:

1. Conditions Precedent to the Conservancy's Obligations. The Conservancy agrees to enter into the Purchase Agreement, and to accept title to the Property subject to satisfaction of the following conditions which are for the sole benefit of the Conservancy: (a) Before the Closing, the Board of Governors of the Conservancy shall have approved this transaction in its sole discretion; (b) The condition of the title to, the proposed deed for, the environmental hazards assessment of, and the appraisal of the Property, shall be satisfactory to the Conservancy, in its sole discretion; (c) The Property shall be exempt from real estate taxes; (d) The State, Seal Bay Timber Company, Akhiok-Kaguyak, Inc., and Old Harbor Native Corporation shall enter into the attached Indemnification Agreement (Exhibit 3).

2. Reconveyance of Property. Subject to acquisition of the Property by the Conservancy, and subject to the payment by the State of all amounts it owes hereunder, and all amounts it would owe hereunder were the indemnification and hold harmless obligations of the State not subject to appropriations for the purposes stated herein, the Property shall be reconveyed by the Conservancy as follows:

a. If the State of Alaska has designated the Property as a state park within 12 months of the date that title was conveyed to the Conservancy, then the Conservancy shall convey the Property to the State. If the Property is not designated as a state park within 12 months, then the Conservancy shall, upon acceptance by the United States, convey the Property to the United States of America for inclusion in an appropriate federal conservation system unit as defined in section 102 of the Alaska National Interest Lands Conservation Act, Public Law 96-487 or the Chugach National Forest.

b. The Property shall be conveyed by the Conservancy by quit claim deed, and the warranties of title shall be assigned in the form of the attached Exhibit 4, subject to the liens, encumbrances, restrictions, reservations, and other limitations of title as existed on the date title was conveyed to the Conservancy, and any other liens, encumbrances, restrictions, reservations and limitations which have been agreed to or suffered by the State.

c. The Property shall be conveyed by the Conservancy without



period the Property shall be managed subject to the limitations described in paragraph 2(d)(i), above, and subject to the following:

a. The State shall pay any and all amounts owing on the Property, including taxes and assessments on the Property, and any liens, or encumbrances, when due or according to their terms;

b. The State shall promptly pay for any services, labor and materials provided for, or used on the Property, and shall not allow any mechanic's, laborman's, materialman's, or any other lien for services to attach to the Property;

c. The State shall comply in all material respects with all applicable laws, ordinances, regulations, statutes and rules relating to the Property, and every part thereof, and promptly notify the Conservancy of any notification from any governmental authority having jurisdiction, of any potential non-compliance with such laws or regulations, requiring any work to be done on the Property or advising of any condition (including without limitation hazardous wastes) which would render the Property unsafe.

d. The State shall not enter into any leases, trust deeds, mortgages, restrictions, encumbrances, liens, licenses or other instruments or agreements affecting the Property (each, an "Instrument") without the prior written consent of the Conservancy from and after the date of this Agreement. The Conservancy shall not assume nor be deemed to have assumed any obligation or liability under any such Instrument.

e. The State warrants and represents that neither the execution nor delivery of this Agreement, nor consummation of the transaction contemplated hereby, nor fulfillment of nor compliance with the terms and conditions hereof contravenes any provision of any law, statute, rule or ordinance to which the State or the Property is subject, or conflicts with or results in a breach of or constitutes a default under any of the terms or conditions of any agreement or instrument to which State is a party or by which it is bound, or constitutes a default under any of the foregoing, and there exists no default in respect of any obligation pertaining to the Property.

f. The Conservancy shall not be required to pay any amounts under the Purchase Agreement, nor toward management of the Property, nor to satisfy any obligation related to the Property or any obligation of the State arising hereunder.

g. The State represents and warrants to the best of its information and belief after diligent inspection of the Property



6. Reimbursement of Costs. Quarterly, upon receipt from the Conservancy of an invoice in substantially the same form as the attached Exhibit 5, the State shall pay to the Conservancy all of its direct costs, including out-of pocket expenditures and salary costs, and overhead at the rate of 21.5% of the salary costs. Unless otherwise agreed to by the State, costs incurred by the Conservancy during the Agreement term will not exceed \$5,000 for services such as but not limited to staff salaries, telephone charges, supplies, and travel. The Conservancy may request additional funds if they are necessary to comply with the terms of this agreement. The Conservancy request for additional funds shall be submitted in writing prior to incurring the obligation and will not be unreasonably denied.

Reimbursements in excess of \$5,000 shall be subject to state appropriation and Trustee Council approval. All Conservancy invoices shall be submitted to the Commissioner, Department of Natural Resources.

The State may request the Conservancy to procure services from other vendors that may be required in the performance of this agreement. Such requests will be made in writing by the State and invoices shall be submitted by the vendor to the Commissioner, Department of Natural Resources.

7. Notice. Any notice or communications required or permitted to be given hereunder shall be given in writing and shall be delivered (i) in person, against receipt, (ii) by certified mail, postage prepaid, return receipt requested, or (iii) by U.S. Express Mail or a commercial overnight courier that guarantees delivery within the next two business days. Such notices shall be addressed as follows:

**TO THE CONSERVANCY:**

The Nature Conservancy  
Alaska Field Office  
601 W. Fifth Ave., Ste. 550  
Anchorage, AK 99501  
Attn: Steve Planchon

The Nature Conservancy  
Western Regional Office  
2060 Broadway, Suite 230  
Boulder, Colorado 80302  
Attn: Regional Attorney

**TO THE STATE:**

State of Alaska  
Department of Natural Resources  
3601 C Street, Suite 1210  
Anchorage, AK 99503  
Attn: Marty K. Rutherford

State of Alaska  
Department of Natural Resources  
Director, Division of Land  
P.O. Box 107005  
Anchorage, AK 99510-7005

Notice of change of address shall be effective only when done in accordance with this Paragraph. All notices complying with this Paragraph shall be effective only upon delivery.

8. Remedies. In addition to any other remedies at law or in equity, the parties shall have the right to specific performance of this agreement.

9. Consistent With Trustee Council Resolutions. The State acknowledges that this Agreement and its Exhibits, and the Seller's Indemnification, Representations and Warranties and its Exhibits, and such additional documents as are executed by the Conservancy for the purpose of completing this transaction, are consistent with the Exxon Valdez Settlement Trustee Council Resolutions authorizing purchase of the Property, and are in furtherance of those Resolutions.

10. Miscellaneous.

a. This Agreement is the full and complete agreement between the parties and shall not be modified except in writing signed by each.

b. The representations, warranties, agreements and obligations of the State shall survive the conveyance of the Property to the State or to the United States, for the benefit of the Conservancy.

c. The Conservancy has no fiduciary responsibility to the State, to the United States, to the Exxon Valdez Settlement Trustee Council, or to any other person or entity as a result of this transaction or ownership of the Property. No fiduciary relationship, partnership, joint venture or other relationship, other than a contractual relationship, exists between the parties.

Executed this 4th day of November, 1993.

THE CONSERVANCY:

THE NATURE CONSERVANCY,  
a District of Columbia  
non-profit corporation

By: [Signature]  
Its [Signature] President

THE STATE:

THE STATE OF ALASKA

By: [Signature]  
Commissioner, DNR  
Hon. Comm. No. 1

EXHIBIT 5

November 2, 1993  
Tracking #  
TNC Center #  
Seal Bay

State of Alaska

Invoice #1

Reference: Cooperative agreement between The Nature Conservancy of Alaska and the Alaska Department of Law for agreement # in regards to the Seal Bay Project.

Salaries .....	\$0
Travel .....	\$0
Lodging/Meals .....	\$0
Supplies .....	\$0
Overhead (21.5%) .....	\$0
<b>TOTAL .....</b>	<b>\$0</b>

~~Total due~~ \$0

Please make check payable to The Nature Conservancy and remit to The Nature Conservancy, 601 West Fifth Avenue, Suite 550, Anchorage, Alaska 99501.

Thank you.

Sincerely,

Kathleen George  
Contract Administrator

## Interim Protection Process

Seal Bay was selected by the Trustee Council for possible protection and acquisition as a result of an Interim Protection Process developed by the Council in response to widespread public comment about the ongoing destruction of habitat in the oil spill area. Its purpose was to identify those high value habitat areas in the oil spill area that were threatened with imminent habitat degradation.<sup>1</sup> Nineteen parcels, including Seal Bay, were identified as imminently threatened and ranked as to their value for restoration purposes (See **Parcel Ranking and Acreage Summary**, page 14). The Trustee Council decided to pursue protection measures for the top five parcels. The Kachemak Bay State Park inholdings were ranked number one and Seal Bay number two.

The steps in the Interim Protection Process are summarized on page 2. As part of the Interim Protection Process, the Council determined that Seal Bay met the **Interim Threshold Criteria** which are described on page 3.

Parcels which satisfied the Interim Threshold criteria were evaluated using the **Interim Evaluation/Ranking Criteria** (page 4) and **Criteria for Rating Benefit of Parcel to injured Resources/Services** (pages 5-7). These criteria detail to what degree specific resources and services would benefit from acquisition of a particular parcel. The application of these criteria to the Seal Bay parcel is found on pages 8-10. This analysis details the potential benefit Seal Bay is expected to provide for each of the resources and services identified, as well as consideration of the parcel's ecological significance, adjacent land management, imminent threat status, protection objectives, available protection tools and recommended protection actions.

Following negotiations with the landowner, the Tonki Cape parcel was added to the acquisition and evaluation process. The analysis of the Tonki Cape parcel is found on pages 11 and 12.

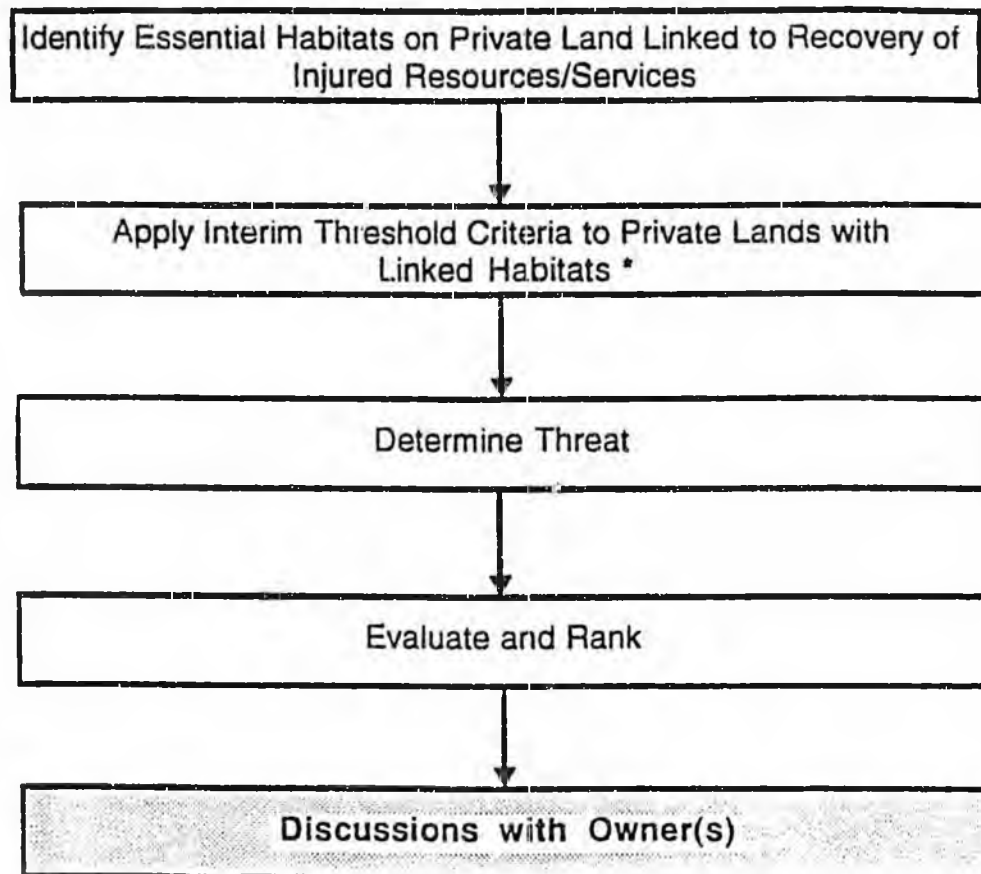
A numerical scoring and ranking system was applied to the evaluation process. This ranking, the **Seal Bay Option Ranking Analysis**, is included on page 13.

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<sup>1</sup> A comprehensive evaluation of private lands in the spill area for purposes of restoration is also being developed. It should be ready for public comment in December.

## SUMMARY OF INTERIM PROTECTION PROCESS

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Abstracted from Figures 1 & 2 of the Framework Supplement.

- \* Criteria #1 and #3 cannot be applied until approval is received from the Trustee Council to obtain this information from landowners.

