



Potential Places of Refuge

Public Comment Summary
November 17, 2004

Section 1: Introduction

Section 2: Site Specific Concerns/Information

Section 3: General Comments

Section 4: Letters/Correspondence addressed to PWSRCAC

Section 1: Introduction

PWSRCAC is one of many stakeholders participating in the Potential Places of Refuge workgroup led by the Alaska Department of Environmental Conservation. PWSRCAC's role for this project has been to gather comments from the public. Our outreach efforts have included researching private land ownership in Prince William Sound, meeting with the public in Cordova and Valdez, speaking with representatives from various communities including Whittier, Tatitlek and Chenega, posting of information on our website, mass mailings and emailing to over 140 individuals in the communities, presentations to the PWSRCAC Board of directors and participating in the workgroup itself.

This document is a summary of the information the citizens of Prince William Sound have provided to us. Because it is a summary, details have been omitted and we recommend taking the time to read the attached letters as they represent the thoughts of the contributors in full.

Section 2: Site Specific Concerns/Information

Map 2: Numerous respondents vehemently oppose use of Jack bay under any circumstance.

Questions they request be answered: Where are the currents and tides going? Who owns the surrounding land; how will this affect them. What critical habitats will be injured? What populations will be injured? Who owns the shoreline areas? How will other land use plans and designations be impacted? (Lyle) (Schantz)

Gregorioff Creek is a major salmon spawning site. (Lyle)

Leshikoff Creek is a major salmon spawning site.(Lyle)

We wish to make the COTP/Unified Command aware of the EVOSTC conservation easement and request that they give this land a high priority for protection if or when it becomes necessary to select a PPOR. (Miller)

We feel the regionally significant importance of Jack Bay as a recreation area is not adequately documented in the PPOR data. (Miller)

We provided fairly detailed comments in our first letter that cited a variety of reasons why Gregoreoff and Levshakoff Creek Coves and associated estuaries should be protected; however, these areas appear to have been deleted from the original list of sensitive sites in the site information table for map 2, Jack Bay. We wish to be on record as strongly recommending that these two coves receive special attention, as should Vlasoff Cove and the head of Jack Bay near the mouth of the Naomoff River, all based on the sensitive biological resources they encompass. Of course the islands and Levshakoff Cove are within the Jack Bay state marine park, and deserve priority protection, as well. (Miller)

The GRS for Jack Bay does not attempt to protect Levshakoff or Gregoreoff Coves and estuaries, or other parts of the EVOSTC property, or the private properties immediately to the east. We urge that, as responsible development of the PPOR program, the GRS be updated and expanded to address these priority sites, and also to provide more complete protection (e.g., a boom across the narrows) for the highly productive Naomoff River estuary. The earlier version designated all of Jack Bay as environmentally sensitive. The new version reads that only upper Jack Bay is sensitive. (Miller)

We do not approve of the storage of spill response equipment in Jack Bay, as this would detract from the natural properties that currently distinguish this important recreation area, such as scenic and other aesthetic qualities of the bay. Spill response equipment is available in nearby Port Valdez. (Miller)

A potential cultural site worthy of mention is one identified by Chugach Natives, Inc. As listed in the DNR Jack Bay Homestead Project files (ca. 1986), Chugach Natives, Inc. filed traditional cemetery and historical site applications for sites on the point between Levshakoff and Gregoreoff Creeks, and the area surrounding the Gregoreoff Creek Cove. (Miller)

Subsistence fishing and sport fishing and hunting are common activities within Jack Bay. Subsistence resources include mussels and spot shrimp collected by landowners in Gregoreoff Cove and

along the south side of the bay, respectively. Pink and silver salmon, halibut and rock fish are sought by sport fishers; and black bear and goats entice hunters to the bay. Recreational use is highest during May (shrimping and bear hunting) and June-August (shrimping, fishing, camping at the State Marine Park and USFS cabin, kayaking, hiking). Black bear hunting resumes in September and Goat hunting in October. (Miller)
Resident and transient killer whales use Jack Bay, and a juvenile transient killer whale was observed preying on a sea otter in the outer part of Gregoreoff Cove. (Miller)

The USFS cabin is in the wrong place- it is further into the Bay.
(Schantz)

Map 7: (Hinchinbrook Entrance) Chugach lands and many sensitive archeological sites are in the immediate vicinity of the anchorage, mooring and grounding sites. Fuel/cargo discharge could have catastrophic effects on these resources. Subsistence areas at the head of Port Etches and along the Nuchek spit are likely to receive the brunt of impacts from fuel/cargo discharge. These sites are not recommended. (Chugach)

Rocky Bay, Fidalgo, Gravina, and Zaikoff all have near shore herring fishing.
(O’Leary)

Map 11: Should Bass Harbor be included? (Heddell)
Smith Island is too exposed (Janka)

Map 12: Shotgun Cove should be upgraded to “severe” high winds in high pressure situations, under both sea and wind conditions. (Heddell)

- Bush Bank: Could exceed the 20 gross tons limitation, this is addressed in Coast Pilot 9 as an anchorage for large vessels. (Heddell)
- DeLong Pier: Ferry dock currently under re-construction, this may alter tonnage. (Heddell)
- Whittier has a remote release site(Reggianni)

Map 13: Port Wells from bottom of A-48 and north can be extreme heavy ice (Heddell)

- Berry Arm ice can be a problem and it can be very windy (Heddell)
Berry Arm is a major recreational area (Janka)

- Port Wells and College Fjord anchorages and grounding sites are in the immediate vicinity of selected archeological sites and sites under legislative consideration. (Chugach)

Map 14: Heavy ice north of A-40 (Heddell)

Unakwik Inlet anchorages are nearby archeological sites and fish hatchery (Chugach)

SERVS equipment in Unakwik is on the other side (Janka)

Map 15:

A-51 can be blocked by ice. Should Chamberlain Bay be considered? Smaller cruise ships anchor there. Once there you could block the entrance to the bay. (Heddell)

Growler and Heather Bay: the dock/pier facility depicted at Growler Island is privately owned by Chugach and is not in place at this time. (Chugach)

Heather Bay is a major recreational area (Janka)

Going across the moraine there is only about 18 feet at low tide. Where the old Growler dock used to be there is only about 5 ½ feet of water at a 3 ½ foot tide (Stan Stephens)

Map 16: Wingham Island. Archeological sites are located in the immediate vicinity of the anchorages depicted. Nearby is the Vitus Bering National Landmark which could be damaged should a spill occur. These cultural/historical sites are extremely sensitive. (Chugach)

There are hatcheries on Esther Island and Unakwik Inlet (also a release site) (Heddell)

Chenega also has a silver release site attached to its dock (Heddell)

Why not Bay of Isles on Knight Island? (Heddell)

Section 3: General Comments

No vessel should be placed where the current can lead to hatcheries.
(Heddell)

The Exxon Valdez oil Spill should be depicted on the map that shows recent spills. (almost every respondent mentioned this)

Bird migration, spawning habitat, seal and sea lion haul outs, subsistence use, private landowners, native interests and prime recreation areas should be added to all maps (O'Leary)

EVOS should be shown because it might be better to use a site with lingering contamination vs. an un-oiled area. (O'Leary)

Show seasonal aspects to the maps (O'Leary)

Chugach is encouraged by the Potential Places of Refuge study and appreciates the proactive approach. (Chugach)

Chugach needs assurance that these guidelines will not interfere with access of development of its uplands and supporting use of adjacent State-owned submerged lands located in the vicinity of the anchorages, mooring sites, grounding sites or dock/pier facilities. Would like to see language in the plan to secure these rights(Chugach)

Cultural and Historical sites. Protection of the Native cultural and historical site is a major concern. To the extent that a place of refuge is unavoidable in the immediate vicinity of these sites, spill response measures should be enacted to preserve these sensitive cultural and historic resources. Please refer to the letter from Chugach for more details (Chugach)

The Potential Places of Refuge process should prioritize sensitive sites in PWS (NWF)

The Potential Places of Refuge process should result in a default plan that reflects the prioritization of sensitive sites. (NWF)

Localized resource information is needed for Potential Places of Refuge.
(NWF)

Geographical response strategies plans for Potential Places of Refuge may need modifications. (NWF)

Opposes Jack Bay being used as a Potential Place of Refuge (Lyle) (Schantz)

No area should be pre-designated as a potential place of refuge. (Lyle)
(Schantz)

There are various locations in PWS that are essential to subsistence use (Lyle)

The project excluded people that have interest in PWS. (Lyle)

Public and agency participation in the development of the PPOR program appears to have been very limited, to the detriment of the plan's ability to protect natural resources; (Miller)

The concept and consequences of "pre-identification" of PPOR sites needs clarification; (Miller)

The lack of guidelines to help prioritize resource concerns, combined with the site selection process laid out in the ARRT's "Guidelines for Places of Refuge Decision-Making" may result in a poorly-informed judgment, especially during a vessel emergency requiring rapid response; (Miller)

The site information presented in the PPOR requires greater scope and depth for responsible decision-making with reference to protection of natural resources. (Miller)

Provisions to protect resources in the proximity of PPORs should be enhanced and expanded, given the likelihood of heavy local impacts to these often sensitive and important locations. (Miller)

We recommend that the COTP attempt to restrict impacts resulting from commercial vessel activities to the vicinity of the industrial area surrounding the Valdez Marine Terminal, insofar as conditions permit. This is based both on the availability of spill response equipment and numerous other services

present in the Port, and on the principle of reducing the footprint of industrial activities in PWS. (Miller)

We would like to see resource agencies provide the COTP with clear recommendations concerning protection of natural resources, and we suggest that the PPOR document is the appropriate place for these recommendations to be recorded. (Miller)

Section 4: Letters/Correspondence addressed to PWSRCAC

Attachment A – Correspondence from Tom Schantz

Attachment B – Correspondence from Patrick Schlichting and Mary Corcoran

Attachment C – Correspondence from John and Susanne Lyle

Attachment D – Correspondence from John and Susanne Lyle dated August 16, 2004

Attachment E – Correspondence from Chugach Alaska Corporation

Attachment F – Correspondence from National Wildlife Federation

Attachment G – Correspondence from Jon Miller and Lou Brown dated November 11, 2004

Attachment H – Correspondence from Jon Miller and Lou Brown spreadsheet

Attachment I – Correspondence from Jon Miller and Lou Brown dated August 22, 2004

Attachment J – Correspondence from USCG to Karl Kretsinger

752.300.040719.TschantzJack.pdf

Tom Schantz
P.O. Box 1224 • Valdez, AK 99686
Phone: 907-835-5116 E-mail: schantzbird@valdezak.net

VDZ received

7/23/04

JD
RA
TP
JB

July 19, 2004

John S. Devens, Ph.D.
Executive Director
Prince William Sound Regional Citizens' Advisory Council
P.O. Box 3089
Valdez, AK 99686

Dear Dr. Devens:

As a Jack Bay land owner I would like to take a moment to share some concerns prior to the next Jack Bay spill drill scheduled for August.

I oppose the proposed sacrificial designation that is slated for Jack Bay or any other location in Prince William Sound. The designation of geographic locations as possible places to tow a disabled vessel might seem like preparedness but, it could also be very dangerous. Historically, the trend in Alaska of putting the spiller in charge of spill response has been disastrous. Critical response decisions have always been delayed and avoided. There is incredible pressure placed on the spiller to downplay spills and deny inadequate response efforts. Response is geared more for shareholder relations and liability when it should be limiting environmental and human impact. These sacrificial designations could be used as a "crutch" to avoid being solely responsible for another (possibly better) decision. Proposing geographic sacrificial locations without customized spill plans for each "sacrificial bay" seems premature. In other words, a leaking tanker is towed into Jack Bay and boomed off; what next? A number of questions come to mind:

- How do you defend the shorelines?
- What are the most environmentally sensitive areas within the sacrificial bay?
- Who owns the shorelines?
- What are the tides and currents?
- What are the impacts to private property land values within a designated bay?
- How does the designation fit other designated land uses and plans?

These questions should be answered before any designations are discussed and advertised on websites.

The justification for my concerns were well emphasized on April 28, 2004 when the Pathfinder tug spilled fuel into Jack Bay during a fuel transfer just prior to the start of an industry spill drill. Crowley's fuel transfer procedures were not being followed by personnel. While this accident hurt, it was the lack of an adequate response and honest critique of the recovery efforts that was an outrage. If there is no honest critique of this "practice spill" how can we improve spill recovery efforts? If this is the trend, I believe the negative environmental impact and potential risk of negligent drill participants far exceeds any benefit in conducting emergency preparedness drills. These drills seem more like an image campaign for the oil industry to celebrate "look how prepared we are!" Why were the original containment efforts geared to contain the spill to Jack Bay? Could this be because it is designated as a sacrificial bay? When the sheen was headed out to more open water in the Valdez Arm on an outgoing tide, why did responders chose to attempt to contain the spill to Jack Bay? Why did the spill drill continue after the fuel was spilled? If the typical response to a spill in a sacrificial bay is to contain the spill to the designated area without making all efforts to protect the shoreline and recover the

product then I have serious concerns about future spill drills and industry operations being conducted in any proposed sacrificial bay.

