



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)

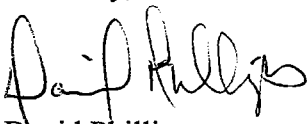
The Dock/Pier facility depicted at Growler Island is privately owned by Chugach and is not in place at this time.

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