### Interim Threshold Criteria \*

1. There is a willing seller of the parcel or property right.
2. The parcel contains key habitats that are linked to, replace, provide the equivalent of, or substitute for injured resources or services based on scientific data or other relevant information.
3. The seller acknowledges that the government cannot purchase the parcel or property rights in excess of fair market value.
4. Recovery of the injured resource or service would benefit from protection in addition to that provided by the owner and applicable laws and regulations.
5. The acquired property rights can reasonably be incorporated into public land management systems.

\*Approved by the Trustee Council at their January 19, 1993 meeting.

## Interim Evaluation/Ranking Criteria \*

1. The parcel contains essential habitat(s)/sites for injured species or services. Essential habitats include feeding, reproductive, molting, roosting, and migration concentrations; essential sites include known or presumed high public use areas. Key factors for determining essential habitat/sites are:
  - a. population or number of animals or number of public users.
  - b. number of essential habitats/sites on parcel, and
  - c. quality of essential habitats/sites.
2. The parcel can function as an intact ecological unit or essential habitats on the parcel are linked to other elements/habitats in the greater ecosystem.
3. Adjacent land uses will not significantly degrade the ecological function of the essential habitat(s) intended for protection.
4. Protection of the habitats on parcel would benefit more than one injured species/service (unless protection of a single species/service would provide a high recovery benefit).
5. The parcel contains critical habitat for a depleted, rare, threatened, or endangered species.
6. Essential habitat/sites on parcel are vulnerable or potentially threatened by human activity.
7. Management of adjacent lands is, or could easily be made compatible with protection of essential habitats on parcel.
8. The parcel is located within the oil spill affected area.

\*Approved by the Trustee Council at their January 19, 1993 meeting.

## CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES

INJURED RESOURCE / SERVICE	HIGH	MODERATE	LOW
Anadromous Fish	High density of anadromous streams per parcel; multiple injured species; and/or system known to have exceptional productivity.	Average density of anadromous streams for area; two or more injured species present.	Few or no streams on parcel; one or less injured species.
Bald Eagle	High density of nests on parcel; and/or known critical feeding area.	Average density of nests on or immediately adjacent to parcel (at least one); important feeding area.	Few or no nests on parcel; may be used for perching and/or feeding.
Black Oystercatcher	Area known to support nesting or concentration area for feeding.	Possible nesting; known feeding area.	Probable feeding.
Common Murre	Known nesting on or immediately adjacent to parcel.	Nesting in vicinity of parcel; known feeding concentration adjacent to parcel.	Possible feeding in area adjacent to parcel.
Harbor Seal	Known haul out on or immediately adjacent to parcel.	Probable haul outs in vicinity of parcel; probable feeding in nearshore waters adjacent to parcel.	Probable feeding in nearshore waters.
Harlequin Duck	Known nesting or molting on parcel; feeding concentration area.	Probable nesting on or adjacent to parcel; probable feeding in stream, estuary, or intertidal adjacent to parcel.	Probable feeding and loafing in area adjacent to parcel.

**CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES**

INJURED RESOURCE / SERVICE	HIGH	MODERATE	LOW
Intertidal/subtidal Biota	Known high productivity/species richness. Oiled or adjacent to oiled area where recruitment may be important.	High productivity/species richness; not oiled or near oiled area.	Average productivity/species richness; no documented shoreline oiling.
Marbled Murrelet	Known nesting or high confidence that nesting occurs; concentrated feeding in nearshore waters.	Good nesting habitat characteristics; known feeding in nearshore waters adjacent to parcel.	Low likelihood of nesting; possible feeding in nearshore waters.
Pigeon Guillemot	Known nesting on or immediately adjacent to parcel; feeding concentrations in nearshore waters.	Good nesting habitat characteristic; known feeding in nearshore waters adjacent to parcel.	Low likelihood of nesting; possible feeding in nearshore waters.
River Otter	Known high use of parcel for denning/latrine sites.	Known or probable latrine and/or denning sites; known feeding in adjacent intertidal/streams/nearshore area.	Probable feeding in adjacent intertidal/streams.
Sea Otter	Known haulout or pupping concentrations.	Concentration area for feeding and/or shelter; potential pupping.	Feeding in adjacent waters.

**CRITERIA FOR RATING BENEFIT OF PARCEL TO INJURED RESOURCES / SERVICES**

<b>INJURED RESOURCE / SERVICE</b>	<b>HIGH</b>	<b>MODERATE</b>	<b>LOW</b>
Recreation/Tourism	Receives high public use; highly visible to a large number of recreationists/tourists; area nominated for special recreational designation.	Accessible by road, boat, or plane; adjacent area used for recreational boating; adjacent area receives high public use.	Occasional recreational use; access may be difficult.
Wilderness	Area remote; little or no evidence of human development.	Area remote; evidence of human development.	Area accessible; high/moderate evidence of human development (roads, clearcuts, cabins).
Cultural Resources	Documented concentration or significant cultural resources/sites on parcel.	Evidence of cultural resources/sites on or adjacent to parcel.	Possible cultural resources/sites on parcel.
Subsistence	Known resource harvest area; multiple resource use.	Known harvest area for at least one resource.	Possible harvest area.

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## HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01		PARCEL NAME: Seal Bay	
LANDOWNER: Akhiok Kaguyak/ Old Harbor		PARCEL ACREAGE: 15,000	TOTAL ACREAGE: 253,000
		AFFECTED ACREAGE: 1,600	
INJURED RESOURCE / SERVICE	POTENTIAL FOR BENEFIT	COMMENT	
Anadromous Fish	Moderate	Six documented anadromous streams; pink. sockeye, coho, Dolly Varden, steelhead.	
Bald Eagle	High	Fourty two documented nest sites; feeding and roosting along shoreline.	
Black Oystercatcher	Moderate	Feeding in intertidal; probable nesting along shoreline and nearshore islets.	
Common Murre	None		
Harbor Seal	Moderate	Area historically supported large numbers of seals. Feeding in nearshore waters and haul-outs on nearshore rocks.	
Harlequin Duck	Moderate	Up to 64 birds observed in Seal Bay. Nearshore habitat appears good for feeding and molting. Potential for nesting appears low.	
Intertidal/subtidal biota	Moderate	Productive sheltered rocky intertidal and shallow subtidal habitat. Steep slopes adjacent to intertidal may become source of erosion sedimentation. No documented oiling of shoreline.	
Marbled Murrelet	High	High confidence that nesting occurs on parcel; good nesting habitat characteristics: high use of adjacent marine waters for feeding.	

## HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01	PARCEL NAME: Seal Bay	
Pigeon Guillemot	Moderate	Documented nesting of up to 36 birds on or immediately adjacent to parcel; feeding in nearshore waters.
River Otter	Moderate	Probable feeding and latrine sites along shoreline. Possible denning. Habitat characteristics appear very favorable for river otters.
Sea Otter	Moderate	Known concentration area off Tolstoi Point. Feeding in nearshore waters.
Recreation/Tourism	Moderate	Area has historically supported high value wilderness-based recreation for boats and lodge. Access was previously difficult but is now road accessible.
Wilderness	Moderate	Wilderness characteristics are declining. Recent clearcuts and road are visible.
Cultural Resources	Moderate	Six archeological sites documented on parcel.
Subsistence	Low	Marine invertebrates, deer, elk, possibly marine mammals.
<p><b>ECOLOGICAL SIGNIFICANCE:</b> This parcel contains old growth forest habitat adjacent to highly productive marine waters. Streams within the parcel support a diversity of anadromous fish. Forests on this parcel are suspected of providing high value marbled murrelet nesting habitat. Wilderness recreation values, particularly for fishing and hunting are high. Parcel supports non-injured species including deer, elk, and brown bear.</p>		
<p><b>ADJACENT LAND MANAGEMENT:</b> Afognak Joint Venture; primarily for timber harvest and tree farming.</p>		

## HABITAT PROTECTION PARCEL ANALYSIS

PARCEL #: KAP 01	PARCEL NAME: Seal Bay
<b>IMMINENT THREAT/OPPORTUNITY:</b> A portion of this parcel is proposed for logging in 1993 as an extension of an ongoing timber management operation by Koncor Forest Products. Akhiok-Kaguyak has expressed an interest in discussing habitat protection for remainder of parcel.	
<b>PROTECTION OBJECTIVE:</b> 1) Maintain water quality and riparian habitat for anadromous fish; 2) maintain marbled murrelet and bald eagle nesting habitat; 3) maintain and enhance wilderness-based recreational opportunities.	
<b>USEFUL PROTECTION TOOL(S):</b> Timber acquisition; fee title acquisition; cooperative management agreement; conservation easement.	
<b>RECOMMENDED ACTION:</b> This is one of highest priority imminent threat parcels: request Akhiok/Kaguyak/Old Harbor joint venture to provide interim protection; discuss options for long-term protection.	

1. Parties other than landowner may own partial rights (e.g., timber, minerals).
2. Area evaluated.
3. Estimated acreage held by the owner in the spill area.
4. Estimated area to be affected by imminent development activity.

## HABITAT PROTECTION / ACQUISITION PARCEL SUMMARY

PARCEL #: KAP 01A	PARCEL NAME: Tunki Cape	
LANDOWNER: Akhiok/Kaguyak dba Seal Bay Timber Company	PARCEL ACREAGE: 24,384	<sup>2</sup> TOTAL ACREAGE: 253,000
INJURED SPECIES / SERVICE	POTENTIAL FOR BENEFIT	COMMENT
Anadromous Fish	Low	One documented anadromous stream/lake #10010-0010; sockeye, Dolly Varden; probable rearing habitat along shoreline in little Tonki Bay.
Bald Eagle	Moderate	Seven documented nest sites; feeding and perching along shoreline.
Black Oystercatcher	Moderate	Feeding and loafing along shoreline; potential nesting on gravel beaches.
Common Murre	Low	Potential feeding in nearshore waters.
Harbor Seal	Low	Potential feeding in nearshore waters.
Harlequin Duck	Low	Potential feeding and loafing on nearshore rocks.
Intertidal/subtidal biota	Moderate	Predominantly exposed rocky habitat; scattered kelp beds.
Marbled Murrelet	Moderate	Forested slopes; potential feeding areas nearshore.
Pigeon Guillemot	Moderate	Suitable nesting habitat in places; probable feeding in nearshore waters.
River Otter	Low	Generally steep shorelines with no anadromous streams.

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## HABITAT PROTECTION / ACQUISITION PARCEL SUMMARY

Sea Otter	Moderate	Feeding and shelter concentrations near kelp beds and heads of bays.
Recreation/Tourism	Low	Remote; difficult access; area receives low levels of use for bear, deer and elk hunting.
Wilderness	High	Minimal evidence of human activity.
Cultural Resources		
Subsistence	Low	Potential deer and elk hunting, marine mammals, marine invertebrates.
<p><b>ECOLOGICAL SIGNIFICANCE:</b> This includes predominantly steep forested slopes with high bench meadows. Tonki Peninsula is major denning area for brown bears on Afognak Island and has historically supported high elk and deer populations. Portion of the watershed of anadromous stream/lake #10020-2009 in little Tonki Bay are within parcel.</p>		
<p><b>ADJACENT LAND MANAGEMENT:</b> Afognak Joint Venture has four section inholding at head of little Tonki Bay; State of Alaska owns lands at isthmus between peninsula and Afognak Island.</p>		
<p><b>IMMINENT THREAT/OPPORTUNITY:</b> Area contains potential commercial forest.</p>		
<p><b>PROTECTION OBJECTIVE:</b> Maintain wilderness characteristics; maintain access for recreational use including hunting and fishing.</p>		
<p><b>USEFUL PROTECTION TOOL(S):</b> Fee title</p>		

Habitat Protection Working Group 07/13/93

## SEAL BAY OPTION RANKING ANALYSIS

PARCEL		RANKING CRITERIA								SCORE
PARCEL #	NAME	1	2	3	4	5	6	7	8	
KAP 01	Seal Bay	2-H, 11-M	Y	N	Y	N	Y	N	Y	30
KAP 01A	Tonki Cape	1-H, 6-M	Y	N	Y	N	Y	N	Y	6

1. Parties other than landowner may own partial rights (e.g., timber, minerals).
2. Estimated acreage held by the owner in the spill area.
3. Refer to Interim Evaluation and Ranking Criteria.

*Criteria 2 - 8*

N = No (does not meet criteria)

Y = Yes (does meet criteria)

*Criteria 1 from table: "Criteria for Rating Benefit of Parcel to Injured Resources/Services"*

H = High Benefit

M = Moderate Benefit

L = Low Benefit (not included in this analysis)

4. Scoring Formula: Parcel Score = (Sum of H + (0.5 x Sum of M)) x Sum of Y  
 Example: KAP 08 Score = (3 + (0.5 x 10)) x 6 = (3 + 5) x 6 = 48  
 Note: Formula emphasizes degree of linkage to injured resource/service.