I offer my own critique gathered from personal observations, observer reports, fishing vessel crew members, first hand accounts and VHF transmissions during the recovery effort of the Pathfinder spill. Because I own property in Jack Bay, a lot of people have talked to me about this incident. First, oil spill contingency plans need to establish better protocols for diesel fuel spills. Boom just moved the sheen around and dispersed the fuel in otherwise perfect weather for recovery. The spill was downplayed so much that the spill drill actually went forward with limited on site resources dedicated to spill response during the first critical hours. Second, while industry praised their communication efforts after the fact, it was obviously poor. The bizarre mix of spill response and spill drill activities showed disregard for private property, the environment and slowed spill response. It evolved into what can be described only as a "practice spill". When vessels and resources on site learned that the beach on Tongue Point was being threatened, it was too late to protect it. Not all of the resources available were deployed timely. In fact, several observers and fishing vessel crew members reported that commands were given not to deploy specific equipment because it would get "dirty". The first efforts to contain the sheen to Jack Bay showed either complete lack of knowledge of the local area or overly optimistic plans to recover the spilled fuel. When the tide changed, the sheen quickly threatened two of the few known anadromous streams in Jack Bay at a critical time for the health of resident Salmon fry. The beach that was ultimately contaminated on Tongue Point is part of a 900 hundred acre parcel that Jack Bay landowners, environmental and special interest groups have spent extensive time and expense to protect with conservation easements and changes of title over the past 17 years.

Jack Bay is being negatively impacted by the oil industry's spill drills and special designations. Also, the newly coined term "Ports of Refuge" seems like a descriptive honor bestowed on special areas like a National Park or National Wildlife Refuge. It is terribly misleading and unfair to the public.

In no way is this correspondence intended to exaggerate the environmental impact of the Pathfinder spill. It is more of an effort to spark constructive criticism and honest dialogue to improve response and prevention. More serious spills will occur and regardless of their size, our ability to control them will be far more limited than the oil industry ever wants residents to know. All citizens share this risk yet it seems those of us with a vested interest in proposed sacrificial bays carry more of the burden.

For the last nine years our family and friends have had many great memories constructing and spending time at our family homestead cabin. Jack Bay has been good to us and because of this I am obliged to do good for Jack Bay.

Thank you for the opportunity to provide comments.

Sincerely,



Tom Schantz

Cc: CDR Mark Swanson, U.S. Coast Guard, MSO Valdez
John Kotula, Alaska Department of Environmental Conservation
Larry Iwomoto, Alaska Department of Environmental Conservation
Kris O'Connor, Polar Tankers
Frosty Leonard, Crowley Marine Services
Richard Ranger, Alyeska Pipeline Service Company
Jack Bay Landowners

-----Original Message-----

From: Pat [<mailto:schlich@wildak.net>]
Sent: Monday, November 15, 2004 6:10 AM
To: williams@pwsrcac.org
Subject: PPOR

Concerning the Potential Place of Refuge:

Thank you for the opportunity to comment . I think that the data that was collected was accurate and useful. My concerns are that there are in various locations year-round populations, indigenous and others, who base their subsistence use around these areas but also reach out in distance.

Each incident of a vessel in distress has different environmental risks. These areas deserve and should require a special measure of consideration in regards to these risks.

Finally, I received this information via a direct mailing and down loaded material from a web site, but many more did not receive any material. We shared material with our friends at Ellamar and Cordova, who were unaware of the study and plan. Making this project more inclusive to the various populations could have been better.

Patrick L. Schlichting
Mary R. Corcoran Land owners and part time residents of Ellamar

TO: Mr. John Devins
PWSRCAC Exec. Dir.
Box 3089 Valdez AK
99686

August 16,
2009

Dear Mr. Devins,

I know this is a short letter but I did want to respond to the proposed August spill drill in Jack Bay.

I own land -- a homestead -- and built a cabin there over the past 15 years. Granted, my concerns are a bit NIMBY, yet I oppose making Jack Bay a sacrificial area in the event of another oil or fuel spill. It's not a matter of "if" but "when".

Jack Bay, though close to Valdez and the Terminal, is none-the-less a world-class scenic and biologically-rich area, with critical habitat for many species of fauna and flora. My concerns aren't only for this area being sacrificed, but in the probable lack of overall planning + oversight that will follow a spill.

What I observed during the
→

1989 spill and its lengthy "cleanup" was heart-breaking and personally frustrating as I watched as agencies, governments, entities + corporations did nothing for days, and after the storms began dispersing oil, they could do little. The thought of a sacrificial designation for Jack Bay is, in my opinion, simply unacceptable and inadequate; an excuse for being responsible for additional and better options.

In closing, I'd like to ask a few questions of those who jump at designating Jack Bay as ~~the~~ sacrificial designation:

- 1) Where are currents and tides going?
- 2) Who owns the surrounding land; how will this affect them?
- 3) What critical habitats will be injured? What populations will be injured?
- 4) Who owns the shoreline areas; and
- 5) how will other land ^{use} plans and designations be impacted?

③

My wife Susanne and I feel very strongly about this proposed sacrificial designation. We oppose it. We feel that spill response must "ramp-up", not "ramp-down" their contingency plans. Any and all areas are valuable and critical; all areas should be given the same high level response. My sense is that when a spill occurs and the vessel is towed to Jack Bay, that the sacrificial designation will create a self-fulfilling prophesy, causing irreparable and needless damage to this world-class site.

Thanks for your time -

Sincerely yours,

John + Susanne Uyle

Po Box 83715

FBKS AK 99708

474-4584

Koyak@gci.net

Dear Ms. Arvidson,

A week ago I wrote comments and sent them to John Devens, but I wanted to follow up with additional email comments re: the Jack Bay Place of Refuge.

As a Jack Bay homestead owner of almost 15 years, I strongly object to this plan, not only due to our own personal interests but also due to the significance of the Jack Bay Watershed in the larger ecosystem of Northern Prince William Sound. As you may know, Gregorioff Creek is a highly productive pink salmon spawning stream, one of the most important in the entire Northern Sound. In the long arm of Jack Bay, Leshikoff Creek is a major silver salmon spawning site for the Sound, as well as an area frequented by brown bear. The beauty of Jack Bay; the rich intertidal area and abundant wildlife all point to the need to preserve these, not sacrifice them. To me, the idea of this bay being a sacrificial refuge is absurd. Our homestead is well off the water, so my wife Susanne and I wouldn't be immediately impacted by this plan, however we object for other reasons.

If another, less frequented and inhabited area other than Jack can't be found, then I suggest that NO area be designated as a sacrificial area; that when (not if) another major spill incident occurs, that it be given full and immediate assistance in situ, at the place where it is located at that time.

I reference data from the April 28, 2004 diesel spill in Jack Bay, in which 50 gallons were spilled into the water. The follow-up May 4 sediment and mussel samples indicate that a "mere" 50 gallons were able to provide a distinct thumbprint and caused contamination classified as "moderate". I can't fathom what hundreds or thousands or millions of gallons would do to this pristine, fragile area, but I shudder to think of the effects.

If another, more suitable and less controversial site can't be found, then I suggest that the formula of "sacrificing" an area be reconsidered altogether.

Thanks for your time.

Sincerely,

John and Susanne Lyle
Jack Bay Homesteaders



November 12, 2004

Rhonda Williams, Project Manager
Prince William Sound Regional Citizens Advisory Council
P.O. Box 3089
Valdez, AK 99686

Re: Potential Places of Refuge

Dear Rhonda,

These comments on the above-referenced Proposed Potential Places of Refuge Plan are submitted on behalf of Chugach Alaska Corporation ("Chugach"). Chugach is the Alaska Native Regional Corporation for the Chugach region established pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, 43 U.S.C. § 1601, *et seq.* ("ANCSA"). Chugach owns or has valid selection rights to more than 372,500 acres of full fee estate, surface estate and subsurface estate along the coastline of the Prince William Sound, including approximately 1,000 miles of coastline pursuant to ANCSA, as amended by Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. § 3101, *et seq.* ("ANILCA"), and the 1982 Chugach Natives, Incorporated Settlement Agreement ("1982 CNI Settlement"). In addition, Chugach has nearly 100 Cultural and Historical Sites (paragraph 14(h)(1) of ANCSA) selected along the coastline of the Prince William Sound that have been determined eligible for conveyance by the Bureau of Land Management. There are also other Native American Grave Repatriation Act sites throughout the Prince William Sound which Chugach and its shareholders hold legal interest.

Protection of Rights and Access

Chugach's concerns are primarily protection of its resources, the preservation of its rights of access to, and the full enjoyment of its rights to use and develop its lands as envisioned and guaranteed by ANCSA, ANILCA, and the 1982 CNI Settlement Agreement. Chugach is encouraged by the Potential Places of Refuge study and appreciates taking such proactive measures to mitigate issues that led to catastrophic results with the Exxon Valdez oil spill in 1989. However, Chugach needs the assurance that these guidelines would not interfere with access or development of its uplands and supporting use of adjacent State-owned submerged lands located in the vicinity of the anchorages, mooring sites, grounding sites, or dock/pier facilities. As many are well aware the rocky and rugged coastline of the Prince William Sound limits locations of harbors, docks, and other sea to land transfer facilities. Many of these locations have not been developed, but may be in the near or distant future. We sincerely hope that because an anchorage, mooring site, or grounding site is identified in a particular location, this could not be used as a reason, or partial reason, to hinder development of or access to private lands in the vicinity. Chugach would like to see language included in this plan that protects these rights.

Cultural and Historical Sites

Another issue of major concern is protection of Native cultural and historical sites. During the cleanup of the oil spill of the Exxon Valdez, many of the Native burial, cultural and historical sites were robbed of artifacts and vandalized. Desecration of these sites is taken very seriously by Chugach and its shareholders. To the extent that a Place of Refuge is unavoidable in the immediate vicinity of these sites, spill response measures should be enacted to preserve these sensitive cultural and historic resources. Education of laws concerning Native sites (and private land ownership) for those involved placing a disabled vessel at a Place of Refuge, or cleanup crews, should be mandatory when issuing the Places of Refuge guidelines. All crew members should be aware of severe penalties associated with theft or desecration of Native burial, cultural, or historical sites, or the removal of Native artifacts.

§41.35.190(c) of the Alaska Historic Preservation Act (Citation: Alaska Historic Preservation Act (Alaska Stat. §41.35.010 through §41.35.240). Dates Enacted : 1971, amended 1988 and 1993) does state that "No person may unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected." Native Alaskan consent is required for excavation of native sites and landowner consent is required for excavation on private lands. The Alaska Historical Commission has responsibility for managing and protecting all prehistoric and historic sites in the state and issues permits for excavations. Nothing may diminish cultural rights or responsibilities of persons of aboriginal descent or infringe upon their right of possession, and use of those resources and local cultural groups may obtain from the state resources of respective cultural if meet certain criteria. Violations of the Historic Preservation Act provisions are considered a class A misdemeanor and civil penalties may be assessed up to \$100,000 per violation and up to one year in jail.

Following are some specific comments on the plan.

Part One

Purpose and Scope

2nd paragraph:

PWS is managed under a variety of land use management plans including:

Chugach National Forest, Revised Land and Resource Management Plan

Management Plan for State Marine Parks: Prince William Sound and Resurrection Bay, and

Prince William Sound Area Plan for State Lands

Suggest adding: *Land Management Plans for 372,500 acres of Regional and Village Alaska Native Corporations (ANC's).*

As mentioned in the introduction, Alaska Native Corporations (ANC's) have title to more than 372,500 acres of Full Fee, Surface and Subsurface Estate Lands along the coast of the PWS, including approximately 1,000 miles of coastline. In addition, there are nearly 100 Cultural and Historical Sites selected along the coastline of the PWS by the Regional Native Corporation, that have been determined Eligible for conveyance by the Bureau of Land Management. A further breakdown of ANC ownership:

Chenega Corporation ~ 38,580 acres*
Eyak Corporation ~ 46,900 acres*
Tatitlek Corporation ~ 48,100 acres*
Chugach FFE ~108,600 acres*
Chugach CNI SSE ~ 3,114 acres*
Chugach EVOS SSE ~127,200 acres*

**These acreages only include those lands owned in the PWS vicinity and does NOT include lands in the Copper River Corridor, Southern Kenai Peninsula, Kenai Fjords, or Gulf of Alaska*

As a result of this large private land base along the coastline of the PWS, many of the anchorages, mooring sites, and grounding sites are immediately adjacent to or surrounded by ANC owned lands. Consultation with the appropriate ANC's affected by these sites should be given due consideration when finalizing the site locations. Issues could include sensitive cultural/historical sites or blockage of access for enjoyment and use of ANCSA lands and resources.

Annex O

3. Authorities and Responsibilities

The State's Historic and Preservation Office (SHPO) is not the only entity tasked with preservation of Historical and Cultural Sites. Sites conveyed to ANCSA Regional Corporations under 14(h)(1) are conveyed under the requirement of managing those sites for Cultural and Historical purposes. Nearly 100 of Chugach's 14(h)(1) selections in the PWS have not been conveyed at this time, though have been deemed eligible for conveyance. Many of these sites are near tidewater and discharges, spills or disturbance from anchorages, mooring sites, and grounding sites nearby could have detrimental effects on these sensitive resources. Education of, and protection against, illegal trespass, vandalism and theft should be considered and included in the guidelines. All site locations recommend should be reviewed by SHPO for effects on archeological resources.

Map Specific Comments

Map 07 (Hinchinbrook Entrance)

Chugach lands and many sensitive archeological sites are in the immediate vicinity of the anchorage, mooring, and grounding sites. Fuel/cargo discharge could have catastrophic effects on these resources. Subsistence areas at the head of Port Etches and along the Nuchek spit are likely to receive the brunt of impacts from fuel/cargo discharge. These sites are not recommended.

Map 13 (Port Wells & College Fjord)

Anchorage and grounding sites are in the immediate vicinity of selected archeological sites and sites under legislative consideration.

Map 14 (Unakwik Inlet)

Anchorage are nearby archeological sites and fish hatchery.

Map 15 (Growler and Heather Bay)

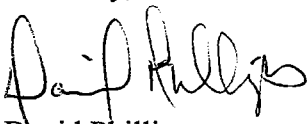
The Dock/Pier facility depicted at Growler Island is privately owned by Chugach and is not in place at this time.

Map 16 (Wingham Island)

Archeological sites are located in the immediate vicinity of the anchorages depicted. Nearby is the Vitus Bering National Landmark which could receive damage should a spill occur. These cultural/historical sites are extremely sensitive.

Chugach would like to thank the Prince William Sound Regional Citizens' Advisory Council for involving Chugach, the Village Corporation's of Chenega, Eyak, and Tatitlek, and giving us the opportunity for comment on developing the Potential Places of Refuge within part of the Chugach Region.

Sincerely,



David Phillips
Lands Information Specialist
Chugach Alaska Corporation

November 15, 2004

VIA ELECTRONIC MAIL

Re: Places of Refuge Project

Dear Ms. Williams,

The National Wildlife Federation is the nation's largest conservation organization, with over three million members and supporters nationwide, including over 5000 in Alaska. I work at NWF's Anchorage office and manage our Prince William Sound project, which is designed to protect the fish and wildlife resources and wilderness character of the Sound while fostering sustainable economic growth in the region.

We learned of the Places of Refuge (POR) project only recently and have not been directly involved to date. We support the project's goal of minimizing environmental harm resulting from a stricken and/or leaking vessel by identifying areas where such vessels can be taken for stabilization and repair, and where pollution containment efforts can be more effective. Because we have not been directly involved thus far, these comments are based on an incomplete understanding of the process, but I hope they nonetheless can spur constructive dialogue as the project moves forward.

- The POR process should prioritize sensitive sites in PWS.

Much has been done to identify and characterize biologically important areas within the Sound. NWF, Audubon Society, U.S. Fish and Wildlife Service, and the University of Alaska Marine Advisory Program hosted a workshop attended by about thirty active researchers and scientists in the Sound that resulted in a report called *Prince William Sound Biological Hotspots* report. This report identifies and describes fourteen biologically crucial areas in the Sound. The National Oceanic and Atmospheric Administration has also published PWS maps depicting environmentally sensitive areas for use in developing the GRS sites, as I am sure you know. What we would like to see the POR process do is prioritize key areas as sensitive, more sensitive, and most sensitive, or something along those lines, and not treat all sensitive areas as equal. Additionally, while biological sensitivity is a critical component of identifying appropriate places of refuge, other factors such as recreational value or cultural impact should be included in a "prioritization matrix" as well.

- The POR process should result in a "default" plan that reflects the prioritization of sensitive sites.

Currently, the plan appears to leave the decision regarding which POR site to actually choose until a vessel incident occurs. The plan would pre-select POR sites to choose from, but as discussed above would not prioritize those sites for sensitivity. Instead, the prioritization is expected to occur via consultation within the Unified Command as part of the response to the incident. This is problematic because in the heightened activity and pressure of a real-life oil or hazardous substance spill, there may not be time to consult with the many stakeholders and knowledgeable parties regarding the most appropriate choice. Moreover, even if there is time to gather this input, it may not be consistent, or based on application of consistent criteria. Instead, insights are likely to reflect the perspectives and missions of the various agencies and stakeholders.

A better alternative would be to craft a plan in advance that incorporates this type of input as best as possible. The plan would establish basic guidelines that, in the absence of information or circumstances dictating a different action, would govern the choice of appropriate PORs in different scenarios. The plan would classify PORs as more, less, and least desirable to use under identified, predictable circumstances rather than leaving this hierarchy to be determined at the time of a spill.

To be sure, such a plan would need to account for seasonal changes in sensitivity for many PORs and other factors that could produce different “default” decisions for different scenarios. But those are the same challenges that will confront the decision maker at the time of the incident under the current approach. By working through these questions to craft a more detailed “default” plan, we can improve the chances of minimizing resource damage. Again, the decision maker could deviate from the default plan due to real time information that suggests a better alternative, but it seems more prudent to plan ahead to the greatest extent possible, and not rely on gathering all necessary information and making a reasoned choice in the chaos of a crisis.

- Localized resource information is needed for PORs.

I am unfamiliar with the extent to which the project has developed small-scale, localized information for each POR, but note that resource information would need to be fairly specific and robust to permit an evaluation sufficient to support a reasoned choice among alternatives for minimizing resource damage.

- GRS plans for PORs may need modification.

Unless the GRS plan for a POR already anticipates the arrival of a large leaking vessel within the GRS site (as opposed to an oil slick or other substance approaching from outside the site), the GRS plan will need to be updated to reflect this possibility. Questions such as exactly where a leaking vessel should be taken within the POR site so as to maximize stabilization, repair, or lightering efforts while minimizing resource damage should be answered through the POR process and reflected in relevant GRS plans.

Again, we appreciate your effort on the POR process and look forward to discussing this project with you further. Please contact me with any questions or comments you may have.

Sincerely,

Patrick Lavin
Prince William Sound Project Manager
National Wildlife Federation
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(907) 339-3909

c: Mark Fink, ADFG
Steve Zemke, USFS

11 November, 2004

John Devens, Ph.D.
Executive Director
PWSRCAC
PO Box 3089
Valdez, AK 99686

Dear Dr. Devens:

We are writing in response to the PWSRCAC's request for site specific information for use in the Potential Places of Refuge project (PPOR), specifically in regards to Jack Bay. We are also using this opportunity to raise some concerns about the POR program planning process as a whole, as it appears that there may not be an opportunity for public comment on the final document. We hope that this is not the case, as we feel it could be improved by additional review.

As private landowners in Jack Bay, we have devoted considerable effort to promote the continued vitality of the bay and uplands. Some of our properties are adjacent to the shoreline, while others are more removed, but the health and environmental quality of the bay is of overriding concern for each of us, including the abundance, diversity, and exceptional quality of natural resources such as fish and wildlife, scenic views, clean water and air, and peace and quiet. Jack Bay was very fortunate not to have been directly impacted by oil following the 1989 Exxon Valdez oil spill, and we wish to avoid future contamination of the area insofar as possible. It should come as no surprise to anyone who was affected by that tragic accident that the specter of future spills is an awful proposition for local residents, and elicits a strong response from us, now that we find ourselves in the position that the waters of Jack Bay have been, essentially overnight, changed from a place that was managed to protect natural resources and recreation to one of a few high risk "pre-identified" potential places of refuge for a damaged deep draft vessel.

After reviewing the POR plan and other sites selected as PPORs, it is clear that all of the pre-identified, protected deep draft sites are in, near, or are likely to impact sensitive resource areas. There does not appear to be a "good" place of safe harbor for a discharging deep draft vessel in proximity to the tanker traffic lanes. **Yet, some sites are more sensitive, vulnerable, or valuable than others, and shortcomings in the current program's ability to make this type of distinction before or during a vessel emergency is at the heart of our concerns.** We are not requesting that Jack Bay or other sensitive sites be taken off the PPOR list, but we do feel that in the interest of minimizing environmental damage to PWS, there should be closer examination both of the PPOR program as a whole, and of individual sites before the documents are finalized. We discuss the following concerns with the PPOR process and document, followed by concerns and information specific to Jack Bay:

1. **Public and agency participation in the development of the PPOR program appears to have been very limited, to the detriment of the plan's ability to protect natural resources;**
2. **The concept and consequences of "pre-identification" of PPOR sites needs clarification;**
3. **The lack of guidelines to help prioritize resource concerns, combined with the site selection process laid out in the ARRT's "Guidelines for Places of Refuge Decision-Making" may result in a poorly-informed judgment, especially during a vessel emergency requiring rapid response;**
4. **The site information presented in the PPOR requires greater scope and depth for responsible decision-making with reference to protection of natural resources.**
5. **Provisions to protect resources in the proximity of PPORs should be enhanced and expanded, given the likelihood of heavy local impacts to these often sensitive and important locations.**

General Comments

1) **Public and agency participation in the development of the PPOR program appears to have been very limited, to the detriment of the plan's ability to protect natural resources.** During our conversations with a number of agency personnel whom we expected to have provided input into the PPOR program, a disturbing proportion had not participated, or were unaware of the existence of the PPOR program. For example, State Parks was not included in the workgroup meetings, or even notified about the PPOR project, despite obvious potential impacts to sites they manage. The same was true for USFS resource managers and ADF&G fisheries biologists responsible for PWS stocks, among others. This probably results in part from poor intra-agency communication, but also reflects limited resource agency participation in the PPOR workgroup meetings. Also, the sentiment that "the Coast Guard is going to make the final decision anyway, and our input is of limited value," has been expressed more than once. We find this disquieting, and urge resource agencies to clarify their role, articulate their concerns, and participate fully in this important process.

The Alaska Regional Response Team's (ARRT) decision-making guidelines explicitly state that resource managing agencies should have a substantial role in PPOR planning: The Coast Guard is the Federal On-scene Coordinator, which coordinates input from other federal agencies including the U.S. Department of the Interior, the U.S. Department of Commerce, and U.S. Department of Agriculture, each of whom *"have authority to represent and protect their respective interests for incidents that may threaten or affect national parks, national wildlife refuges, national forests, other federal lands and their lands, waters, and other resources within Federal management authority, including*

Federally-owned submerged lands and Federally-owned shorelines, and to provide input to the COTP.”

Likewise, DEC is the State On-scene Coordinator, and receives input from DNR and ADF&G, who “*each have authority to represent and protect their respective interest for incidents that may threaten or affect cultural and historic sites, state parks and recreation areas, state forests, state refuges, sanctuaries, and critical areas, or other state lands under their respective management authority and provide input to the State On-Scene Coordinator and the COTP.*” (Annex O, Guidelines for Places of Refuge Decision-making, p.4.)

While the initial identification of potential anchorages is understandably an issue for nautical experts, we feel that resource managers and the public should also have the opportunity for meaningful input. ADF&G, DNR, State Parks, USFS, and USFWS trustees face considerable threats to resources they are entrusted to manage in a situation involving pollution from a discharging vessel. Yet, so far as we can tell, they have not to date had much say in pre-identifying sites, omitting sites from the list, ranking or qualifying sites, providing extensive site information, or suggesting additional mitigation measures to protect local resources near PPORs. **We do not understand at what juncture—between the initial pre-identification of sites and a final decision to use a site as a POR—management agencies will exercise their authority to protect the resources they are mandated to protect.** Active participation calls for much greater involvement than simply attending workgroup meetings. It does not seem reasonable or effective for this “significant participation” to occur only after a vessel incident has occurred, *and* if there is time for the COTP to activate a Unified Command, *and* if there is time for the UC to consult with appropriate agencies.

Clearly, *now* is the time to bring interested parties together. In the wake of the Exxon Valdez oil spill and its devastating aftermath, biologists, natural resource managers, maritime experts and industry professionals should work together to create state-of-the-art contingency plans. In the absence of this type of effort, we fear that the PPOR plan serves more to diffuse the COTP’s liability for a poor decision (through last-minute consultation) than it seeks to avoid that poor decision (through advance planning and real-time updating/amendment of plans).