## PARCEL RANKING AND ACREAGE SUMMARY

RANK	PARCEL #	NAME	ACREAGE	SCORE
<i>Imminent Threat Parcels</i>				
1	CIK 01	China Poot, Kachemak Bay	7,500	45
2	KAP 01	Seal Bay, Afognak I.	15,000	30
3	PWS 04	Fish Bay, Port Fidalgo	1,700	27
4	PWS 02	Power Creek, Cordova	1,300	24
5	CIK 05	Lower Kenai Peninsula	3,000	22.5
6	PWS 06	Patton Bay, Montague I.	3,300	18
7	PWS 03	Two Moon Bay, Port Fidalgo	2,100	14
8	PWS 01	Orca Narrows / Nelson Bay	3,500	12
9	KAP 03	Izhut Bay, Afognak I.	1,000	10
9	KAP 04	Kazakof Bay, Afognak I.	1,500	10
10	CIK 04	Port Graham Allotments	200	8
11	CIK 02	Sadie Cove, Kachemak Bay	400	7.5
12	CIK 03	Jakalof Bay, Kachemak Bay	600	6
12	KAP 02	Pauls Lake, Afognak I.	500	6
13	PWS 05	Eyak River, Cordova	100	5
14	CIK 07	Rocky Bay	100	3
15	KAP 05	Danger Creek, Afognak I.	120	1
15	KAP 06	Paramanof Cr., Afognak I.	500	1
16	CIK 06	Windy Bay	400	0
<b>TOTAL IMMINENT THREAT ACRES</b>			42,320	
<i>Opportunity Parcels</i>				
1	PWS 07	Chenega I./Eshamy/Jackpot	57,000	60
2	KAP 08	Shuyak Strait, Afognak I.	51,000	48
3	KAP 07	Alitak Bay, Kodiak I.	230,000	30
<b>TOTAL OPPORTUNITY ACRES</b>			338,000	
<b>TOTAL ACRES ANALYZED</b>			380,320	



Seal Bay, Afognak, Alaska



Seal Bay, Afognak, Alaska



Seal Bay, Afognak, Alaska



**Akhiok-Kaguyak, Inc.**  
5028 Mills Drive  
Anchorage, Alaska 99508

**Old Harbor  
Native Corporation**  
P.O. Box 71  
Old Harbor, Alaska 99643

November 4, 1993

Charles Cole, Esq.  
Attorney General for the  
State of Alaska  
Department of Law  
Capitol Building, Fourth Floor  
120 Fourth Street  
Juneau, Alaska 99801

Mr. Carl Rosier  
Commissioner  
State of Alaska  
Department of Fish & Game  
1255 West Eighth Street  
Juneau, Alaska 99802

Mr. John Sandor  
Commissioner  
State of Alaska  
Department of Environmental  
Conservation  
410 Willoughby Avenue, Suite 105  
Juneau, Alaska 99801-1795

Mr. Mike Barton  
Regional Forester  
United States Department  
of Agriculture  
United States Forest Service  
709 West Ninth Street, Room 249  
Juneau, Alaska 99802

Mr. Paul Gates  
Regional Environmental Officer  
United States Department  
of Interior  
Office of the Secretary  
1689 "C" Street, Suite 119  
Anchorage, Alaska 99501

Mr. Steve Pennoyer  
Director  
National Marine Fisheries  
Service  
United States Department  
of Commerce  
Federal Building Annex  
9109 Mendenhall Road, Suite 6  
Juneau, Alaska 99801

Dear Members of the Trustee Council:

Recently, we have learned of the interest of governmental officials and others in the plans that Native corporations have for the use of the proceeds of the sale of some of their lands received under the Alaska Native Claims Settlement Act (ANCSA) through the EXXON VALDEZ Oil Spill Trustee Council process.

Even though you and other members of the EXXON VALDEZ Oil Spill Trustee Council have not requested information from us regarding our corporations' lands which are part of the Council's Seal Bay acquisition proposal, we would like to share with you our

EXXON VALDEZ Oil Spill  
Trustee Council  
November 4, 1993  
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general plan for the use of the net proceeds of the sale of those lands.

Although, as you are aware, the decision as to what to do with ANCSA lands under the law rests solely with the Native corporations involved, we have chosen to provide to the Trustee Council (and by separate letter, to the State Legislative Budget and Audit Committee), the following information to help facilitate and expedite the final steps in the land acquisition process as it pertains to Seal Bay Timber Company.

In order to (1) provide the shareholders of Old Harbor Native Corporation and Akhiok-Kaguyak, Inc., owners of Seal Bay Timber Company, with a very modest, but stable, income source, and (2) provide a perpetual economic development stimulus (and diversification) for our region, our corporations have determined that the net proceeds from the sale of any of our lands at Seal Bay are to be invested in respective permanent "Shareholder Funds."

The corpus of these Funds will be protected from invasion and the interest income will be used to inflation-proof the Funds and provide for their real growth. Our corporations are relying on this approach so that the Funds can produce dividends to shareholders in perpetuity, and help provide for economic and job development opportunities in our area.

Among the basic purposes of ANCSA is to assist Alaska Natives in becoming more economically self-sustaining through the use of their own lands and effort, while preserving to the greatest degree possible, their culture and the viability of the rural Alaskan way of life. Our corporations have determined that the acquisition at Seal Bay by the Trustee Council represents a major and appropriate step in the fulfillment of the central purposes of ANCSA. It would also provide a substantial public benefit to the citizens of Alaska and to the wildlife resources of the region.

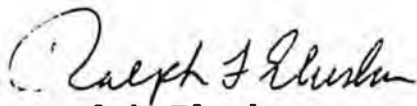
Not only will our shareholders and their descendants benefit, but also other Natives and non-Natives alike, from the income generated by these permanent Funds *forever* through future consumer spending, the multiplier effect of such spending on the free-enterprise system and through economic development projects made possible from investment income generated by the Funds.

We have attempted to work with the Trustee Council to ensure that through valid appraisals and through our corporations' contribution of certain additional wildlife habitat to the acquisition package, the public's interest will be well served by the Seal Bay acquisition.

EXXON VALDEZ Oil Spill  
Trustee Council  
November 4, 1993  
Page 3

We appreciate the interest of the Council in pursuing this acquisition, and believe that it could turn out to be one of the most positive achievements of government to result from the tragic oil spill which injured the lands of the Kodiak archipelago and the wildlife and other natural resources of our region, as well as adversely affected our people, their lives and their livelihoods.

Sincerely,



Ralph Eluska  
President  
AKHTOK-KAGUYAK, INC.



Emil Christiansen  
President  
OLD HARBOR NATIVE CORPORATION



# Kodiak Island Borough

710 MILL BAY ROAD  
KODIAK, ALASKA 99615-6340  
PHONE (907) 486-5736

October 1, 1993

Charles S. Cole, Esq.  
Attorney General  
State of Alaska  
Department of Law  
Office of the Attorney General  
Environmental Section  
1031 West 4th Ave., Suite 200  
Anchorage, AK 99501

Dear Charlie:

The Kodiak Island Borough supports the efforts of the Exxon Valdez Oil Spill Trustee Council to acquire the Seal Bay and Tonki Cape land located on Afognak Island. We are very pleased that an agreement could be reached which stopped the logging of these lands and provided a fair economic return to the owners of the property.

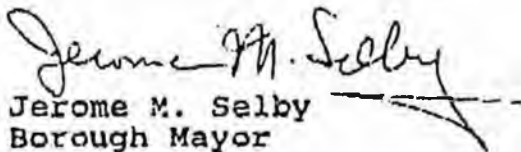
The opportunity to protect and preserve pristine wilderness habitat does not present itself often. The Trustee Council is to be commended for moving decisively and swiftly in negotiating the purchase.

Congratulations on a job well done.

Of course, if we may be of any assistance to you in consummating this transaction, please do not hesitate to call me:

Sincerely,

**KODIAK ISLAND BOROUGH**

  
Jerome M. Selby  
Borough Mayor

NOV 05 '93 10:43 KODIAK ISLAND BOR.

P.3

Introduced by: Mayor Selby  
Requested by: Mayor Selby  
Drafted by: Mayor Selby  
Introduced: 11/04/93  
Adopted: 11/04/93

**KODIAK ISLAND BOROUGH  
RESOLUTION NO. 93-37**

**A RESOLUTION IN SUPPORT OF THE ACQUISITION  
OF THE SEAL BAY AND TONKI CAPE LAND  
BY THE EXXON VALDEZ SETTLEMENT TRUSTEE COUNCIL**

- WHEREAS,** the Exxon Valdez Settlement Trustee Council has come to an agreement to purchase approximately 41,000 acres of land on Afognak Island located at Seal Bay and Tonki Cape from Seal Bay Timber Company; and
- WHEREAS,** the lands are within the area affected by the Exxon Valdez oil spill; and
- WHEREAS,** the lands are threatened with imminent clear-cut logging; and
- WHEREAS,** the lands include important habitat for several species of wildlife including marbled murrelet, harlequin ducks, black oyster catches, river otters, harbor seals, sea otters, bald eagles, brown bear, deer, and elk; and
- WHEREAS,** Seal Bay has historically supported high value wilderness based recreation, including commercial guiding, and recreational and subsistence deer and elk hunting; and
- WHEREAS,** the land contains important salmon habitat which is vital to the commercial fishing industry; and
- WHEREAS,** commercial fishing, guiding and tourism are all important elements of the local economy; and
- WHEREAS,** there is widespread public support within the Kodiak Island Borough for the acquisition of the land; and
- WHEREAS,** the purchase of the land is an appropriate method to restore a portion of the resources damaged in the Exxon Valdez oil spill; and

**WHEREAS,** this purchase presents a unique opportunity to protect and preserve a wilderness habitat which is important for recreation and for the long-term interests of the local economy; and

**WHEREAS,** the acquisition of these lands adjacent to other State owned wildlife habitats is in the best interest of the State of Alaska and for many residents from the Kenai Peninsula and Kodiak Island who recreate in this area;

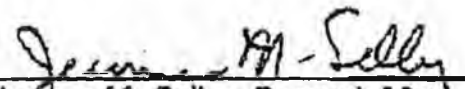
**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:**

**Section 1:** The Kodiak Island Borough supports the acquisition by the Exxon Valdez Settlement Trustee Council of the Seal Bay and Tonki Cape land located on Afognak Island.

**Section 2:** The Kodiak Island Borough wholeheartedly supports the approval of this acquisition by the State of Alaska Legislature Budget and Audit Committee.

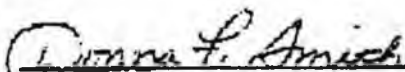
**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH  
THIS 4th DAY OF NOVEMBER, 1993**

**KODIAK ISLAND BOROUGH**

  
\_\_\_\_\_  
Jerome M. Selby, Borough Mayor

  
\_\_\_\_\_  
Jack L. McFarland, Presiding Officer

**ATTEST:**

  
\_\_\_\_\_  
Donna F. Smith, CMC, Borough Clerk



CITY MANAGER  
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

TELEPHONE (907) 486-8640  
FAX (907) 486-8600

November 4, 1993

Charles S. Cole, Esq., Attorney General  
State of Alaska, Department of Law  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501

**RECEIVED**  
Department of Law  
NOV 08 1993  
Office of the Attorney General  
Anchorage Branch  
Anchorage, Alaska

Dear Charlie:

The City of Kodiak supports the efforts of the Exxon Valdez Oil Spill Trustee Council to acquire the Afognak Island land located at Seal Bay and Tonki Cape. We are pleased that an agreement could be reached which stopped the logging of these lands and provided a fair economic return to the owners of the property.

The opportunity to protect and preserve pristine wilderness habitat does not present itself often. The Trustee Council is to be commended for moving decisively and swiftly in negotiating the purchase and we support efforts to keep this property in State, not Federal hands.

If we can be of any assistance in this transaction, please call me. Congratulations on a job well done!

Sincerely,

CITY OF KODIAK

Gary Bloomquist  
City Manager



**KODIAK  
CHAMBER  
OF COMMERCE**

P.O. Box 1485, Kodiak, Alaska 99615

(907) 486-5557

FAX: (907) 486-7605

February 28, 1994

Honorable Walter J. Hickel  
Governor  
State of Alaska  
P.O. Box 110001  
Juneau, AK 99811-0001

Dear Governor Hickel,

The Board of Directors of the Kodiak Chamber of Commerce has voted to support the creation of a State Park on Afognak Island. This park would be created from lands acquired by the Exxon Valdez Settlement Trustee Council at Seal Bay and Tonki Cape. This land has been conveyed to the Nature Conservancy who is now required to convey the lands to the State of Alaska. We are pleased that the council agreed to purchase these lands and provide a fair economic return to the owners of the property.

The opportunity to protect and preserve pristine wilderness habitat does not present itself often. Likewise, the opportunity to gather as much community support for a project of this magnitude is also rare. The creation of a State Park on Afognak Island will encourage the continued development of the visitor industry in Kodiak. The visitor industry has the potential to bring benefits to this community long after the benefits derived from logging have expired.

Additionally, the ability of the State to manage this land for the benefit of all State residents is a much more palatable idea than the alternative. By not creating a State park with these lands, we allow the land to fall into the hands of the Federal government by default. The proposed regulations contained in the legislation provide for reasonable access for lawful sport and subsistence hunting and fishing, personal use fishing, trapping, recreational use, and commercial fishing. These are uses that the Federal government will not allow on their lands.

The Kodiak Chamber of Commerce urges you to give this land on Afognak Island the final approval it needs to become a State park. We believe that the acquisition of these lands will pay dividends to the landowners, and our community, well into the future. We appreciate your careful attention and thoughtful consideration of this matter.

Yours in economic prosperity,

Alan L. Schmitt  
President

Dedicated to Kodiak's Future



## Northwest Setnetters Association

Box 870, Kodiak, Alaska 99815

November 2, 1993

VIA FAX AND MAIL

Randy Phillips  
Chairman,  
Legislative Budget and Audit Committee  
P.O. Box 142  
Eagle River, Ak 99577

Re: Seal Bay Purchase

Dear Mr. Phillips:

The Northwest Setnetters Association wishes to express its support for the Exxon Valdez Trustee Council's purchase of Seal Bay and surrounding area. Our group represents all of the setnet fishermen in proximity to Seal Bay. We don't know of a single member of the Northwest setnetters who opposes the Seal Bay sale. Moreover, we have not heard of anyone in the entire Kodiak fishing community who opposes this sale.

We believe the Seal Bay sale is a win/win situation for all involved. The Native corporations obtain fair compensation for their resources, preservation of important salmon habitat will benefit fishermen and the people of Alaska will be able to manage, use and enjoy a large pristine natural area. On the other hand, if Seal Bay is not purchased, it will be logged. Both the people of Alaska and Kodiak fishermen will lose out. As you may know, fishermen are already greatly concerned about changes to salmon habitat resulting from logging elsewhere on Afognak island.

Thank you for your consideration of the Northwest Setnetters' support for the purchase of Seal Bay. We encourage you to do whatever you can to see that the Seal Bay sale is finalized.

Sincerely Yours,

*Virginia Adams*  
Virginia Adams,  
Vice-President

cc. Legislative Audit &  
Budget Committee

Kodiak Refuge Project  
 4104 Denfeld Avenue  
 Kensington, MD 20885

FAX TO: JIM WILKENS & ROY JONES  
 c/o CONNIE LINNEAR  
 Page 1 of 1

PRISTINE CHARTERS  
 1218 Baranof  
 Kodiak, AK 99616

November 4, 1993

Honorable Randy Phillips  
 Chairman, Legislative Budget  
 & Audit Committee  
 Juneau, Alaska

Dear Chairman Phillips and Members of the Committee:

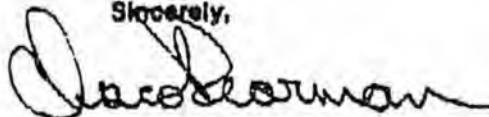
As a charter boat operator in Kodiak, I wish to convey my strong support of the Exxon Valdez Trustee Council acquisition of wildlife habitat at Seal Bay on nearby Afognak Island.

My business involves the traditional sport fishing activities enjoyed in Alaska, but also has a growing clientele for pleasure cruises, nature viewing and photography.

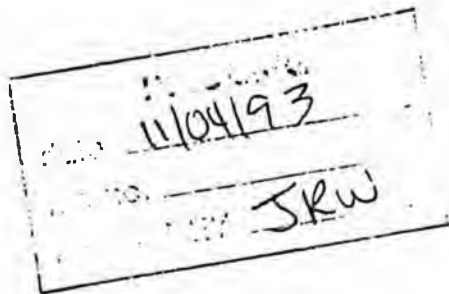
The outdoor recreation industry is a growth industry in Kodiak and our future depends upon offering clients the outstanding scenery that we appreciate here in Kodiak. The likelihood of clearcutting Seal Bay if it is not purchased by the Exxon Valdez Trustee Council would be an economic setback as well as a tragedy for the abundant wildlife in that area.

Thank you for your consideration of the people of Kodiak in your important decision.

Sincerely,



Chaco Pearman,  
 Owner



**Area K Seiners Association**  
P.O. Box 2399 Kodiak, Alaska 99616  
Phone 907/486-4686 FAX 907/486-7655



November 4, 1993

Senator Randy Phillips, Chairman  
Legislative Budget and Audit Committee  
P.O. Box 142  
Eagle River, Alaska 99577

Senator Phillips:

Area K Seiners Association (AKSA) fully supports the actions of the Exxon Valdez Oil Spill Trustee Council to acquire the Seal Bay and Tonki Cape land located on Afognak Island. It is clearly in the interest of Kodiak salmon fishermen to have these areas and the associated salmon streams protected. We are concerned that any delays in consummating the transaction will invite Federal intervention. Please note that the State receives a 3% raw fish tax on salmon caught commercially in this area and that the Federal Government has no such incentive to enhance production of systems or to manage for a maximum sustainable yield. This area has been wisely chosen by the Trustee Council and we unconditionally stand behind the decision. We see no benefit to holding this action up as long as the land is to be held by the State.

Please take whatever action is necessary to approve the transaction.

Sincerely,

Charles W. Treiner  
President

State of Alaska  
Legislative Budget and Audit Committee  
Senator Randy Phillips, Chairman  
Room 513  
State Capitol  
Juneau, AK 99801-1182

November 4, 1993

Dear Senator Phillips:

I am writing to the committee to voice my support of the proposed Afognak Island, Seal Bay land purchase by the Exxon Valdez Trustee Board.

As part of the Exxon Valdez trustee process I believe this to be one of the valid and productive uses of the Exxon settlement funds. Considerable public input has gone into the decision to spend these funds to protect Seal Bay from logging thereby providing protection to the salmon rearing streams and providing habitat for the many species of wild life that inhabit the area.

This land purchase is an issue that fishermen, hunters, kayakers and bird watchers can all agree would be of benefit to the community and the State of Alaska. The local private land owner of these parcels has voluntarily offered them up for purchase and the money will benefit Alaskans.

As Mayor of the City of Kodiak and Chairman of the Oiled Mayors during the Exxon Valdez spill, I know first hand the diverse opinions that come out of a community during a crisis and post crisis situation. But the decision to make this land purchase came as part of the restoration process. Public hearings, testimony and mail surveys have all been conducted and the decision to buy arrived at through the established process.

It is about time the people of Alaska see some material result of all the money spent so far by the trustees. I would hope that the Legislature could approve this purchase in such a way that the land would be under State of Alaska management jurisdiction because I believe the purchase will otherwise happen and the federal government will be in control.

Once again let me say that I support this Afognak Island land purchase. I think it is one of the many valid applications of the restoration money.

Please do not hesitate to call if you have questions.

Sincerely,  
*Bob Brodie*

Bob Brodie  
PO Box 296  
Kodiak, Alaska 99615  
wk 486-2000 hm 486-3079

Kodiak Refuge Project  
4104 Denali Avenue  
Kodiak, AK 99516

FAX TO: JIM WILKENS + ROY JONES  
c/o CONNIE LINNEAR  
Page 1 of 1

PRISTINE CHARTERS  
1218 Baranof  
Kodiak, AK 99516

November 4, 1993

Honorable Randy Phillips  
Chairman, Legislative Budget  
& Audit Committee  
Juneau, Alaska

Dear Chairman Phillips and Members of the Committee:

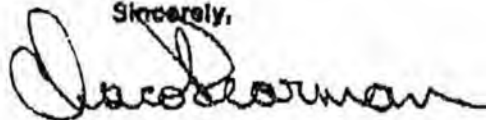
As a charter boat operator in Kodiak, I wish to convey my strong support of the Exxon Valdez Trustee Council acquisition of wildlife habitat at Seal Bay on nearby Afognak Island.

My business involves the traditional sport fishing activities enjoyed in Alaska, but also has a growing clientele for pleasure cruises, nature viewing and photography.

The outdoor recreation industry is a growth industry in Kodiak and our future depends upon offering clients the outstanding scenery that we appreciate here in Kodiak. The likelihood of clearcutting Seal Bay if it is not purchased by the Exxon Valdez Trustee Council would be an economic setback as well as a tragedy for the abundant wildlife in that area.

Thank you for your consideration of the people of Kodiak in your important decision.

Sincerely,



Chaco Pearman,  
Owner

date	11/04/93
init. no.	
BY	JKW

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

## Wavetamer Kayaking

KAYAK KODIAK TOURS - KAYAK KATMAI ADVENTURES  
 FEATHERCRAFT FOLDING KAYAKS - NICKY KAYAKS - ACCESSORIES  
 POB 228, Kodiak, Alaska 99613 - PH & FAX: 907-486-2604

February 28, 1994

Governor Walter Hickel  
 P.O. Box 10001  
 Juneau, AK 99811-0001

Dear Governor Hickel,

I wanted to express my gratitude to you for your action calling for the designation of Afognak Island State Park. Many of us here in Kodiak realize the rare resource we have in Afognak Island - from its cultural significance to its present day wealth of natural amenities.

I have had a chance to review SB 280 and find it to be well-defined and broad in scope - to the hopeful satisfaction of all potential user groups.

I intend to write to our legislators as well and encourage them to continue activity on this bill. I feel it will be a valuable addition to the wonderful state park program we have in Alaska and will be yet another priceless resource from the Kodiak region to share with the state and our outside guests.

Thank you for your foresight in proposing this legislation.

Sincerely,



Tom Watson, Owner  
 WAVETAMER KAYAKING

APPRAISAL  
SEAL BAY UNIT  
AKHIOK-KAGUYAK AND OLD  
HARBOR JOINT VENTURE

May 14, 1993

PREPARED FOR  
STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
Under Personal Services Contract L&WM 93-1

August 6, 1993

RECEIVED  
AUG 09 1993



INTERNATIONAL FORESTRY CONSULTANTS, INC.

101 Eastwood Building / 1020-108th Ave. N.E. / Bellevue, WA 98004 U.S.A. / (206) 455-8353

MEMORANDUM


State of Alaska  
Department of Natural Resources - Division of Land and Water

TO: Marty Rutherford  
Deputy Commissioner

DATE: September 16, 1993

TELEPHONE NO: 762-2680

SUBJECT: Appraisal Review  
Seal Bay

FROM:  Judy A. Robinson, SR/WA  
Review Appraiser

This is a review of revisions received on September 14. The original appraisal was reviewed on August 18 by Dennis Lattery, Chief Review Appraiser. The purpose of the appraisal is to estimate market value of the surface estate.

I recommend the revised appraisal be used as the basis for purchase. It meets division criteria for being an acceptable report. It should also withstand federal review.

It is the appraiser's determination that market value as of May 14, 1993 was \$41,000,000 for the Seal Bay Unit. Most of the value is attributable to stands of commercial timber. I analyze the appraised values on the attached page.

Because DNR appraisers lack experience, an expert was hired to review the timber valuation portions of the original report. His written review is attached to and made part of this review. Based on his advice and my independent research of timber valuation methods, I believe I am competent to do this review.

This was a desk review. I did not personally inspect the property. The reports were reviewed for completeness, relevance of the data and appraisal methodologies, technical accuracy, and logic. The appraiser was phoned several times to clarify technical questions.

The appraiser was asked to revise the report for two reasons. First, the original report was based on a highest and best use of public ownership. Second, agency transactions were used as primary indicators of value, even though they failed the test of being arm's length transactions in an open, competitive market. These appraisal premises are clearly prohibited by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). They are also discouraged by DNR's General Appraisal Instructions.

The RFP and contract required that UASFLA be followed. The UASFLA requirement was deliberate for purposes of satisfying a majority of the Trustee Council who are bound by its standards.

Ethically, the appraiser has had a difficult time accepting the UASFLA premises. This is clear from reading the revised report

market comparisons. That is what the valuation panel did with the SNC lands. The panel concluded that a discount of 50% was reasonable for cut over lands.

Another source of discomfort for me is the lack of a detailed comparison between each sale and the appraised property. In comparing the sales with the Seal Bay Unit, the appraiser has adjusted for known differences in the commercial value of the timber. In the case of wooded comparables with no commercial value, there has been no adjustment for amenity value. The appraiser placed most weight on two private sales (6 and 10). Those sales included the subsurface estate, which was not part of the appraisal.