The ARRT decision-making guidelines state that the PPOR document should be reviewed by the public prior to inclusion in the appropriate subarea contingency plan (Annex O, p. 15 Appendix 3.) Given the importance of PWS to a large number of Alaskans, we expected a reasonably well-publicized public comment period to have been conducted. In-depth review by agency professionals should also take place, presumably during this period. We question whether this has occurred.

2) **The concept and consequences of “pre-identification” of PPOR sites needs clarification.** Taken together, the “pre-identification” of PPOR sites and collection of logistical information about them for the PPOR document has the effect of placing these sites at greater risk for actual use as a POR. We make this point after being repeatedly informed that the POR process is simply an information collecting project and that no sites have been pre-approved for actual use. However, as we understand the process, after sites have been pre-identified, no provisions exist for a secondary process in which resource agencies or the public can provide guidance as to which of the sites identified as physically capable of being used should actually be considered as *acceptable* for use, and under what circumstances. For instance, a bay that might be acceptable in a life-threatening emergency may not be the preferred choice given a less dire situation.

We believe that the risk associated with pre-identification has been downplayed. This is particularly true for Jack Bay and other PPORs located in the vicinity of the tanker shipping lanes, given the limited number of pre-identified sites suitable for a deep draft vessel. **Given this increased risk level for PPORs, we argue that “pre-identification” qualifies as an “action,”—not merely information acquisition--and should be accompanied by more focused attention on the potential impacts resulting from the actual use of these sites, including:**

- a. **an expanded assessment of at-risk qualities and resources in and near PPORs;**
- b. **a contingency plan, developed with substantial agency participation, that provides guidance on which of the PPORs should receive highest priority protection; and**
- c. **expansion and improvement of GRS plans to protect sensitive resources in the vicinity of PPORs.**

These measures are discussed further below.

3) **The lack of guidelines to help prioritize resource concerns, combined with the site selection process laid out in the ARRT’s “Guidelines for Places of Refuge Decision-Making” may result in a poorly-informed judgment, especially during a vessel emergency requiring rapid response.** As we understand the POR decision-making process described in Annex “O,” after individual PPOR sites are pre-identified, there is no provision to refine information about which sites are more or less sensitive, more or less valuable to the public, etc., and no recommendations provided to the COTP based on collaboration by knowledgeable resource specialists. Instead, critical resource protection decision-making appears to rely on the real-time assembly and communication of information that has never been consolidated into a considered response plan. And, this is a best-case scenario: *if* sufficient time exists, the COTP will activate a Unified Command, which will—*if* time exists—consult with resource agencies and other stakeholders to collect up to date information about which sites are most sensitive, at greatest risk, etc., and otherwise the COTP may make a rapid decision on his/her own, without the benefit of consultation. Although real-time consultation is clearly desirable, basing the fundamental

decision-making process on successful last-minute conferral does not seem to us to be the best way to safeguard the priceless natural resources of PWS.

The idea that information will flow smoothly and quickly through the necessary channels at the time of a high-stress emergency seems problematic. **The very complexity of the exercise—as well as the severity of the consequences of a poor decision—argues for some form of basic contingency plan for natural resource protection.** Such a plan would not limit the options of the COTP or reduce the value of real-time consultation with stakeholders. To the contrary, it would provide better, more carefully considered recommendations as a foundation for rapid real-time revision, reassessment, etc. In the event of an emergency requiring rapid response, without time to activate a Unified Command or consult with stakeholders, it would provide guidance for the COTP, and reduce his liability for decisions that are likely to be closely scrutinized under any scenario. As it exists, the complex, tiered consultation process described in the “decision-making guidelines” may serve to diffuse the COTP’s legal liability for decisions more than it provides “best information and professional judgment” regarding resource protection.

Resource agencies themselves do not necessarily have clearly defined recommendations for spill response, and the development such recommendations would benefit the preparedness of spill responders in PWS. Information summarized into a basic plan, general guidelines, or a range of suggestions before a time of need are likely to lead to better outcomes in the event of a spill. We encourage planners to assemble necessary detailed information on which to base resource protection *before* it is needed, and put it at the fingertips of decision makers in the form of general recommendations to minimize impacts to the highest priority biological processes, sensitive habitats, subsistence, sport and commercial harvest areas, and recreation sites.

Creating a baseline plan, it seems to us, has several distinct advantages over the proposed scheme of having pre-identified PPOR sites that will be evaluated only at the time of an incident. First, prioritization of PPORs based on resources present, risk level, logistical suitability as a POR, etc., can be openly discussed by a broad range of stakeholders with ample time for consensus building; this is more participatory and transparent than the existing design, which appears to suffer from under-representation of resource managers and other public interest representatives. Second, gaps in basic biological resource information for PPORs can be identified and filled before an emergency exists. And third, in the event that the Coast Guard or Unified Command is unable to consult with some or all of the lengthy list of stakeholders listed in the ARRT’s Annex O, a baseline plan certainly seems to fulfill the desire for “best available information and best professional judgment” better than no plan.

4) The site information presented in the PPOR requires greater scope and depth for responsible decision-making with reference to protection of

natural resources. The Site Assessment Matrix (Table H-2), Maps, and associated Site Information Tables, provide a useful summary of important natural- and social resource information, *but a summary only*. No attempt is made to place the site information in a context of local or regional importance, such as the existence of resources that influence Sound-wide biological processes, or presence of exceptional features, and no attempt is made to provide any manner of prioritization for use or avoidance, including seasonal sensitivities. In a vessel emergency where environmental damage is inevitable, triage principles necessitate the weighing of options to make difficult decisions. These decisions should be based on extensive, accurate information.

Many PPORs are located in sites that are identified as having biological resources of outstanding importance in the “Prince William Sound Biological Hot Spots Workshop Report,” prepared by the National Wildlife Federation and biological resource agencies. Also, many sites are located in areas that were specifically chosen for priority protection by the Geographic Response Strategy (GRS) process. Inclusion of this type of “big picture” information into PPOR decision making calls for more information and synthesis (from agencies and other professionals) and for a format capable of containing type of information, which should include recommendations on how to minimize impacts to key resources.

The site summaries also suffer from a lack of important information for sites with which we are personally familiar. We discuss shortcomings specific to Jack Bay, below, but recognize similar problems for other sites. For example, Heather Bay is an important recreational site of special importance to sea kayakers and commercial kayak touring operators in Valdez, and is adjacent to the Columbia Glacier, a site of international acclaim; Sheep Bay was identified as one of three exceptionally important biological sites in PWS by ADF&G, and also as a Biological Hot Spot. These properties/conflicts are not identified in the PPOR site information tables.

Pre-identified sites should receive a more thorough assessment so that the real value of the resources placed at risk are known and so that sites can be prioritized, and protected to the greatest extent possible. The rationale for this approach is apparent, when one compares a map of PPORs with that of PWS biological hot spots, and with other maps depicting sensitive areas. Of the four protected, deep draft PPORs identified between Hinchinbrook Entrance and Port Valdez all four are known to contain sensitive wildlife habitats and existing GRS plans (Zaikof Bay, Port Etches, Outside Bay and Jack Bay), and the first three are listed as “hot spots.” We do not have the expertise to rank these important resource areas, but point out that each is regionally significant and merits careful contingency planning before use as a “sacrificial bay.” The active, advance participation of professionals can help provide guidance as to how to compare the relative merits of these sites. Equally important, we suggest making an effort to identify “least impact” options, such as using those PPOR sites that appear to have lesser resource value, (e.g., McPherson Bay) or sites where the presence of extensive

spill response equipment can reduce environmental impacts (e.g., sites in Port Valdez.) These may be better choices for actual use.

Prince William Sound is a region of global significance largely because of its natural resources. It is managed primarily to protect and utilize these resources, and local economies are reliant on the continued health and quality of natural resources. With the type of thoughtful, advance input recommended above, the COTP will be in the defensible position of having made decisions based on the “best information and best professional judgment” with respect to natural resources. While the USCG and DEC are concerned largely with matters of vessel operations and safety, it seems entirely appropriate for resource managers and professionals to take a large role in preparing information and resource-based recommendations for those who will ultimately make decisions about vessel emergencies.

5) Provisions to protect resources in the proximity of PPORs should be enhanced and expanded, given the likelihood of heavy local impacts to these often sensitive and important locations. The PPOR documents call for the development of GRS for PPOR sites where they do not already exist. We are concerned that the level of protection afforded by existing GRS in PPOR sites is not adequate for the potentially concentrated impacts likely to occur in the proximity of a discharging vessel. Jack Bay is an excellent case in point, where only one of four environmentally sensitive estuaries and stream mouths are protected. Private lands and EVOSTC conservation property also are not identified or protected in the GRS, as discussed below. **We urge that significantly improved GRS be developed for all pre-identified PPORs, but especially those deemed to be at greatest risk (most likely to be used, most sensitive/valuable resources at stake, highest exposure to pollutants, etc.)**

Given the small number of pre-identified PPOR sites that are reasonably likely to be considered for use as a POR for a leaking tanker and the potential for extreme environmental damage resulting to sites in the vicinity of POR anchorages, careful attention and the best available protection of at-risk resources seems fully warranted, including significantly expanded spill response materials available for these sites. **It would be inexcusable for damage to result to the local environment of a PPOR because inadequate response planning and equipment had been devoted to these high risk areas.**

Given the generally poor level of resource protection/pollutant recovery associated with spills in Alaska, we stress the fact that good spill response planning should be required for PPORs...but in no way justifies inappropriate selection of higher value PPOR sites when less sensitive options exist.

Specific Comments Relevant to Jack Bay

Jack Bay has been pre-identified as a PPOR suitable for a deep draft vessel, it is adjacent to the heavily used tanker lanes, and it is also quite close to a number of

PPORs in Port Valdez. Thus, the question of whether Jack Bay or Port Valdez would be chosen in time of need looms large--particularly in the event of an accident resulting in serious vessel discharge. **We recommend that the COTP attempt to restrict impacts resulting from commercial vessel activities to the vicinity of the industrial area surrounding the Valdez Marine Terminal, insofar as conditions permit. This is based both on the availability of spill response equipment and numerous other services present in the Port, and on the principle of reducing the footprint of industrial activities in PWS.** To the extent that conditions permit a range of decisions to be made at the time of a vessel incident, this choice represents an important social issue that extends beyond questions of maritime law, the COTP's authority, and logistical issues. It deserves to be discussed in a larger context, among a broader audience.

The oil shipping industry has considerable presence and influence in the arena of contingency planning, and their interests may differ markedly from that of the public at large. Specifically, we are concerned that there will be intense pressure on the COTP and other decision makers to avoid disruption to vessel traffic in the vicinity of the Valdez Terminal. We fear that this pressure could easily result in the use of Jack Bay as a POR, rather than pre-identified sites in Port Valdez. **We would like to see resource agencies provide the COTP with clear recommendations concerning protection of natural resources, and we suggest that the PPOR document is the appropriate place for these recommendations to be recorded.**

After review of PPOR Project Supplement, we feel that Table H-2 and the site information tables and map for the Jack Bay PPOR do not provide sufficient information to allow the COTP/Unified Command to make an informed decision, especially if the incident requires immediate action. As in our first letter (dated 22 August 2004), we offer the following comments and information specific to the Jack Bay PPOR in hopes of improving the overall planning and decision process.

1) The Exxon Valdez Oil Spill Trustee Council (EVOSTC) conservation lands on the south shore of Jack Bay are not mentioned in the Jack Bay PPOR maps or tables. In our previous letter to the COTP, we discussed the EVOSTC-acquired lands on the south side of Jack Bay. These lands stretch from the vicinity of Tongue Point eastward across Levshakoff and Gregoreoff Coves, to a point contiguous with private land. This four-plus miles of shoreline and uplands were purchased at considerable effort and expense by the EVOSTC, with cooperation and assistance from the U.S. Forest Service Chugach National Forest (USFS), DNR, Alaska Wilderness Recreation and Tourism Association, and The Nature Conservancy.

The USFS Cordova Ranger District has management responsibility for this property per the terms of a conservation easement that is held by DNR (Valdez Recorder's Office, 2003-000332-0; we will be happy to provide copies to

interested parties). The conservation easement states that "the United States and the State of Alaska intend to preserve and protect the Protected Property in perpetuity in order to restore, enhance, and rehabilitate natural resources injured by the Exxon Valdez oil spill and the services, including recreation, tourism, and sport hunting and fishing, provided by those natural resources." The salmon spawning in Gregoreoff and Levshakoff Creeks, primarily in and just above the intertidal zone, comprise the single most important biological attribute of this property, as the salmon, their decomposing carcasses, eggs, and fry provide the nutrient base for a large proportion of other biological productivity and diversity both on the Protected Property and for the Jack Bay area, as a whole. We note that the recreational value of Jack Bay, and attendant economic benefits to Valdez, are also closely tied to the salmon runs.

Among the disturbances prohibited by the easement, we note:

a. (v) manipulating or altering natural water courses, shores, marshes, or other water bodies or activities or uses detrimental to water purity on the Protected Property.

and

b.(ii) the dumping of garbage, trash, or hazardous materials.

We wish to make the COTP/Unified Command aware of the EVOSTC conservation easement and request that they give this land a high priority for protection if or when it becomes necessary to select a PPOR. In order for this prioritization to have a lasting effect, it must somehow be stated in the PPOR document; again we note that, as written, this type of information is not readily contained by the document format. We would also reiterate our contention that "pre-identification" of Jack Bay as a PPOR *does* constitute a Federal action, with predictable impacts in the event that it is used as a POR. And, in light of the expressed responsibility Federal and State agencies have to safeguard the resources they are entrusted to manage (see general comment 1, above), we request that they make protection of the EVOSTC property a priority by informing the USCG of the conflict between actual use of Jack Bay as a POR (if vessel discharge is reasonably predictable) and enforcement of this easement.

2) We have discussed in our previous letter the strong north-northeasterly winds that affect the two pre-identified anchorages and grounding site. These PPOR sites are all close to, and upwind from the EVOSTC Protected Property. It is highly likely, given the weather and sea condition limitations of oil spill countermeasures (see Fingas 2004), that any vessel discharge emanating from these sites will impact the EVOSTC Protected Property. Salmon and the highly sensitive spawning habitat associated with this property are especially susceptible. This is due to both the physical location of spawning habitat within the intertidal and adjacent upstream areas and the life history attributes of

salmon which cause them to be present throughout the year in various life stages.

To date, we are not aware that the USFS or DNR has brought the EVOSTC easement up for discussion at workgroup meetings or, if so, what conclusions were made.

3) Jack Bay is a public resource of regional significance because of its inherent properties, recreational value, and ease of access by small boat operators out of Valdez. Many exceptional areas exist across PWS, but they are largely inaccessible to small boat operators in this region because of sea and weather conditions commonly encountered outside the Port. **We feel the regionally significant importance of Jack Bay as a recreation area is not adequately documented in the PPOR data.** Simply stating that Jack Bay is used for a variety of recreation activities does not satisfy this objection, as it fails to identify the lack of other similar sites in the vicinity, should Jack Bay be impacted through use as a POR.

4) We provided fairly detailed comments in our first letter that cited a variety of reasons why Gregoreoff and Levshakoff Creek Coves and associated estuaries should be protected; however, these areas appear to have been deleted from the original list of sensitive sites in the site information table for map 2, Jack Bay. **We wish to be on record as strongly recommending that these two coves receive special attention, as should Vlasoff Cove and the head of Jack Bay near the mouth of the Naomoff River, all based on the sensitive biological resources they encompass.** Of course the islands and Levshakoff Cove are within the Jack Bay state marine park, and deserve priority protection, as well.

5) The GRS for Jack Bay does not attempt to protect Levshakoff or Gregoreoff Coves and estuaries, or other parts of the EVOSTC property, or the private properties immediately to the east. We urge that, as responsible development of the PPOR program, the GRS be updated and expanded to address these priority sites, and also to provide more complete protection (e.g., a boom across the narrows) for the highly productive Naomoff River estuary.

We do not approve of the storage of spill response equipment in Jack Bay, as this would detract from the natural properties that currently distinguish this important recreation area, such as scenic and other aesthetic qualities of the bay. Spill response equipment is available in nearby Port Valdez.

6) A potential cultural site worthy of mention is one identified by Chugach Natives, Inc. As listed in the DNR Jack Bay Homestead Project files (ca. 1986), Chugach Natives, Inc. filed traditional cemetery and historical site applications for sites on the point between Levshakoff and Gregoreoff Creeks, and the area surrounding the Gregoreoff Creek Cove.

7) Subsistence fishing and sport fishing and hunting are common activities within Jack Bay. Subsistence resources include mussels and spot shrimp collected by landowners in Gregoreoff Cove and along the south side of the bay, respectively. Pink and silver salmon, halibut and rock fish are sought by sport fishers; and black bear and goats entice hunters to the bay. Recreational use is highest during May (shrimping and bear hunting) and June-August (shrimping, fishing, camping at the State Marine Park and USFS cabin, kayaking, hiking). Black bear hunting resumes in September and Goat hunting in October.

8) The following information discusses the biological attributes of Jack Bay which we have attempted to summarize in an attached table. Some of this information has been captured in the Prince William Sound Subarea Plan (SCP) and the National Oceanographic and Atmospheric Agency Environmental Sensitivity Index Maps. However, much of the information presented in these documents is not readily available or lacks sufficient detail to provide much help to COTP/Unified Command decision makers, particularly during an emergency, when time is of the essence. In addition, after reading the PPOR Supplement we must assume that the data found in the PPOR and SCP will be, under certain circumstances and without input from outside agencies, all of the information available to the COTP/Unified Command from which to select a PPOR. In an effort to supplement the base of available information, we offer the following observational data:

a. Vlasoff, Gregoreoff, and Levshakoff Creeks, a small stream adjacent to Gregoreoff called No Name Creek, and the Naomoff River are significant pink and chum salmon spawning streams, and coho salmon spawn in Levshakoff Creek and the Naomoff River. The combined escapement for the five previously mentioned streams based on Alaska Department of Fish and Game aerial index surveys are as follows: even-year pink salmon 31,686 (based on the average of counts conducted from 1964-2002); odd-year pink salmon 28,288 (based on the average of counts conducted from 1963-2001); and chum salmon 11,823 (based on the average of counts conducted from 1963-2003). Because of uncertainties associated with escapement estimates derived using aerial survey methods, these escapement estimates are only used as indicies from which to compare escapement year to year. In reality these estimates likely underestimate actual escapement. Each year ADF&G conducts aerial surveys on at least 208 of the approximately 1,000 streams in PWS. The escapement from Vlasoff, Gregoreoff, No Name, and Levshakoff Creeks, and the Naomoff River represent an important contribution to the area production of wild salmon stocks. The use of intertidal areas versus upstream areas for spawning varies from year to year, with even years generally having more intertidal spawners. The percentage of intertidal spawners has been measured as high as 75% for some streams (Steven Moffitt, ADF&G, pers. comm. 2 Nov 2004).

The adult salmon in the bay, coves, and spawning streams provide a critical pulse of nutrients during the spawning season between June and late September for seals and sea lions, bears, coyotes, and eagles, among other species, while their carcasses perform a similar function for other species during the fall and winter. In spring, the one million plus salmon fry (based on a 45% female ratio, an average fecundity of 1500 eggs/female, and a 0.05 % egg to fry survival) that move into the estuaries and nearshore environment of Jack Bay provide an important food source for sea ducks, alcids, and other diving birds, as well as for other fish. We mention this to highlight the critical importance of salmon in the local food web. Salmon are vulnerable to oil spill and other pollution throughout the year, as spawning adults (June-Sept), as eggs (July-Feb), and as fry and juveniles (March-July).

b. Levshakoff Creek estuary has a broad, sandy intertidal zone with abundant bivalves and eel grass beds. In addition to sea otters, harbor seals, river otters, and sea lions, we note the importance of this broad, low-gradient intertidal basin to a variety of diving birds, including diving and dabbling ducks, geese, grebes, and alcids, possibly due to the local abundance of marine mollusks in the sediments. Note that the more extensive tidal flats of the Naomoff River are ice covered during the winter months, increasing the local fauna's reliance on the shallow waters found in Levshakoff, Gregoreoff, and Vlasoff Coves during the winter.

c. Resident and transient killer whales use Jack Bay, and a juvenile transient killer whale was observed preying on a sea otter in the outer part of Gregoreoff Cove.

d. Birds: four loon species have been observed between Gregoreoff Creek and the Jack Bay islands (Yellow Billed, on four occasions; Common, Pacific, and Red-Throated frequently). Loons are present in small numbers throughout the year.

Horned and Red necked Grebes are seasonally common in the shallow waters between Gregoreoff and Levshakoff Creeks.

Cormorant species: Pelagic and Double-crested Cormorants are common in the deeper waters off Gregoreoff Cove and especially around the islands and between islands and Vlasoff Creek.

Alcids: Marbled Murrelets are abundant during summer and present in lower numbers through winter. Common Murres are abundant during winter. Pigeon Guillemots are common during spring and summer.

Gregoreoff Creek and Gregoreoff and Levshakoff estuaries are known to be important for Harlequin Duck breeding: Gregoreoff Creek had the highest

nesting density of 23 streams surveyed in the eastern PWS during an ADF&G study, and Levshakoff Creek cove provides an important shallow foraging site for Harlequin Ducks (ADF&G study, 1991-93; Dave Crowley, pers. comm.) and other diving ducks. During the past decade, we have commonly observed from several to over twenty Harlequin Ducks in both Gregoreoff and Levshakoff Coves; these ducks are present to varying degrees in all seasons.

Diving ducks (other than Harlequin): Barrows Goldeneye, Bufflehead, Scoter species and Common and Red-breasted Mergansers are abundant. Several hundred ducks are present in Jack Bay, foraging largely in the shallow waters of Vlasoff, Gregoreoff, and Levshakoff Coves. They are especially concentrated near stream mouths during the spring, as the salmon fry enter salt water. The Naomoff estuary and the upper two miles of bay are commonly frozen from Nov-April, forcing ducks and other birds to seek habitat in the open waters of Vlasoff, Levshakoff and Gregoreoff Coves. Ducks provide important prey for Eagles during winter months.

Canada Geese and Mallards from small, non-migratory populations are present in Jack Bay throughout the year. During the winter months when the head of the bay is icebound, they are most commonly observed in Vlasoff Creek Cove, but also in Levshakoff and Gregoreoff Coves.

Bald Eagles are present all year long throughout the bay. During the salmon runs, high concentrations are commonly observed (as many as thirty individuals can be observed at one time in Gregoreoff Creek and up to 50 have been observed in Vlasoff Creek during salmon spawning season from late June - late September); nest sites are located throughout the perimeter of the bay. Of the known sites one is inland from Gregoreoff Cove, another around the peninsula to the east of the cove. Two nests are located adjacent to private land on south shore east of Gregoreoff Cr.; one nest is located east of USFS cabin and one on the north side of the upper bay; three nest sites are in the vicinity of Vlasoff Creek estuary. A majority of foraging for salmon by eagles occurs within the intertidal estuarine areas in Vlasoff, Gregoreoff, Levshakoff Creeks and the Naomoff River. Occasional foraging can be observed along the shoreline throughout bay.

Great Blue Heron: herons forage regularly along the tide line and in shallow intertidal basins in Gregoreoff and Levshakoff Coves throughout the year; as many as seven herons have been counted during a single observation.

e. Other observations specific to Gregoreoff Creek Cove and Estuary:

River otter: individuals and family groups up to 8 animals every year since 1991, throughout year.

Sea otter: often seen in deeper water beyond the cove; less common in Gregoreoff than in other coves.

Harbor seal: one to three individuals are consistently present in Gregoreoff cove throughout the year.

Black bear: seasonally abundant; use lower reaches of the Gregoreoff Creek and the upper intertidal area around the perimeter of Gregoreoff Cove during spawning season (late June - late September), and present in the salt marsh during spring (May-early June). Gregoreoff Cove is a popular black bear hunting area, due to heavy use by bears and accessibility to Valdez.

Conclusion and recommendations

We intend our comments to be constructive, and hope that they will contribute to the quality of contingency planning in some way.

In conclusion, we are not simply saying, “not in our backyard.” Indeed, we thoroughly approve of the principle of oil spill contingency planning to minimize the risk of future spills, and to reduce social and environmental impacts should a spill occur. And we commend the PPOR working group for developing an impressive plan in a short period of time; theirs is a challenging task in which ideal solutions do not exist. However, we do believe that the current PPOR plan suffers from shortcomings, as listed above, and ask that the best protection that can be developed is developed. Such protection is fully merited by the globally significant resources and values present in PWS, and is a stated intent of the PPOR project.

Projects with this capacity to affect the public interest typically involve environmental impact studies, and we are not convinced that the PPOR project is exempt from NEPA requirements. In the absence of this type of broad review, we recommend, at a minimum, convening a meeting of natural resource professionals, including biologists, resource managers, recreation specialists, and other stakeholders to review the PPOR program and pre-identified sites, provide relevant resource information, and make general recommendations as to how resource damage can be minimized in the event of a significant oil spill. The PWSRCAC should organize the meeting, and the agenda should reflect concerns we and other stakeholders have raised.

Thank you for the opportunity to provide input into this important matter.