Typically, a report will compare each sale with the subject, discussing such features as time, title interest, conditions of sale, location, and various physical features such as size and water frontage. Some reports will do this with a narrative. Others will use a comparison table noting which features are similar, inferior, and superior. Such a qualitative comparison approach helps bracket the subject value between sales that are superior overall and inferior overall.

This report uses many weighted averages, which is generally frowned on if it is the primary support for a conclusion of value. Fortunately, the reconciliation on page 46 makes it clear that there were other, more appropriate considerations besides averages in the final conclusion of value.

Finally, except for the agency transactions, it appears the appraiser was unable to verify many of the sales with the principals involved. It also appears that he did not personally inspect the sales, but used sale verifications and photos from other appraisers.

There are two sides to every coin. We need to remember that the appraiser was given a limited amount of time to complete a complex assignment. We have asked him for his opinion, and he has given it. His report complies with all the standards required.

In my opinion, even if other techniques were used and other fee appraisers consulted, the value of the Seal Bay Unit and the Tonki Cape Unit would still exceed \$38.7 million. The estimated timber values are \$36.5 and \$3.7 million, respectively.

It should be noted that the revised Tonki report has not been reviewed by anyone. I assume the revised report will pass review. It should also be noted that the timber expert has not

ANALYSIS OF APPRAISED VALUE

	SEAL BAY UNIT
PROPERTY VALUE	\$41,000,000
TIMBER VALUE	\$36,500,000
LAND VALUE	\$ 4,500,000
TOTAL ACRES	17,167 AC
TIMBERED ACRES	8,009 AC
MBF	139,209 MBF
VALUE/ACRE (PROPERTY VALUE ÷ TOTAL ACRES)	\$ 2,388
VALUE/ACRE (TIMBER VALUE ÷ TOTAL ACRES)	\$ 2,126
VALUE/ACRE (LAND VALUE ÷ TOTAL ACRES)	\$ 262
VALUE/ACRE (TIMBER VALUE ÷ TIMBERED ACRES)	\$ 4,557
VALUE/MBF	\$ 262

cc: Carol Shobe  
Alex Swiderski  
Dennis Lattery  
Rich Goossens

sealbay2.rev



United States  
Department of  
Agriculture

Forest  
Service

Alaska Region

P.O. Box 21628  
Juneau, AK 99802-1628

Reply to: 5410

Date: September 14, 1993

To: Alex Swiderski, Alaska Attorney General's Office

Subject: Seal Bay Appraisal

Approximately 47 pages of analysis and conclusions from an appraisal report prepared by International Forestry Consultants was telefaxed to our office in Juneau on September 13th. It was part of an appraisal prepared for the Seal Bay property proposed for acquisition by the Trustee Council.

In the original submission of the report which was reviewed by Dennis Lattery and Judy Robinson of the Department of Natural Resources staff, there were some significant problems associated with the highest and best use conclusion and the inclusion of other government sales as principle indication of value. This methodology clearly does not meet federal acquisition standards and in fact may arguably be in violation of the Uniform Standards of Professional Appraisal Practice. The appraiser was contacted by the reviewers and asked to submit a reanalysis. The faxed information referred to above is that reanalysis where the appraiser concludes a highest and best use as management for natural resources. The more recent work also places the previous government purchases as more secondary and supportive of the private transactions. This latter interpretation of the sales and highest and best use allows the report to be marginally acceptable as meeting federal standards.

I have not had the opportunity to review the finalized report in total and assume that the technical review and approval is being facilitated by the DNR reviewers. I have also not conducted a personal inspection of the subject property or the all of the comparables used in the analysis. I do have copies of the original reports and will incorporate the modifications into them to have a complete set. I would also appreciate a copy of DNR's review statements if possible.

RICHARD M. GOOSSENS  
Regional Review Appraiser

Judy Robinson  
Appraiser  
State of Alaska  
Department of Natural Resources  
Division of Land and Water Mgmt.  
3601 " C " Street - P.O. Box 107005  
Anchorage, Alaska 99510-7005

RE: Seal Bay / Tonki Cape Appraisals  
ASPS 10-94 0008  
CC 10005690

August 13, 1993

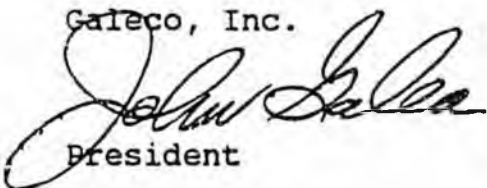
Dear Judy

Attached is my desk review report of the Seal Bay and Tonki  
Cape Appraisals submitted by International Forestry  
Consultants, Inc.

Included also are other documents that you requested in your  
FAX of 8/11/93.

Sincerely

Galeco, Inc.



President

in the Japan, Korea, Taiwan & China markets. It is my opinion that Afognak log prices will continue to drop and not recover for at least a 1-3 year period.

2. Tonki Cape Unit

The report, as presented, is complete, but I find it difficult to believe that there is significant, if any, value to the widely scattered and low grade timber found in the private land portion of the Tonki Cape Unit. I personally visited each timbered parcel during the summer of 1990 and found the bulk of the volume in the extremely lower end of #2, #3, and #4 log grades, according to the Puget Sound log grading rules. I feel that a detailed and intensive logging engineered harvest plan would result in a negative timber stumpage value. Lacking such effort and based on my discussions with Mr. Wallace, the appraisal estimates of INFO, Inc. for this unit are within reason.

D. Relevance of Data

1. Appraisal Methods

It appears that INFO, Inc. used a timber sale Whipple Creek #2, located at Ketchikan, Alaska as an indicator of timber value for both the Seal Bay and Tonki Cape Unit.

In my conversation with Mr. Wallace, INFO, Inc. had considered values and costs obtained from existing operations on Afognak Island in calculating their Income Capitalization Approach method (Conversion Return) and sales information gathered from the Whipple Creek #2 sale near Ketchikan, Alaska and the sale of the Kachemak Bay property in 1993. The results of the two appraisal methods were combined and adjustments were made to the final results by INFO, Inc. based on other data gathered and personal judgements experience of the appraisers. A greater weight was placed on cost and values obtained from comparable operations on Afognak Island.

logging costs used to arrive at the final valuation for the Seal Bay and Tonki Cape Units. As mentioned earlier, I do have reservations on providing the same market value average prices used on the Seal Bay Unit, to those found on the Tonki Cape Unit. It is my opinion that a buyer would not realize or recover all of the volume inventoried as merchantable on the Tonki Cape Unit due to its scattered and widely disbursed location and poor quality when compared to the Seal Bay Unit timber.

Regarding the Kachemak Bay sale, INFO, Inc. recognized a 30% discount in determining the market value of the timber. A question is raised when referring to a reduced price by a willing owner, in order to sell property at a discount, in terms of adjusting a sale price to account for market appreciation and the cost of money. It is my opinion that the Kachemak Bay timber was over valued. In my discussions with Mr. Wallace, the information gathered by INFO, Inc. regarding the Kachemak Bay site, indicated to him that it was an arms length transaction and properly used that information in his appraisals.

E. Appropriateness of Appraisal

INFO, Inc. has appropriately followed accepted appraisal methods and techniques.

F. Report Conclusions

In considering the overall data and analysis of INFO, Inc.'s appraisals for the Seal Bay and Tonki Cape Units, it is my opinion that the timber values shown are generally acceptable based on the assumptions outlined in the appraisal reports.

RESUME: JOHN GALEA

August 16, 1993

EDUCATION

Bachelor of Science Degree, Forest Management -  
University of Montana - 1958. Graduate School of  
Administrative Leadership - Univ. of Montana - 1968.

EXPERIENCE

- \* U.S. Navy, 1949/50 - 1950/52. Twenty- five years with the U.S. Forest Service, Alaska Region. Included positions as Logging Engineer at Sitka and District Ranger at Seward, Alaska and Moscow, Idaho.
- \* Assigned as Assistant to the Regional Forester as a member and subsequently Director of the Alaska Planning Team, 1975 - 1980. Have worked in, visited, and have first hand knowledge of all forest lands throughout the State of Alaska.
- \* Resigned from the Forest Service in 1980 and accepted a position with Sealaska Timber Corporation in January 1980 as Government Liaison Forester. Promoted to Vice President in 1982 and occupied that position through December 31, 1984. Galeco, Inc., Consultant practice through December 1985. General Manager, Alaska Loggers Association, January, 1986 through April, 1987.
- \* Accepted Governor's appointment as Alaska State Forester, May, 1987. Resumed private consulting practice. Galeco, Inc., on August, 1988 to present.
- \* Coordinated the timber cruise program on Afognak Island, including the Seal Bay, Tonki Cape, Laura Lake and Red Fox timber Units. Have visited and am familiar with all timber lands on Afognak.
- \* Conducted Appraisal Reviews and due diligence certifications on 21 large timber blocks, encompassing over 270,000 acres in Southeast Alaska, Prince William Sound and South Central Alaska. Appraisals were done by four different Appraisal Firms, located in Washington, Oregon and California.

ORGANIZATIONS

- \* Society of American Foresters - American Arbitration Association.

PAST ACCOMPLISHMENTS

- \* Councilman, City of Seward - President, Kenai Peninsula School Board - Member, Fed./State Land Use Advisory Committee - Alaska State Forester.



INTERNATIONAL FORESTRY CONSULTANTS, INC.

101 Eastwood Building 1020-108th Avenue N.E. Bellevue, WA 98004 U.S.A. (206) 455-8353

September 13, 1993

Mr. Dennis Lattery  
State of Alaska  
Department of Natural Resources  
P.O. Box 107005  
Anchorage, AK 99510-7005

RE: Personal Services Contract No. L&WM 93-1

Dear Mr. Lattery

Attached is our appraisal report for the Seal Bay Unit property on Afognak Island.

In our opinion the market value, as of May 14, 1993, of the property is:

\$41,000,000.

The Certification on page 3 as well as the Assumptions and Limiting Conditions found on page 10 are important elements of any appraisal. The reader is urged to read these pages and be sure the statements made therein are well understood.

If you have any questions or comments please call.

Sincerely,  
INTERNATIONAL FORESTRY CONSULTANTS, INC.

William B. Wallace, ACF, RPF  
Certified Real Estate Appraiser - General, Washington  
#270-11 WA-LL-AW-B670BZ

PART I  
INTRODUCTION

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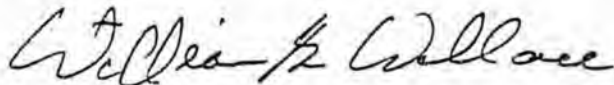
Certification

I certify that, to the best of my knowledge and belief:

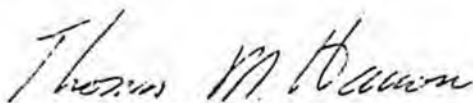
- the statements of fact contained in this report are true and correct
- the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- Both William B. Wallace and Thomas M. Hanson have made a personal inspection of the property that is the subject of this report.
- Significant professional assistance was provided by Mr. Charles Horan and Mr. James Corak of the firm Horan, Corak and Company; Mr. Larry Shorett of the Firm Shorett and Reilly; and Mr. Thomas Dunagan of the firm Affiliated Appraisers of Alaska.

Respectfully submitted,

INTERNATIONAL FORESTRY CONSULTANTS, INC.