Sincerely,

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Fairbanks, AK 99709
(907) 479-5629

email: loubrown@gci.net

Signing for the following Jack Bay landowners:

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Tom Schantz
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Valdez, AK 99686

Jen Steitz
2240 Railroad Dr.
Fairbanks, AK 99708

John and Suzanne Lyle
P.O. Box 83715
Fairbanks, AK 99708

Chuck and Patti Balzarini
30840 Prudhoe Bay Dr.
Eagle River, AK 99577

Richard and Katie Marson
2400 E. 5th Ave.
Anchorage, AK 99501

cc: CDR Mark Swanson, Valdez Marine Safety Office
Larry Iwamoto, Alaska Department of Environmental Conservation
Douglas Mutter, Reg. Environmental Assistant, DOI
Joe Mead, Supervisor, Chugach National Forest
Steve Zemke, Chugach National Forest
Brad Smith, Protected Resources Biologist, NMFS/NOAA
Ann Rappoport, Field Office Supervisor, U.S. Fish and Wildlife Service
Sam Means, Natural Resource Manager, DNR
Chris Degerness, Superintendent, Alaska State Marine Parks
Jack Sinclair, PWS District Ranger, Alaska State Marine Parks
Mark Fink, Habitat Biologist, ADF&G
Steve Moffitt, Cordova Area Research Biologist, ADF&G
Dan Gray, Cordova Area Seine Management Biologist, ADF&G
Stan Stephens, Alaska Wilderness Recreation and Tourism Association

Seasonal presence and relative abundance of sensitive resources occurring in the proposed Jack Bay Potential Place of Refuge, Prince William Sound, Alaska 2004										
Resource Category	Type or Species	Location within Jack Bay	Location within Jack Bay	**Relative Abundance	Season of Observation/Susceptibility	Summer (June-Aug)	Fall (Sept-Nov)	Winter (Dec-Feb)	PWS-SCP Sensitivity Rating	EVOS Recovery Status
Shoreline Geomorphology	Marshes	► Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr.	► Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr.	3	x	x	x	x	Most	
	Exposed tidal flats	► Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr.	► Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr.	4	x	x	x	x	Medium	
	Gravel beaches	► East side Tongue Point, Islands, beaches around Gregoreoff Cr., Naomof R., Vlasoff Cr.	► East side Tongue Point, Islands, beaches around Gregoreoff Cr., Naomof R., Vlasoff Cr.	>10	x	x	x	x	Medium	
Threatened, Endangered and Species of Concern	Steller sea lion	► Main Bay	► Main Bay	Low	x	x	x		Most	
	Harlequin Duck	► Gregoreoff Cr. (nesting area); Levshakoff Cr.	► Gregoreoff Cr. (nesting area); Levshakoff Cr.	Seasonally High	x	x	x	x	Medium	Not recovering
	Marbled Murrelet	► Throughout Bay	► Throughout Bay	Seasonally High	x	x	x	x	Medium	Recovering
Marine Mammals	Sea Otter	► Gregoreoff Cr., Naomof R., Vlasoff and Levshakoff Cr. ► Haul outs: Islands and intertidal rocks	► Gregoreoff Cr., Naomof R., Vlasoff and Levshakoff Cr. ► Haul outs: Islands and intertidal rocks	Low	x	x	x	x	Medium	Recovering
	Harbor Seal	► Islands, south shore, Gregoreoff Cr., Vlasoff Cr., Levshakoff Cr. and Naomof R.	► Islands, south shore, Gregoreoff Cr., Vlasoff Cr., Levshakoff Cr. and Naomof R.	Low	x	x	x	x		Not recovering
	Killer Whale	► South shore near Gregoreoff Cove and private cabins	► South shore near Gregoreoff Cove and private cabins	Medium	x				Least	
Terrestrial Mammals	Black Bear	► Gregoreoff Cr., Naomof R., Vlasoff and Levshakoff Creeks; south shoreline of bay	► Gregoreoff Cr., Naomof R., Vlasoff and Levshakoff Creeks; south shoreline of bay	Medium	x	x	x		Most	
	Brown Bear	► Naomof R., Vlasoff Cr. and uplands	► Naomof R., Vlasoff Cr. and uplands	Low	x	x			Most	
	Marten	► Upland areas surrounding bay	► Upland areas surrounding bay	Low	x					
	Wolverine	► Levshakoff Cr.	► Levshakoff Cr.	Low				x		
	Coyote	► Point south of Vlasoff Cr., Naomof R., and Gregoreoff Cr. and Levshakoff Cr.	► Point south of Vlasoff Cr., Naomof R., and Gregoreoff Cr. and Levshakoff Cr.	Medium	x	x	x	x		
	River Otter	► Throughout Bay; Dens at Gregoreoff Cr. area	► Throughout Bay; Dens at Gregoreoff Cr. area	Medium		x				Recovered
	Deer	► NW of Levshakoff Cr. and Tongue Point	► NW of Levshakoff Cr. and Tongue Point	Low				x		
	Goat	► North side of Vlasoff Cr. estuary	► North side of Vlasoff Cr. estuary	Seasonally High				x		
Avian Species	Common Loon	► Throughout bay	► Throughout bay	Low	x	x	x	x		
	Yellow-billed Loon	► Off east end of Islands	► Off east end of Islands	Low		x				
	Pacific Loon	► Throughout bay	► Throughout bay	Low	x	x	x	x		
	Red-throated Loon	► Throughout bay	► Throughout bay	Low	x	x	x	x		
	Horned Grebe	► Naomof R. and Vlasoff Cr. estuaries, and shallow water between Levshakoff and Gregoreoff Creeks	► Naomof R. and Vlasoff Cr. estuaries, and shallow water between Levshakoff and Gregoreoff Creeks	Seasonally High	x	x	x	x		
	Red necked Grebe	► Naomof R. and Vlasoff Cr. estuaries, and shallow water between Levshakoff and Gregoreoff Creeks	► Naomof R. and Vlasoff Cr. estuaries, and shallow water between Levshakoff and Gregoreoff Creeks	Seasonally High	x	x	x	x		
	Pelagic Cormorants	► Central bay, west side of Islands, Vlasoff Cr. estuary	► Central bay, west side of Islands, Vlasoff Cr. estuary	High	x	x	x	x		Not recovering
	Double-crested Cormorant	► Central bay, west side of Islands, Vlasoff Cr. estuary	► Central bay, west side of Islands, Vlasoff Cr. estuary	High	x	x	x	x		Not recovering
	Pigeon Guillemot	► Throughout bay	► Throughout bay	Seasonally High	x	x				Not recovering
	Common Murre	► Throughout bay	► Throughout bay	Seasonally High	x	x	x	x		Recovered
	Black-legged Kittiwake	► Naomof R. estuary; throughout bay	► Naomof R. estuary; throughout bay	Seasonally High	x	x				
	Glaucous-winged Gull	► Throughout Bay	► Throughout Bay	Seasonally High	x	x	x			
	Mew Gull	► Throughout Bay	► Throughout Bay	Seasonally High	x	x				
	Bonaparte's Gull	► Throughout Bay	► Throughout Bay	Seasonally High	x	x				
Arctic Tern	► Throughout Bay	► Throughout Bay	Seasonally High	x	x					
Great Blue Heron	► Gregoreoff Cr. estuary	► Gregoreoff Cr. estuary	Medium	x	x	x	x			
Avian Species	Canada Geese	► All Coves and Upper Bay	► All Coves and Upper Bay	High	x	x	x	x		

	Mallards, American	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Medium to High	x	x	x	x		
	Gadwall, Northern S	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Low to Medium						
	Barrow's Goldeneye	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	Common Goldeneye	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	Bufflehead	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	Scaup species	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	Surf Scoter	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	White-winged Scoter	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	Seasonally High	x		x	x		
	Common Merganser	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	High	x	x	x	x		
	Red-breasted Merga	▶ All Coves and Upper Bay	▶ All Coves and Upper Bay	High	x	x	x	x		
	Bald Eagle	▶ Feeding sites: Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr. estuaries	▶ Feeding sites: Gregoreoff Cr., Naomof R, Vlasoff Cr. and Levshakoff Cr. estuaries	High	x	x	x	x	Most	Recovered
		▶ Nest sites: Upper bay N and S shore, Mid-bay N and S shore, and Islands	▶ Nest sites: Upper bay N and S shore, Mid-bay N and S shore, and Islands	Low	x	x	x			
		▶ Roost habitat: area surrounding bay	▶ Roost habitat: area surrounding bay	Medium	x	x	x	x		
	North Western Crow	▶ Vlasoff and Gregoreoff Creek estuaries	▶ Vlasoff and Gregoreoff Creek estuaries	High	x	x	x			
	Common Raven	▶ Throughout Bay	▶ Throughout Bay	Medium	x	x	x	x		
	Belted King Fisher	▶ South side Upper bay	▶ South side Upper bay	Low		x				
Anadromous Fish	Pink Salmon	▶ Gregoreoff Cr., Naomof R., Vlasoff Cr. No-Name Cr. (ADFG stream 122), and Levshakoff Cr.	▶ Gregoreoff Cr., Naomof R., Vlasoff Cr. No-Name Cr. (ADFG stream 122), and Levshakoff Cr.	* Combined avg. (x Even-Year (31,686 pink) Odd-year (28,288 pink)		x	x	x	Most	Recovered
	Chum Salmon	▶ Gregoreoff Cr., Naomof R., Vlasoff Cr. No-Name Cr. (ADFG stream 122) and Levshakoff Cr.	▶ Gregoreoff Cr., Naomof R., Vlasoff Cr. No-Name Cr. (ADFG stream 122) and Levshakoff Cr.	* Combined avg. (x 11,823 chum		x	x	x	Medium	
	Coho Salmon	▶ Levshakoff Cr. and Naomof R.	▶ Levshakoff Cr. and Naomof R.	Medium		x				
	Chinook Salmon	▶ Central Bay	▶ Central Bay	Low						
Human-Use										Recovering
Recreation	Camping	▶ State Marine Park mid-bay; USFS Cabin Upper bay; Kayak camping along north and south shorelines of bay	▶ State Marine Park mid-bay; USFS Cabin Upper bay; Kayak camping along north and south shorelines of bay	High		x			Medium	
	Public moorings	▶ State Marine Park	▶ State Marine Park	Medium		x			Medium	
	Anchorage	▶ Throughout Bay, especially in vicinity of Islands and Vasloff Cove	▶ Throughout Bay, especially in vicinity of Islands and Vasloff Cove	Medium						
	Wildlife/Scenic View	▶ Throughout bay, especially in coves and in vicinity of spawning streams	▶ Throughout bay, especially in coves and in vicinity of spawning streams	High		x			Medium	
	Kayaking/Diving	▶ Throughout bay	▶ Throughout bay	Medium		x			Medium	
	Sport Fishing	▶ Throughout bay	▶ Throughout bay	High		x			Medium	
	Shrimping	▶ North side lower bay; adjacent to Islands	▶ North side lower bay; adjacent to Islands	High	x	x	x			
	Hunting	▶ Naomof R., Vlasoff Cr. and Gregoreoff Cr.	▶ Naomof R., Vlasoff Cr. and Gregoreoff Cr.	Low						
Subsistence	Shrimping	▶ Lower bay, south side mid-bay	▶ Lower bay, south side mid-bay	Low	x	x	x			
	Mussel collecting	▶ Gregoreoff Cove	▶ Gregoreoff Cove	Low	x	x	x			
Private Land		▶ South side mid-bay; Gregoreoff Cr. and east	▶ South side mid-bay; Gregoreoff Cr. and east		x	x	x	x		
EVOS Land		▶ South side from Tongue Point to Gregoreoff Cr.	▶ South side from Tongue Point to Gregoreoff Cr.		x	x	x	x		
State		▶ Marine State Park around Islands and north shore; some land mixed with private land east Gregoreoff Cr.	▶ Marine State Park around Islands and north shore; some land mixed with private land east Gregoreoff Cr.		x	x	x	x		
USFS		▶ Majority of land surrounding bay	▶ Majority of land surrounding bay		x	x	x	x		
* Pink and chum salmon escapement data provided by ADF&G 2004 ** Relative abundance judged as Low (1-3), Medium (<10), High (>10)										

22 August, 2004

Commander Mark Swanson
Captain of the Port
U. S. Coast Guard
Marine Safety Office
Valdez, AK 99686

Dear Commander Swanson:

We are writing in regards to the Potential Places of Refuge Project (PPOR) as it concerns Jack Bay and nearby areas of Prince William Sound. We are private landowners in Jack Bay, and are worried about serious repercussions the results of this planning process may ultimately have on our properties and lives. As substantial as these personal concerns may be, however, our interest in this matter reaches far beyond our own well being.

For more than a decade, Jack Bay landowners have worked with state and federal agencies, as well as the City of Valdez and a number of public interest organizations, to develop and improve management strategies that protect the natural qualities present in Jack Bay, and to preserve these qualities for public enjoyment. There have been several occasions in which there have been potential threats to the current high standards of ecological health or scenic qualities of Jack Bay, and each time we have found broad-based public and agency support for renewed protection of the bay, due to its physical beauty, proximity to Valdez, popularity among a wide array of recreational users, and highly productive marine and terrestrial habitats. Thus, we write out of a personal interest, but also with a long-standing and demonstrated concern for the public good, combined with considerable collective experience regarding a variety of issues affecting Jack Bay.