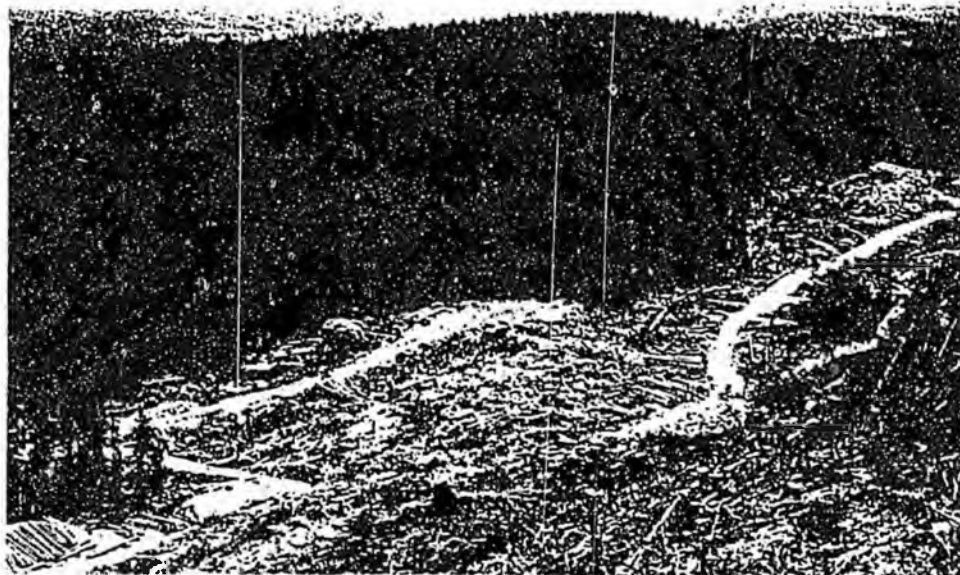


William B. Wallace ACF, RPF  
Certified Real Estate Appraiser - General  
Washington #270-11 WA-LL-AW-BZ670B



Thomas M. Hanson ACF

PHOTOGRAPHS OF SUBJECT



Looking southeast from setting 616



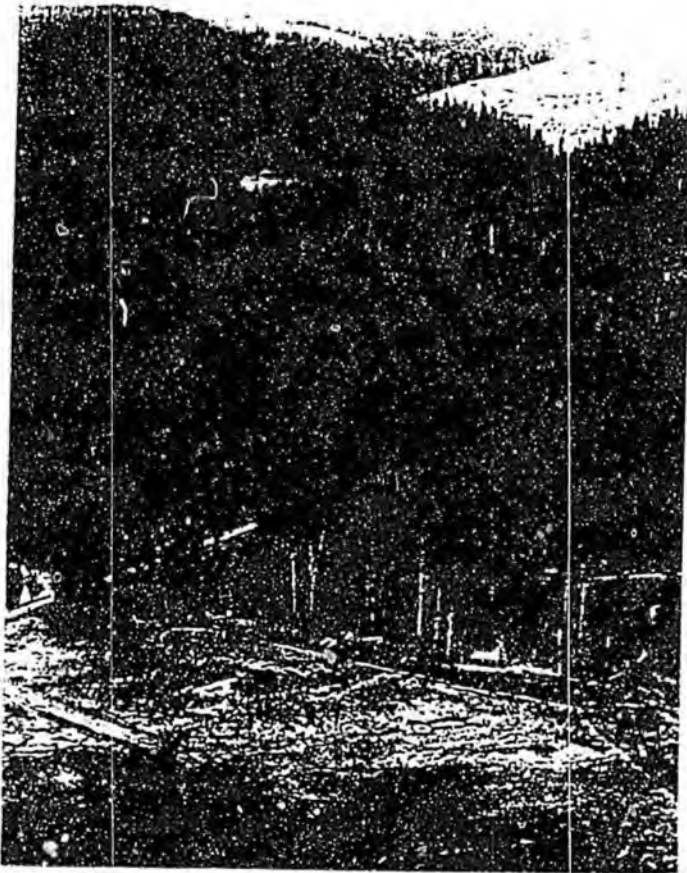
Looking north from setting 616, part of Seal Bay in background



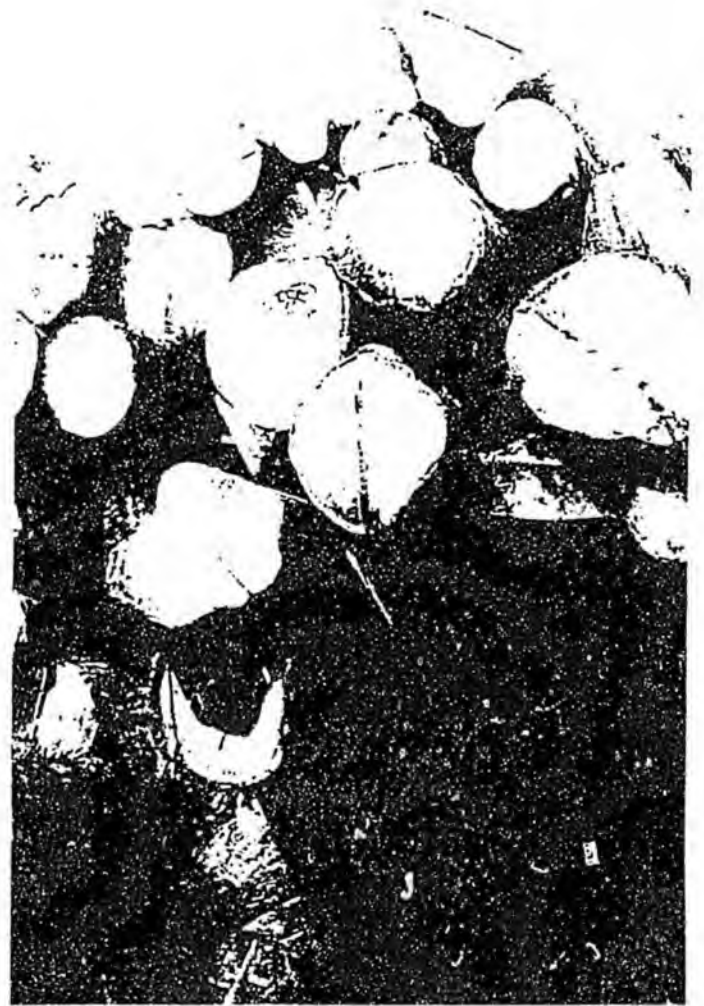
Looking northeast from setting 616, showing Road 631  
Seal Bay and setting 624 in background



Typical logs of #3 sort quality



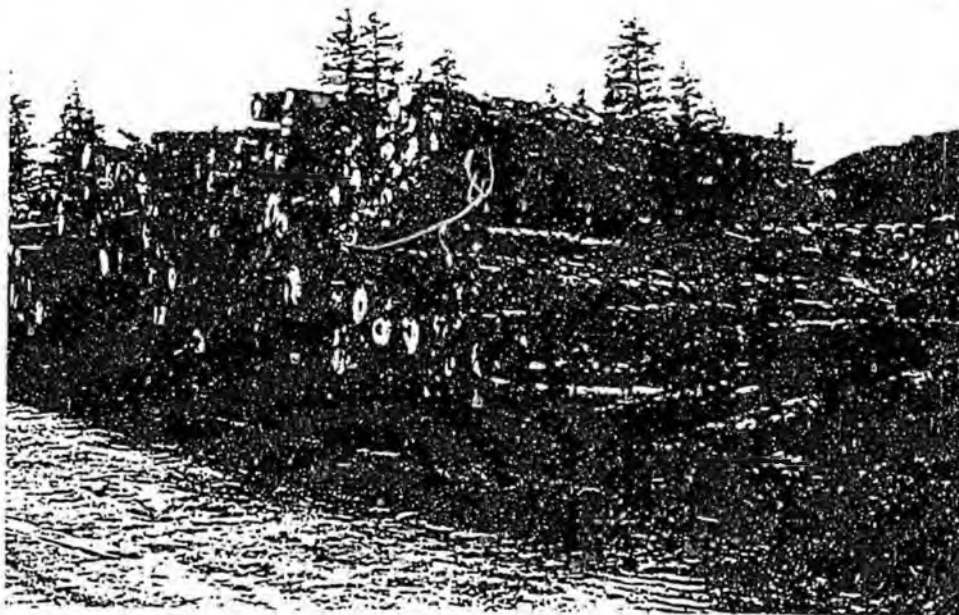
Above "Sort Yard" Looking East



Maximum defect in Sort #3



Typical logs of Sort #4 Quality



Typical logs of Sort #5 quality

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Subject Property: Portions of

Twp. 20 S., Rge. 17 W. S.M.  
Section 32

Twp. 21 S. Rge. 17 W.  
Sections 6-8, 17-20, (29) 30, 31

Twp. 21 S. Rge. 18 W.  
Sections 1, 11-14, 15-17, 20-29, 31-36

Twp. 21 S., Rge 19 W.  
Sections 35 & 36  
Metes & bounds description of a sort yard in  
Sections 26, 27, & 34

Area:

Twp. 20 S., Rge. 17 W. S.M.	25.99 acres
Twp. 21 S. Rge. 17 W.	3,288.29 acres
Twp. 21 S. Rge. 18 W.	12,513.37 acres
Twp. 21 S., Rge 19 W.	1,338.96 acres
Aggregate	17,166.61 acres

Timbered area:

8,009 acres

Timber Volume:

As of 1991	169,773 M b.f.
Depletion to May 14, 1993 (Cruised)	22,209 M b.f.
As of May 14, 1993	147,564 M b.f.
Less Pulp	<u>8,355 M b.f.</u>
Marketable Volume	139,209 M b.f.

Highest-and-Best Use:

Management for Natural Resources.

Date of Valuation: May 14, 1993

Access: Aircraft or Boat, and Private roads subject to cooperative right-of-way agreements.

Indications of Value:

<u>Asset</u>	<u>Unit Values</u>		
	<u>Units</u>	<u>Income Approach</u>	<u>Sales Approach</u>
Timber	M b. f.	\$325	\$375
Total Property	Acres		\$2,400
Sale Agreement	Acres		\$2,255

Value Conclusions:

Timber only	\$36,500,000
Total	\$41,000,000

## ASSUMPTIONS AND LIMITING CONDITIONS.

This appraisal is subject to the following assumptions and limiting conditions:

1. The legal description is assumed to be correct.
2. No responsibility for matters legal in character is assumed.
3. All existing liens, encumbrances, and assessments, if any, have been disregarded (unless otherwise noted), and the property is appraised as though free and clear, under responsible ownership and competent management.
4. The exhibits in this report are included to assist the reader in visualizing the property, and are not necessarily shown to scale. The survey of the property is shown in U.S. Bureau of Land Management plat of survey officially filed December 2, 1989.
5. Information, estimates and opinions cited in the report are obtained from sources considered reliable to the extent of the information provided, however no liability for their accuracy can be assumed. Where possible, information has been confirmed with parties involved. If direct confirmation was not possible, earlier confirmations by other parties or confirmation from knowledgeable sources has been relied upon.
6. This report shall be used for its intended purpose only and by the parties to whom it is addressed. Possession of this report does not include the right of disclosure to news media, or its use in material for informational dissemination or publicity, without the consent of INFO.
7. The undersigned is not required to give testimony or appear in court, or at public hearings with reference to the property appraised by reason of preparation of this report unless such services are within the scope of another contract agreement.
8. No opinion is rendered as to the title of the property, or properties subject to appraisal.
9. No soils study was available at the time of the appraisal and no opinion is rendered on subsoil conditions.
10. Indications of possible environmental hazards observed on the surface during inspection of the property have been noted in the report for the information of the reader. No environmental survey has been conducted and no opinion is rendered as to the existence of indications or actual environmental problems beyond those noted. International

Forestry Consultants, Inc. is not qualified nor experienced in the assessment of environmental hazards. The facts of environmental concern that would reasonably be known to potential purchasers of the property have been reported to the best of our ability and analyzed as they would influence purchase and sale decisions. No responsibility is assumed for any conditions not generally known to the public.

11. No survey has been made of endangered plant and animal species. Except as noted in the report, the appraisal assumes management of the property without restraints for the protection of any such species.

12. Considerable financial data concerning timber harvest operations on the subject property have been provided by Koncor Forest Products, Company International Forestry Consultants, Inc. has agreed to keep that data confidential. Therefore, it is not shown in this report. The data will be made available only to review appraisers employed by the State of Alaska, upon their agreement to protect its confidentiality, and to any court having jurisdiction.

13. Contact has been made with one of the appraisers by an Assistant Attorney General of the State of Alaska the Assistant Attorney General had seen preliminary analyses submitted to the client for review as to methodology and approach. He was specifically concerned that the appraisal would be inconsistent with the conditional purchase and sale agreement reached with the owners of the property. He was assured that a necessary part of professional appraisal practice is to recognize and analyze recent and pending sales of the subject property. On further discussion, information about the history, terms and conditions of the agreement was provided to the appraisers. This information was incorporated into the appraisal analysis and the final conclusion of value. Although the contact impressed upon the appraiser the sensitivity of the valuation, it has not altered the fully professional approach taken to the appraisal problem. This contact does not compromise the certification statement:

- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

14. The contract under which the appraisal is made requires adherence to "Part II - Individual Parcel Reports" within the "Uniform Appraisal Standards For Federal Land Acquisitions" circa 1992. These standards prohibit a conclusion of highest-and-best use as the use to which the government will put the property. They also preclude the use as primary evidence of value, of transactions in which the purchaser is an agency with power of condemnation. There are several such transactions. They have been reported in the appraisal report, but were considered only as secondary information in reaching the conclusion of value. A different conclusion might have been reached by considering these sales as primary indications of value. Therefore the Jurisdictional Exception of Uniform Standards of Professional Appraisal Practice is invoked by the appraisers.

## REFERENCES

The legal description of the subject property was provided by Alaska Department of Natural Resources in the form of a copy of the PARTITION PARCEL WARRANTY DEED from The Afognak Joint Venture to Old Harbor Native Corporation and Akhiok-Kaguyak, Inc. A preliminary title report was also provided. The title report and its legal description is reproduced in ADDENDUM I.

Maps and aerial photographs were provided by Alaska D.N.R. and representatives of Seal Bay Timber Company and were obtained from commercial sources. Maps are also reproduced in ADDENDUM I.

Information about zoning was provided by the Planning Department of the Kodiak Island Borough. Forest Practice regulations, shoreline management requirements, and environmental regulations were provided by the Alaska Department of Natural Resources.