Recently, we received a letter from the Prince William Sound Regional Citizens Advisory Council (PWSRCAC), bringing to our attention the Places of Refuge Project, the recent diesel spill in Jack Bay, and the oil spill training exercises being conducted by Alyeska Pipeline Ship Escort and Response Service (SERVS) and the U.S. Coast Guard. We appreciate and commend this outreach to interested parties, and look forward to improved communication in the future. We also encourage the full participation of other local stakeholders, such as the communities of Tatitlek and Ellamar, Chugach National Forest, and State Marine Parks.

We have not had sufficient time to research the issues adequately, but are writing at this time because we are concerned that the planning process appears to have reached a high degree of specificity and inertia without first attaining substantially greater input from affected parties, including the major Jack Bay land owners, Chugach National Forest and State Marine Parks. We offer the following as preliminary comments, some general and others specific:

1. We are puzzled that Jack Bay, an area with so many compelling reasons to avoid contamination and disturbance of the physical and biotic environments, should have been selected as one of a relatively few sites where a distressed large vessel (oil tanker or cruise ship, with the potential for creating serious and chronic pollution) should be anchored or even grounded, without much greater attention given to potential environmental and social impacts.

While there may never be “good” places to anchor a leaking vessel, some areas are likely to suffer greater harm and more lasting damage, and affect a wider segment of the public than others. The cursory information provided on the PPOR Jack Bay map and data sheet does not represent an adequate assessment of site considerations or resources at risk. We offer the following as an initial summary of resources, qualities, and management concerns.

Jack Bay is one gem among many in Prince William Sound, but it is unique in the Valdez area by virtue of its proximity to the port, and it is irreplaceable in terms of its contribution to the recreational value of the Valdez area. A large number of boaters using the Valdez small boat harbor launch light craft that are not suitable for traveling the length of Valdez Arm or for the open waters of Prince William Sound. Jack and Sawmill Bays are the two most popular destinations for small boat users seeking solitude and a scenic natural setting. Jack Bay receives recreational use throughout the year by local residents and landowners, while the heaviest non-resident use occurs during the August silver salmon run. Recreational activities here, as well as the commercial salmon fishery, contribute significantly to the Valdez economy. Jack Bay has been the focus of considerable conservation attention by land management agencies, public interest organizations, and local landowners over the past decade, all dedicated to protecting the outstanding recreational and fish and wildlife resources present here.

Jack Bay offers impressive scenery, and is frequented by pleasure boaters, fishermen, hunters, wildlife viewers, kayakers, and campers, skiers and mountaineers, among other recreational users. Four major anadromous fish streams produce pink, chum, and silver salmon, making a substantial contribution to the regional wild stock of salmon. Jack Bay is a major commercial salmon seining area. Bald Eagles, harbor seal, black and brown bear and other wildlife rely on spawning salmon for part of their annual foraging requirements, while many other species prey on the salmon fry. Sea otters, Stellar’s sea lions, and orcas also use the bay. These and other species have healthy populations that contribute greatly to the public enjoyment of these lands. There are many eagle nests and an additional seal haul out not depicted on the PPOR map.

The Jack Bay State Marine Park on the north side of the bay encompasses the islands, cove, and north-west trending peninsula at the mouth of Vlasoff Creek. The hardened camping site on the islands receives much public use, as do the waters between the islands and the creek mouth. Vlasoff Creek provides important Bald Eagle and brown and black bear habitat, silver salmon spawning, and the cove is an important year-round foraging site for piscivorous diving birds, including (in various seasons) Marbled Murrelets, Common Murres, Pigeon Guillemots, cormorant, loon, and grebe species, and diving ducks such as Barrow’s Goldeneye. Flocks of non-migratory Mallards and Canada Geese use the shoreline environment throughout the year. We have counted as many as fifty Bald Eagles in this cove during September. The steep south-facing slopes on the west side of the cove provide important, localized low-elevation mountain goat wintering habitat.

The Naomof River, at the head of Jack Bay, includes extensive salt marsh habitat used by brown bears and many other species. This is the largest producer of pink and silver salmon in the bay. The delta and large intertidal zone are an important sea otter and harbor seal foraging area, and are adjacent to the Chugach National Forest Jack Bay public use cabin, which receives frequent recreational use during the summer.

Gregoreoff and Levshakoff Creeks on the south side of Jack Bay are clear water spawning streams which are important for local Harlequin Duck populations (ADF&G/EVOS Harlequin Duck Study 1991-1993). This species was heavily impacted during the Exxon Valdez oil spill, and has been recovering slowly in Prince William Sound. Bald Eagles, Great Blue Herons, diving

ducks, harbor seals, sea otters, river otters, black bears, and many other species use these two stream mouths. We have counted over thirty adult and immature eagles at one time in Gregoreoff Cove. These two creek mouths and associated coves, intertidal areas and estuaries were considered to be such sensitive and valuable habitat that the Exxon Valdez Oil Spill Trustee Council (EVOSTC), US Forest Service, DNR State Parks, and The Nature Conservancy negotiated with the University of Alaska for eight years to purchase a 940 acre parcel that encompasses over four miles of convoluted coastline. This property is now protected by a strict conservation easement (see # 2, below), and the remainder of Chugach National Forest lands in Jack Bay are designated “back country non-motorized,” in attempt to conserve natural resource and recreation values.

During the mid-1980’s the state offered ten 20-acre homestead parcels in Jack Bay to the public. Given the effort owners have invested to construct cabins on these remote homesteads, these lands are not only valuable, they are priceless to the owners. Some cabins have been used as year-round residences, while others are inhabited less frequently. Three of the private parcels abut Jack Bay, and there are two residential cabins close to, and visible from the water. The owners of all three shoreline properties are currently negotiating a conservation easement to limit excessive future development, in order to protect the long-term public enjoyment of Jack Bay. Land owners moor their boats and access their properties from Gregoreoff Creek Cove eastward for approximately one and one-half miles

There are no docks or other shoreline modifications, contrary to the PPOR-02 Site Considerations statement. The site assessment matrix Table H-2 should be changed to recognize the close proximity of the southernmost proposed anchorage to private property and residences. Short-term contamination of this area, use of containment boom, etc., could directly impact access and subsistence activities (e.g., fishing, shell fish harvest, hunting) for residents, while persistent degradation could reduce property values, and raises the question of liability and reparations.

2. The PPOR plan would substantially conflict with existing Federal and state conservation and land management objectives in Jack Bay. Within Table H-2, Site Assessment Matrix for the Jack Bay PPOR, the column for “Conflicting Uses,” lists: subsistence, commercial fishing, anchorages, sport fishing, and recreation. In addition to these, we would like to bring up the following management plans/easements that provide a legal framework and guidance for allowed uses of public lands in Prince William Sound: the State Prince William Sound Area Plan, including state marine parks; the Chugach National Forest Management Plan; and the EVOSTC-purchased conservation area, now owned by the USFS with a conservation easement held by DNR. These conflicts seem to us to be a serious issue.

The Prince William Sound Area Plan provides a clear management directive for the state-owned tidelands and uplands in Jack Bay, including the Jack Bay State Marine Park, with an emphasis on maintaining wildlife habitat and public recreation values present (PWS Area Plan pp. 3-183-188). We believe that the PPOR program’s proposed use of Jack Bay conflicts with the Plan’s stated intent sufficiently to require the Plan to be modified. This would require approval of the commissioner of DNR, as well as approval by other affected agencies, and a public review process. It is not clear to us how the US Forest Service’s “backcountry” management prescription would be affected by the PPOR plans, but certainly there are potential conflicts here, as well. Pollution of marine waters and the intertidal zone unavoidably impacts supratidal habitats and wildlife populations, as well.

The EVOSTC parcel merits particular attention, as it is our understanding that both the Forest Service and DNR are required to manage and protect these lands as per the conservation easement placed on the land by the Nature Conservancy (Valdez Recording District 2003-000332-0, pp. 2-3).

The Grantee [DNR] shall be entitled to enforce on a non-exclusive basis the terms of the following restrictive covenants against the Grantor, its successor, or assigns [USFS]:

- a.(v) manipulating or altering natural water courses, shores, marshes, or other water bodies or activities or uses detrimental to water purity on the Protected Property.
- and
- b. (ii) the dumping of garbage, trash or hazardous materials.

Without claiming legal expertise, we believe that the Forest Service and DNR have an obligation to prevent situations where pollution of the actual easement lands (i.e., above mean high tide) and proximate (intertidal) lands occurs as a reasonably foreseeable result of a policy or proposed action. *All* public lands in Jack Bay are currently managed to protect their recreational and habitat values, but it would be particularly ironic for the EVOSTC acquired land to suffer from predictable and preventable pollution, given the intent of the Trustee Council to provide lasting protection to injured species and key habitats, as well as to support the restoration of commercial fishing, subsistence, recreation, and tourism, all of which are dependent upon healthy productive ecosystems. The Trustee Council spent more than one-million dollars to purchase this land.

A discussion of these lands on the south side of Jack Bay would not be complete without mentioning the affect prevailing winds are likely to have on the dispersion of oil or other floating pollutants on the bay. Table H-2, Site Assessment Matrix for the Jack Bay PPOR in the Prince William Sound Subarea states that the exposure to winds and seas is east within the Bay, this is not accurate as winds are generally north to north east from October through April and west to south west during the remainder of the year. During periods when a marked pressure gradient exists across the Chugach Mountains and coastal Prince William Sound, strong northeasterly winds and gusty down drafts in excess of 25 knots often emanate from Vlasoff Creek valley and spill down off the ridge along the entire north side of the bay between Vlasoff Creek and Valdez Narrows. These conditions frequently persist for days or even weeks during the winter months, and will have the effect of blowing any uncontained spills in the direction of private land and the USFS/EVOSTC conservation area, including the sensitive habitats within Levshakoff and Gregoreoff estuaries.

Tim Robertson of Nuka Research and Planning Group, LLC., an expert in oil spill response, stated during a conversation with Jon Miller that at wind speeds greater than 25 knots, containment boom becomes ineffective. Both of the two potential anchorages identified on the PPOR Map 02 of Jack Bay shows that, in the event of a discharge from a vessel, the entire EVOSTC coast line and private properties would be at great risk during the common periods with strong north/northeasterly winds. In summer the prevailing winds would tend to push uncontained spills in the direction of the State Marine Park and the sensitive estuarine, intertidal, and salt marsh habitat areas of Vlasoff Creek and the Naomoff River.

3. Because the PPOR is a Federal action that has the potential to significantly affect the quality of the human environment it falls under the requirements of the National Environmental Policy Act (NEPA). It is our interpretation that the Potential Places of Refuge

(PPOR) document constitutes a Federal action for two reasons. First, the U.S. Coast Guard Captain of the Port has jurisdiction over the final selection of the Place of Refuge; second, the PPOR document will be incorporated into the Prince William Sound Subarea Contingency Plan, which is a point planning effort by members of the U.S. Environmental Protection Agency, U.S. Coast Guard, ADEC, U.S. Department of the Interior, and numerous other Federal, State, local, Native and industry participants. NEPA requires, at a minimum, that an environmental assessment of the proposed action be prepared, however, because of the level of interest and potential impacts and conflict associated with this proposal, it is likely that an Environmental Impact Statement will have to be written.

4. It is likely that the PPOR document will require that a National Marine Fisheries Service Essential Fish Habitat Consultation (50 CFR Part 600) and a U.S. Fish and Wildlife Service Endangered Species consultation be conducted (Section 7 of the Endangered Species Act). In the meeting notes posted by the PWS Places of Refuge Workgroup (May 6, 2004), it is stated that the PPOR document will not include environmental resource information but will reference the Alyeska Geographic Resources Database (GRD). This is acceptable as long as the analysis conducted includes the elements required by NEPA (see 40 CFR Parts 1500-1508).

5. The industry's track record does not promote confidence among those of us who live and recreate in this proposed Potential Place of Refuge. Shall we expect, in the event of a future spill, the same unwillingness to assume responsibility and make reparations that followed the Exxon Valdez oil spill? Even in less serious incidents, we find that there is a lack of preparedness, capability, and concern to respond to spills in a way that minimizes environmental damages. For example, it was distressing to us learn of the recent diesel spill in Jack Bay on April 28 of this year, during a spill response training drill. It is always disheartening to hear of spills within the Sound, but one of the more disturbing things about the recent spill was the overall failure to contain the diesel, *even though containment equipment and personnel trained in the use of the equipment were immediately on hand, and the site of the spill was in an area that at the time was sheltered from wind and wave action.* We have spoken with individuals involved in this drill, as well as DEC spill response professionals, who are critical of the decision making process that led to the failure to recover the spilled diesel and the subsequent pollution of portions of the adjacent shoreline. Apparently, a financial motivation—not to contaminate sorbent and other more effective response equipment available at the time—took priority over a commitment to avoid polluting Jack Bay. Some observers also claim that the spill far exceeded the 50 gallon estimate.