Data for possible comparable sales transactions were provided by the Kodiak Island Borough Assessor; the Assessor's office of the Kenai Borough; Horan, Corak and Company; Shorett and Reily; and Affiliated Appraisers of Alaska. The latter 3 appraisal firms supplied confirmed information, analyses of the data and photographs. Additional reconfirmations were made where possible and analyses were redone with additional information when appropriate.

## PURPOSE OF THE APPRAISAL

The purpose of the appraisal is to estimate the market value of the fee simple interest in the surface estate of the property. Market value is defined as

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special creative financing or sales concessions granted by anyone associated with the sale.<sup>1</sup>

## SCOPE OF THE APPRAISAL

### Property Rights Appraised

The property rights appraised are the surface estate. The subsurface estate is owned by Koniag Corporation.

The subject is appraised as a fee simple absolute estate which is defined as follows:

"An absolute ownership unencumbered by any other interest or estate; subject only to the limitations of eminent domain, escheat, police power, and taxations."<sup>2</sup>

The appraisal assumes that title to the timber is vested in the owner of the underlying land.

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<sup>1</sup> Uniform Standards of Professional Appraisal Practice, The Appraisal Foundation, 1990.

<sup>2</sup> The Dictionary of Real Estate Appraisal, The Appraisal Institute, Chicago, 1984, p 123.

## The Appraisal Process

The appraisal process is an analysis of the forces of supply and demand, and the balance reached between those forces in the market place. An orderly process is applied to the appraisal assignment to provide a logical method for considering all the factors which influence property value. The problem is defined. The pertinent data is gathered and analyzed. The overall environment surrounding the subject property is studied to understand the specific factors which influence its value.

Appraisal methodology employs three approaches for determining value: the Cost Approach; the Income Capitalization Approach; and the Sales Comparison Approach. The applicability of each approach varies depending on the nature of the particular appraisal problem. Only the Income Capitalization and Sales Comparison Approaches were considered in forming an opinion of value of the subject property. The Cost Approach was not considered appropriate for the valuation of timber and land.

The value indications from these approaches are then reconciled into a single estimate of Market Value.

The property was inspected and sample cruise plots were taken to validate the timber inventory that was provided. Operating conditions for timber management were evaluated and the extent of development for harvest was assessed. The proximity of other timber operations was determined. A general opinion of the marketability of the property was formulated.

Data were gathered from the present owners of the property. These consisted of a record of ownership, financial records of timber harvest operations, depletion of the timber inventory, investments in roads and other operating facilities, and other information.

Data were gathered from public sources and the files of other appraisers. This information was verified and inspected to determine comparability to the subject property. Sources of other information, and experts in Alaska properties and timber operations were interviewed.

The body of information was analyzed by the two applicable approaches to valuation in conformity with USPAP. An estimate was made of the value of the timber to a buyer or seller contemplating recovery of the value plus a return on investment through timber harvest. That value estimate was reported and also used as a unit of comparison to adjust comparable sale evidence to an estimate of the value of the property.

## Appraisal Problems

"Uniform Appraisal Standards For Federal Land Acquisitions" circa 1992. contains prohibitions against concluding that highest-and-best use is the intended use for which a government agency will acquire the property. These standards also generally prohibit the use of purchases by condemning authorities as sales evidence. The DNR contract for this appraisal strongly discourages the use of State purchases and infers that the use of such sales evidence in the absence of any private sales is prohibited.

The federal Appraisal Standards include language which permits departure from the standards. The statement is made, "Therefore, these standards should not be considered as rigid rules which must be applied, without modification, in every instance."<sup>3</sup> A further statement is made, "Appraisers should feel free to deviate from these standards in those unique cases in which deviation is required to properly solve the appraisal problem, and such deviation can be adequately justified."

The selection of sales for consideration as comparable sales has purposely included as many transactions as possible over a time spanning nearly a decade in order to consider the complete spectrum of sales and purchases in the market for lands similar to the subject property. State, and other government purchases make up a large share of this body of information, in terms of acres. Government purchases, however, are a minority of the purchases in terms of the number of sales. When adjustment is made for timber value the spread in adjusted price from lowest to highest is 60% of the lowest. This is not uncommon and both private and government purchases are found in both the low and high ends of the range. When one private purchase is adjusted for size relative to the subject, the spread is reduced to 40% of the lowest adjusted price. Limitation of the comparable sales to private transactions would not appear to be a distortion.

In all the sales reported, sellers enjoyed the alternative of continued ownership, with attendant benefits; or sale of partial interests such as timber, and speculation on the future value of the land. The supply forces at work in this market include expectation for future use of their properties by the current owners. These expectations are as much a part of the supply/demand equation as alternatives for purchase or sale. In the negotiating process sellers

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<sup>3</sup>Uniform Appraisal Standards for Federal Land Acquisitions, Interagency Land Acquisition Conference, Washington D.C., 1992.

have established values below which such properties are not for sale.

A recent development is the creation of the Exxon Valdez Oil Spill Settlement Trustee Council. As of the valuation date of the appraisal the subject had been identified by the Restoration Trust as one of the most desirable properties for acquisition. Transcripts of the minutes of that organization's meetings give clear indication that it will act as a participant in the market for natural resource lands.<sup>4</sup> A strong element of market demand from that activity must be considered in order to reach the correct solution of the appraisal problem. Historic data of private market activity do not adequately reflect how the infusion of Restoration Trust money may affect the private market. Even the purchases by government agencies are not necessarily a good reflection of this relatively new force in the market.

#### FUNCTION OF THE APPRAISAL

The appraisal will be used in negotiation for acquisition of the property by the State of Alaska. The appraisal is a contingent condition of a purchase and sale agreement that has been reached.

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<sup>4</sup>Exxon Valdez Oil Spill Settlement Trustee Council, Transcript of meeting, May 13, 1993.

PART II  
FACTUAL DATA

## DESCRIPTION OF THE PROPERTY

### Property Location and Description

The property consists of approximately 17,167 acres on Afognak Island in southwest Alaska. More specifically, the property includes Tolstoi Point, an area on the south side of Seal Bay and a strip of land between Tonki Bay and Discoverer Bay. A sort yard property adjoins Discoverer Bay. Access to the parcel is by air or water transportation. A network of gravel surfaced roads has been constructed for timber harvest operations. These roads connect to a system that has its terminus at the sort yard on Kazakof Bay. The present owners enjoy access to this network through their being parties to the Afognak Island Road Use Agreement and the Discoverer Bay Log Transfer Facility Agreements.

The terrain on the property is generally quite gentle. Elevation ranges from sea level to 1,209 feet at the Seal VABM on the east side of the property. Slopes are mostly under 50% except for some steep banks on Tonki Bay.

There is a logging camp at Danger Bay on Kazakof Bay, where the sort yard is equipped to prepare log rafts for loading logs on ships. There are no improvements on the subject property.

### Legal Description

The parcel contains portions of Townships 20 South through 21 South, and Range 17 west through 19 West, Seward Meridian. A complete legal description is provided in Addendum I. Maps are included in Addendum I

### Statement of Ownership and History of the Subject Property

The property is owned by a joint venture consisting of the Akhiok-Kaguyak Native Corporation and the Old Harbor Native Corporation. The joint venture acquired title by partition from the Afognak Joint Venture, which was the original recipient of patent for the ANILCA selections on Afognak Island. The joint venture plans to transfer title to the land to a subsidiary corporation called Seal Bay Timber Company. Seal Bay Timber Co. already owns the cutting rights to the timber. A preliminary commitment for title insurance has been issued by Western Alaska Land Title Company. A title report has also been prepared by the Title and Contracts Section, Alaska Department of Natural Resources.

The DNR title report makes note of 2 sections included in the original patent that were omitted from the deed to Akhiok-Kaguyak/Old Harbor joint venture. This omission is

not significant to the appraisal because both sections are off shore in Tonki Bay.

#### Inspection of the Subject Property

The subject property was personally inspected by William B. Wallace, ACF, RPF and Thomas M. Hanson, ACF on June 15 through 18, 1993.

An inventory of the merchantable timber was made by Wes Rickard Associates in 1991. Thomas M. Hanson and William B. Wallace of International Forestry Consultants, Inc. examined plots taken by a Rickard subcontractor, measured additional plots of their own and compared actual volume cut with calculations of unit volumes from the Rickard inventory. The calculated unit volumes are compared to volume removed in a timber cruise summary found in ADDENDUM II. The inventory was found to be about 85% to 90% of the true volume, based on the cutout and INFO plots with current utilization standards.

There were no indications on any of the areas visited by the appraisers of any environmental hazards, toxic waste or spills of hazardous materials. Logging operations usually produce some spillage of oil and hydraulic fluids from equipment. On the operations on the subject property such spills appear to be very well contained and have been cleaned up to an unusually high standard on completed logging units. Information from the owners of the property indicates that beaches on the west side of Tolstoi Point were affected by oiling from the Exxon Valdez oil spill. There is no indication visible from the air at the present time of damage done by this oiling.

#### Date of Opinion of Value

The value of the property is appraised as of May 14, 1993.

#### Regional Analysis

For this appraisal, the region is defined as Southwest Alaska, which generally consists of the Alaska Peninsula, the Kodiak Island Borough and the Aleutian Islands.

The principal centers of population and economic activity are located in the Kodiak Island Borough and in the City of Kodiak. Transportation is provided exclusively by air and water carriers. There are limited public roads around the Kodiak vicinity and private logging roads on Afognak Island. There is a regional airport at Kodiak. Numerous lakes inlets, bays and coves provide landing opportunities for aircraft equipped with floats.

The primary sources of employment in the area are fishing, forest products harvest and tourism. The largest employers are businesses related to fishing and logging. Trade includes fish and fish products, and a significant volume of logs.

#### Neighborhood Analysis

The neighborhood is defined as Afognak Island.

The island is characterized by forests with a few homes, small farms and sites for recreational hunting and fishing. Electric power and telephone are provided by on-site facilities at each camp or home. Extensive timber harvest is supported by a network of private roads and logging camps.

A large proportion of the property on the island is owned by Alaska Native corporations.

Urban services and amenities are available in Kodiak which can be reached only by boat or by aircraft.

#### Merchantable Timber

Timber that is the subject of this appraisal is located over the entire property. See the attached map, in Addendum I, for location and timber type.

The timber was cruised by Wes Rickard Associates in 1990 and 1991. An extensive inventory was designed to provide reliable estimates of timber volume on reasonable subdivisions of the Seal Bay and Tonki Cape areas. The analysis of cut volume versus cruised volume does not show an unusual condition or indicate a serious flaw in the inventory data. It is a fairly common matter for prospective purchasers of large tracts of timber to find that timber inventories overstate or understate true volume as measured by the volumes actually cut from selected areas. A prudent buyer will usually test an inventory in much the same way as INFO did and then make appropriate recalculations in the process of formulating a bid for the property.

The total timber cruise is summarized in Table 1, of Addendum II. It was necessary to recalculate the inventory summary to conform to the boundaries of the Seal Bay and Tonki Cape Units as used in this appraisal.

Merchantable timber consists of 8 major types, identified in terms of stocking and elevation. Significant amounts of volume identified in the inventory are unavailable for harvest due to requirements for buffers on streams and around lakes, and because of operating considerations where

timber type islands are isolated from normal harvest unit design. The expectation of cutting 10% to 15% more than the inventory is believed to be adequate to offset these timber reservations. The volume in the timber inventory is considered to be the volume a prudent owner and prospective purchaser would recognize as available for harvest in their evaluations of the timber. Allowance for losses from the inventory in this way also would tend to lessen the risk perceived by the owner or a purchaser. The original inventory is reduced for this appraisal by the amount cut in operations through May of 1993. This allowance for timber depletion is not simply a deduction of the scaled volume. An estimate of volume based on calculations from the cruise plots located in the units cut has been deducted from the original cruise. This avoids the confusion of mixing estimated volume with actual measured volumes.

#### Timber Harvest Conditions

Logging conditions are reasonably good. The terrain is gentle over much of the timbered area. Generally, logging can be accomplished with a combination of highlead and shovel logging methods.

Construction of new road would be required to access the entire property. Existing road serves the logging units that have been harvested and intervening areas. The existing road system will need to be extended and spurs constructed into units already developed. Access to the property is available through existing right-of-way agreements between all the timberland owners in the vicinity. Provisions for cooperative access between owners are binding and transferable.

No unusual road construction and logging methods are anticipated.

PART III

DATA ANALYSIS AND CONCLUSIONS

## HIGHEST AND BEST USE ANALYSIS

Legal considerations: The Seal Bay Unit is zoned C - Conservation District by the Kodiak Island Borough. The stated purpose of this zone is:

- A. To encourage the use of the land for large lot single-family residential and agricultural purposes;
- B. to encourage the continued use of land for open space areas; and
- C. To encourage the discontinuance of existing uses that are not permitted under provisions of this chapter.

Permitted uses in this zone include forestry activities and accessory buildings. Single family dwellings are permitted on large lots. The minimum lot is 5 acres. Actual uses of land on Afognak Island are almost exclusively limited to forestry activities and the ancillary residential facilities in logging camps. Log transfer facilities and camps have been constructed on Kazakof Bay. There are a very small number of single-family residences - mostly recreation cabins - and 2 commercial lodges, 1 on Seal Bay. A multi-family development is under construction by the Aleneva Joint Venture, overlooking Raspberry Strait. Under existing zoning, recreation uses such as hunting and fishing are encouraged as passive activities.

There are several very attractive sites for development of lodges on the island. The present owners of the property have identified a number of potential lodge sites and undertaken some preliminary investigation of the feasibility of lodge development. Such development would require rezoning to RD - Rural Development District. As of June, 1993 there was a backlog of 21 applications for rural development rezoning with the Borough. News articles in the local paper indicated a reluctance on the part of the Borough Assembly to approve any more such rezones. The Borough Assembly has subsequently adopted a de facto moratorium on Rural Development rezoning. Rezoning to permit lodge development or other use more intensive than the Conservation zone permits remains a possibility. It appears, however, to be very difficult and time-consuming. Rezoning could affect only a portion of the subject property, at significant cost, with lengthy delays. Rezoning and development could reasonably enter into long-range considerations for the use of the property.

Feasibility considerations: Most of the property is forested and suitable for the commercial production of forest crops. Forest site quality is somewhat low, producing a monoculture of Sitka spruce that is inferior in quality to the spruce grown in Southeast Alaska. The timber is attractive in the markets for log export. Conditions for

logging and logging road development are favorable. The topography is mostly level to rolling. Soils are gravelly and fairly well drained, even though there are numerous lakes and wetlands.

Non-forested areas support plentiful populations of native game species. A population of Roosevelt elk has been introduced on the island and it appears to be thriving. Streams on the property are used by anadromous fish runs. The waters around the island and adjoining the subject property support an active fishery resource. There are numerous beaches, small inlets and coves from which this resource could be utilized as a passive recreation activity. Along with a great deal of Alaska, the scenic beauty of the area and the property is impressive and is becoming well known to the world.

Market considerations: In Alaska during the 1980's and prior to the Exxon Valdez oil spill settlement, the market for the subject property would have been for continued forest management or speculation on residential and recreational development, with natural resources as an amenity base. Over most of the state the demand for the latter was fairly small and the supply of suitable land was very great. As a result the only cases where development potential was fully reflected in land value were limited to very specific properties where a particular development proposal had reached a stage where land acquisition was justified. A large surplus of land relative to a small demand kept land values for either forest land or other undeveloped property relatively low. Private purchases used in this appraisal do show a number of instances in which some value was specifically attributed to the speculative use of the property for recreation and/or development.

Local appraisers and others with knowledge of the markets feel that the supply of land in the Kodiak Island Borough has always been more limited than in many other areas of the state. There is a vast physical supply of undeveloped land, but very little of it is for sale in this market. Analysis of the sales transactions for this appraisal shows that prices for properties in the Kodiak Island Borough have been somewhat higher than prices in other areas. This is particularly true of one significant sale on Afognak Island.

The Exxon Valdez oil spill settlement and the creation of the so-called Restoration Trust has infused into the market a large amount of money that may be spent for the acquisition of properties with natural resources for preservation of natural ecosystem, wildlife, habitat and scenic values in public ownership. A reading by a legal lay person of the actions setting up the Restoration Trust finds no indication that its activity is supported by condemnation authority. The Trust is now another participant in the

market for natural resource and wild lands in Alaska.<sup>5</sup> The acquisition of park and wildlife properties has been identified as a priority by the national administration. That use for much of the Restoration Trust funds is also strongly supported by a number of interest groups. The time for such acquisitions is limited and there are only a few very attractive properties that have been identified. The market effect of the Restoration Trust funds will depend on the quality of available properties for the objectives of the Trust. The subject property has been identified by the Trust as number 2 in ranking of desirability for acquisition based on habitat values. A conditional purchase and sale agreement has been reached between the Trust and the owners of the Seal Bay Unit. The existence of this agreement imposes a very strong presumption that the property is one of those natural resource properties with quality characteristics making it attractive for acquisition through the Trust.

The point of this discussion is that the Restoration Trust has introduced a demand force that must have a competing effect in the private market. That effect will likely be greatest for properties that are suitable for the wide range of uses based on natural resources in fairly pristine condition. It is clear that the subject property fits that description.

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<sup>5</sup>Exxon Valdez Oil Spill Settlement Trustee Council, Transcript of meeting, May 13, 1993.

Conclusion: The subject property can legally be used for timber production, commercial recreation development, passive recreation, protection of natural resource amenities, and remote residential uses. Residential use is not supported by an infrastructure of public services. The property is physically best suited for timber production, recreation and other natural resource uses. Several similar properties have been purchased by private entities for market exploitation of the natural resource values and by public agencies for enhancement of public enjoyment of natural resources. The private market competition appears to have been timber buyers, developers, speculators, and the long-range objectives and plans of the sellers of such properties. Whether for private or public ownership, the primary supply and demand forces at work in the market for this kind of property all appear to be driven by anticipation of benefits from management of the property for its natural resources. The highest value of the property in the private market will be realized for its potential to satisfy the needs of those uses that are supported by the natural resources, as commodities for extraction or as amenity to non-extractive use. Taking the above factors into consideration, the highest and best use of the property is concluded to be: management for natural resources.

## VALUE ANALYSIS

### Income Capitalization Approach

The Income Capitalization Approach is based on the principle of anticipation and assumes that value is determined by the net income derived from exploitation of the property, after paying all factors of production at their market values. The indication of land value by the Income Capitalization Approach is a capitalization of the income to be expected from a continuous series of forest crops. The indication of timber value by the Income Capitalization Approach is calculated as a residual after harvest and sale of the timber in the best available market for logs, deducting logging costs, a margin for profit and risk on the logging operation, and a return on the money required to purchase the timber. This calculation is often referred to as the conversion return method. The Income Capitalization Approach is generally appropriate where transaction data involving comparable properties are not available.

### Sales Comparison Approach

The Sales Comparison Approach is based on the principle of substitution. The value of the property is estimated as the price necessary to purchase a substitute property of equivalent utility. The approach is dependent on the availability of comparable sales data. Sales of similar properties provide direct evidence of market activity.

The characteristics of the sale properties are analyzed for differences when compared to the subject. The sales prices may then be adjusted for differences in physical characteristics, geography, market, income or terms of sale. This approach is most reliable when there are sufficient comparable sales data.

A search was made for verifiable sales of timber and/or land in the region, going back as far as 1984. Sales of timber stumpage have been considered for valuation of the standing timber, and sales of land or land and timber have been considered for the value of the total property.

### A. Land Value

The value of the land supporting merchantable timber by the Income Capitalization Approach is the present worth of all future crops of timber less the present worth of all future costs of growing, harvesting and selling the timber. The best formula for calculation of this figure is a soil-rent capitalization called the Faustmann formula. This formula calculates the present worth of a perpetual series of forest crops on one acre of land.

The Faustmann formula can be expressed as:

$$S.E. = \frac{I_r - C_0(1+p)^{r-1} - C_a/p((1+p)^r - 1)}{(1+p)^{r-1}}$$

where S.E. = Soil Expectation value

$I_r$  = Income from final harvest in r years

$C_0$  = Stand establishment costs

$C_i$  = Intermediate management cost at year i

$C_a$  = Annual management cost

p = Market rate of return for investments of comparable risk.

A calculation which involves discounting for 80 to 100 years is very sensitive to the discount rate. It is also sensitive to expectations for future revenues and costs. The projection of prices and costs in the future introduces a very large element of uncertainty. It is possible, however, to reduce that uncertainty by projecting future revenue and cost at current levels. The markets for capital show reliable indications of rate of return net of inflation. Thus, inflation-free projections can be discounted at an inflation-free or "real" discount rate.

Long-term rates of return at the beginning of 1993 are listed below:

U.S. 30-year bonds	7-8% <sup>6</sup>
BBa Corporate bond yields (3-5 yrs)	9% <sup>7</sup>
Common stocks (S&P 500)	10% <sup>8</sup>

Rates near the upper end of these ranges would be appropriate for forest management investments, say 10%.

Inflation of the Consumer Price Index was running at about 3% in 1992. A perceived inflation rate of 3% would indicate a "real" discount rate of 7%. A long-term investor could expect that opportunity cost on investments when considering forest management alternatives in this period of time. Washington DNR has also made studies of long-term real rates of return in the forest industry of Washington state which show a fairly constant rate of 7%.

<sup>6</sup>Source - Appraisal News, March, 1993, The Appraisal Institute.

<sup>7</sup>Source - Appraisal News, March, 1993, The Appraisal Institute.

<sup>8</sup>Source - Morningstar Mutual Fund Newsletter.

Other studies by DNR and the U.S. Forest Service have also shown that the value of timber stumpage has been increasing over the long run at a real rate of 1% to 2%. Over the previous 8 to 10 years the prices reported for logs exported from Alaska have increased at a rate approximately 1% greater than the rate of inflation. The current situation with respect to supply and demand of timber in Alaska fully supports the conclusion that stumpage value can be expected to increase at a real rate of 1%. The net real discount rate for income capitalization is, therefore, 6%.

Volume yield was assumed to be the same as the volume found on the property at the present time.

A stand of timber similar to the present forest in volume would likely take 80 to 100 years to grow. For the subject property the volume at rotation age is estimated to be 20 M b.f. per acre with values equal to the conversion returns based on Table 2 of Addendum II.

Annual management costs are estimated to be quite low due to the remote nature of the property. About \$5 per acre per year should cover minimal custodial expenditures. Restocking is estimated to cost an average of \$10 per acre. The current owners have expended between \$5 and \$10 per acre for reseedling of the areas cut to date. Observed restocking is adequate to meet Forest Practice standards and to reproduce the present forest. The Faustmann' formula calculations are tabulated in Table 1, on the back of this page. It can be seen that the land has no value based on reasonable expectations of income from future crops of timber.

Timber land value by the Income Capitalization Approach is estimated to be:

\$0 per acre

This value applies only to the land suitable for timber growth and does not consider the effect of competing uses on the market expression of value.

#### B. Timber Value

The value of timber can be estimated by a variant of the Income Capitalization Approach called conversion return, and by the Sales Comparison Approach. Both methods have been used and reconciled. The details of the conversion return method are found in Table 2 of ADDENDUM II

The market value of logs was estimated from sales contracts with the present owners, prices paid to the owners in 1992 and 1993 operations, Prices reported to Customs for logs exported from the Port of Anchorage, and prices reported in

industry media<sup>9</sup>. Greatest weight was given to the prices contracted with the property owners and actually paid to them. Some adjustments were made to remove anomalies in the progression from one grade to another and to maintain consistency between the various sources of data. The timber is assumed to be free of any restrictions on its sale for export in log form.

Logging costs were estimated from actual experience of the current owners of the property, from USDA Forest Service data, and from the appraisers' personal experience. The experience data has been adjusted to exclude elements of cost not directly associated with ownership and harvest of timber. The estimate of logging cost includes profit and risk to the operator. The estimates of logging cost elements are summarized in Table 2 of Addendum II.

A value indication by the Income Capitalization Approach for the volume estimated to be available for harvest is summarized in Table 2 of ADDENDUM II. Two scenario Summary Reports follow that table and list market log price scenarios with the resulting stumpage indications. The market stumpage prices indicated represent the influence of the export market but without the competition likely to be encountered for a sale of marketable timber. The values indicated by the Income Capitalization Approach are shown on the last line of Table 2 and the Scenario Summary Reports as conversion return. The indicated conversion return for the subject timber ranges from \$166 per M to \$569 per M. The most reasonable indication is that based on log prices in March 1993. Log prices at that time, after a depressed period in late 1992, were back to the mid-range of 1992 and the trend seemed to be up.

In addition, timber harvest operations on the property generated conversion returns of \$470 per M b.f. in 1993 and \$188 per M in the combined 1992 and 1993. Prospective buyers, and the owners themselves, would probably discount the 1993 results as an indication of returns to be expected over the liquidation of the timber. On the other hand, the 92-93 results seem to be unusually depressed relative to calculations based on log prices realized in 1992. This may be due to marketing and costs that deviate from ideal management because of conditions encountered in the start-up of the operation. These operating results, however, must be given weight as factual data.

The appropriate value of timber to be estimated at this point in the appraisal process is the stumpage value that

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<sup>9</sup> Gruenfeld, Jay Associates, Inc., Pacific Rim Wood Market Report, No. 69, May, 1993, p. 9.