At this time, we are still awaiting a final report that explains this spill fully, critiques the causes for the failure to contain the diesel under apparently optimal conditions, and in which liable parties assume responsibility. We are not encouraged by the dilution of accountability apparent in the letter we received from the RCAC, dated July 15:

On May 4, 2004 PWSRCAC staff collected sediment and mussel samples at the impacted site for laboratory analysis. Preliminary results received on June 29, 2004 indicate that the samples contain a clear diesel signature at a moderately contaminated concentration range. *As PWSRCAC was not able to obtain a sample of the diesel spilled, we are not able to make a direct correlation to the April 28, 2004 spill and the detectable diesel in the sample (italics added.)*

Does this mean that SERVS is not liable for the spill or for remediation? Are we to believe that the diesel residues found in mussels on a generally pristine section of coastline five days following the spill are not the result of a sheen that was tracked to this site at the time of the April 28 spill? Why was a sample of the spilled diesel not taken, if this is typically required to show that the spill results in contamination? The public looks to the RCAC for information and oversight, and this quote leads readers to the unsettling conclusion that the RCAC is hesitant to be critical of SERVS. If even relatively minor incidents, such as this, are not followed by a more forthright assessment and acknowledgment of mistakes made, responsibility assumed, and the public fully informed, we feel great trepidation about the handling of a serious accident. Lastly, what changes are being made to procedures, priorities, and equipment so that this type of failure is not repeated?

6. We applaud the intent of both the Geographic Response Strategy and PPOR programs, insofar as they attempt to reduce environmental and social impacts of a spill or other vessel problem. However, we urge the PPOR working group to devote additional effort identifying those PPOR selected sites that should be used only in time of dire need and as a last resort, due to environmental sensitivities and social considerations. Any decision to use a specific PPOR by the Captain of the Port, and resulting damages, should be fully defensible, based on objective criteria.

We understand that an emergency situation involving a large vessel will be highly situation specific, and will require both prior planning and difficult decisions. Furthermore, we realize that the ultimate decision on where to secure a distressed vessel rests with the Captain of the Port, who must take many factors into consideration. However, we are concerned that a Place of Refuge designation could pre-dispose Jack Bay to receive a variety of uses in the future that conflict with existing uses, and are destructive to the qualities and resources that are explicitly and tacitly protected here. We are concerned not only with damaged, discharging large vessels, but also with smaller vessels; the risk of ancillary pollution, such as occurred in April this year during a spill response drill; and visual, auditory and vessel congestion, boom, barges, etc., that substantially alter the character of the bay. One small incident may have negligent impact, but a catastrophic spill, a grounding, or repeated incidents over time could clearly harm the resources and the public good. As stated above, this outcome is clearly contrary to the intent of existing management plans, including the recent Chugach National Forest Plan and the Prince William Sound Area Plan. It also conflicts with the management intent of the Jack Bay State Marine Park, the EVOSTC small parcel acquisition program, and numerous other stakeholders who have worked diligently and successfully to date to protect Jack Bay.

7. We would like to see a detailed discussion of probable scenarios for which each proposed PPOR would be chosen, and a robust justification advanced for selecting that particular PPOR before the need arises. This would make the decision making process more transparent to, and subject to comment by, affected parties. We fear that the fact that a particular bay *is physically suitable* for use as a PPOR is being used as justification that it *should* be used in time of need. In a place as sensitive and productive as Prince William Sound, and where so much of the area's inherent public value rests on its aesthetic qualities, we feel that this issue should be openly discussed by the public before the program gains more momentum.

8. We would like to see a discussion within the document on the recent success rate of oil spill recovery methods used in U.S. waters in recent years, with specific reference to Alaska. Spill recovery rates are generally quite low, particularly in the cold waters and severe weather found in Alaska. What would be probable consequences of a leaking vessel anchored in Jack Bay and other PPORs under various seasonal conditions? We are particularly concerned

about the use of dispersants in proximity to the sensitive estuarine and intertidal habitats found in the bay. We would like assurance that the use of dispersants will not be approved until they can be shown to be beneficial to the short- and long-term recovery of intertidal and near-shore ecosystems. At present, this assertion appears to be problematic.

9. We would like to see the issue of liability and compensation for damage addressed within the document. In the wake of the Exxon Valdez oil spill's legal fiascos, it seems advisable to discuss these issues in advance, and develop a clear chain of legal accountability for damages to public and private interests.

In summary, we believe that employing Jack Bay as Place of Refuge would conflict with numerous existing uses and management directives that are based on a healthy, productive, and attractive natural environment. We respectfully request that you consider the following suggestions and alternatives:

a. Sites with noteworthy public interest values that conflict with use as a place of refuge should be clearly identified as such, and *all reasonable efforts should be made to avoid using these areas*. We would like to see this principle formalized for Jack Bay and other sensitive wildlife habitat and recreational areas in PWS by adding a separate "geographic layer" to the PPOR plan that maps and describes particularly sensitive habitats and recreational areas, of which there are many. It was our understanding that this was the intent of the Geographic Response Strategy project, and it is ironic that the GRS materials are now used to facilitate the PPOR project. Clear and workable alternative PPORs should be identified to assist the Captain of the Port during emergencies. In short, after identifying physically suitable PPORs, the working group should, through further research and in consultation with stakeholders, also identify places that should be protected at great effort. We believe that Jack Bay falls into this category, for the many reasons discussed above.

b. The vicinity of the Alyeska Terminal in Port Valdez is dedicated to the oil shipping industry's needs. This is also where tanker accidents seem most likely to happen, and we would prefer to see a state of the art spill response, containment, and repair infrastructure established here for all distressed vessels, large and small, that are capable of being moved, rather than among the pristine bays of Prince William Sound. The infrastructure to efficiently handle a damaged vessel is immediately available, and spill response equipment can be concentrated here. Anchorages are available, wind and sea conditions are typically less inclement, and containment of oil should be less problematic. Also, having easy physical accessibility in Port Valdez (relative to remote sites) should improve oversight capability by the Coast Guard, PWSRCAC, and DEC. This would be likely to provide additional pressure on the industry and contractors to improve containment and cleanup efforts. This could be developed as a joint project of the oil shipping industry and the city of Valdez, and would likely qualify for federal funding. Clearly, this proposal would not address all needs for a place of refuge, but we would like to see greater attention given to the overwhelming conflict between vessel discharge pollution and virtually all other uses of Prince William Sound. We believe that by making a greater effort to contain as many effects of the oil shipping industry to a small, localized area in Port Valdez as possible can go a long way toward the stated objectives of the PPOR project with regards to preventing or limiting pollution.

Thank you for considering our concerns. We look forward to continued participation in the PPOR planning process, as it relates to Jack Bay.

Sincerely,

Jon Miller and Lou Brown
2630 Home Run
Fairbanks, AK 99709
(907) 479-5629
email: loubrown@gci.net

Signing for the following Jack Bay landowners:

Carl Kretsinger and Delia Person
Tom Schantz
Jen Steitz
John and Suzanne Lyle
Chuck and Patti Balzarini
Richard and Katie Marson

cc: John Devins, Prince William Sound Regional Citizens' Advisory Council
Larry Iwamoto, Alaska Department of Environmental Conservation
Steve Zemke, Chugach National Forest
Chris Degerness, Superintendent, Alaska State Marine Parks
Steve Moffitt, Cordova Area Research Biologist, Alaska Department of Fish and Game
Dan Gray, Cordova Area Seine Management Biologist, ADF&G
Ann Rappoport, Field Office Supervisor, U.S. Fish and Wildlife Service
Randy Hagenstein, The Nature Conservancy, Alaska Office
Stan Stephens, Alaska Wilderness Recreation and Tourism Association



16000
November 10, 2004

Mr. Karl Kretsinger
1728 Old John Trail
Fairbanks, Alaska 99709
Subject: Potential Ports of Refuge Project

Dear Mr. Kretsinger,

Thank you for your email of 2 November. You are correct in understanding that quite a bit of discussion ensued following the letter that you and other landowners from Jack Bay composed back in August regarding the consideration of Jack Bay as a potential part Port of Refuge. I was under the impression that representatives of your group were present and participating in that meeting by phone. Given that your group apparently did not participate, I will attempt here to recall and recount for you the answers to your questions in the same order that you presented them originally.

1. In answer to your first question "why would Jack Bay be considered as a potential place of refuge?" I offer that as beautiful and environmentally sensitive as all of Prince William Sound is, there are actually very few geographically protected anchorages with drafts and swing room appropriate to accommodate a large ship safely. Most of Prince William Sound is simply too deep. This and proximity to existing heavily trafficked shipping lanes make Jack Bay an obvious and appropriate consideration as a potential place of refuge.
2. The Potential Ports of Refuge Project does not specifically conflict with either state or federal land use objectives for Jack Bay. First, this plan is only a compendium of geographic information and questions that should be considered prior to making Port of Refuge choice or assignment. As such, it is neither a policy nor a proposed action and contains no general or specific land uses or activities that could be expected to occur in Jack Bay or any other potential Port of Refuge. Second, Anchoring and/ or intentional grounding are solely maritime navigational activities and as such are federally regulated by the Coast Guard and do not fall under the jurisdiction of entities cited in your letter.
3. Federal Water Pollution Control Act regulations and the National Contingency Plan give the Captain of the Port and the Federal On Scene Coordinator broad legal authority as the lead federal entity in maritime matters to direct ships, mariners, and maritime facilities as necessary to protect life, the maritime environment and the port. The appropriate exercise of this authority must necessarily be both timely and expeditious and accordingly, is not subject or subordinated to the NEPA process and does not require an environmental impact statement.
4. As with question number three, in the prosecution of a maritime emergency or a spill response, Captain of the Port and Federal On Scene Coordinator authorities can and are exercised respectively with-out legal requirement for consult or concurrence as you have indicated.
5. Very simplistically, the Oil Pollution Act of 1990 stipulates that the "polluter pays" and further, as a condition of permission to transport oil in bulk, requires that shippers present and provide Certificates of Financial Responsibility demonstrating the existence and availability of financial resources to cover the costs of a clean-up in the case of a potential spill. The excellent track record of this legislation and accompanying regulations in achieving their desired out-come speaks for itself.

16000
November 10, 2004

6. The objective of developing this Regional Response Team Potential Ports of Refuge document is precisely to provide the Federal On Scene Coordinator, Captain of the Port with a fully defensible, objective, and internationally vetted criteria for making a tough Potential Port of Refuge decision. The purpose of any Potential Port of Refuge decision is to safeguard life, to protect the environment and to protect the port. If a Potential Port of Refuge is selected and environmental and economic damage to third parties ensue, the liability for these damages fall in first instance to the responsible party under the Oil Pollution Act of 1990 (OPA90). If the responsible party (spiller) feels any environmental or economic damages are the result of misdirection by the Federal On Scene Coordinator or Captain of The Port, then the responsible party may, through legal action, attempt to recover clean-up and compensation costs expended from the Federal Oil Spill Liability Trust Fund.
7. The Potential Ports of Refuge decision process guidance document is based upon the International Maritime Organization (IMO's) document of the same name and is available for public viewing on both the Alaska Department of Environmental Conservation and Regional Response Team websites.
8. The proposal to include a discussion of observed efficiency of various spill recovery methodologies is beyond the scope of the Potential Ports of Refuge document.
9. The Oil Pollution Act of 1990 (OPA90) in conjunction with the Comprehensive Environmental Claims and Liability Act (CERCLA) and the Refuse Act comprehensively cover the issues of liability and compensation arising from oil spills, hazmat releases and maritime refuse respectively. Further discussing these in the Potential Ports of Refuge document serves no beneficial purpose.

In summary, please understand that there is no desire or predisposition to select Jack Bay or any other specific geographic location as "the – spot" to direct a vessel to, when in need of a Port of Refuge. The Potential Ports of Refuge project is simply designed to provide the Captain of the Port and Federal On Scene Coordinator for Prince William Sound with the best possible information and the most logical, defensible framework available for making a Potential Port of Refuge decision. Again thank you for taking the time to articulate your concerns and questions. I hope this response adequately addresses them.

Sincerely,

M. A. SWANSON
Commander, U. S. Coast Guard
Captain of the Port
Prince William Sound, Alaska

Copy: Alaska Department of Environmental Conservation
Prince William Sound Regional Citizens Advisory Council
National Oceanic and Atmospheric Administration – Scientific Support Coordinator
D17 (mor,dl)
Mr. Jon Miller, Fairbanks, AK