

## **EXHIBIT 3**

to the  
RECOMMENDATIONS  
of the  
CHUGACH REGION LAND STUDY and  
REPORT

CHENEGA AGREEMENTS  
including

(1) Agreement for Sale and Purchase of Lands and Interests  
in Land Among The Chenega Corporation and the United  
States of America and the State of Alaska

(2) Amendment to Agreement



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20250

BOOK 132 PAGE 314  
Valdez Recording District

**AGREEMENT FOR SALE AND  
PURCHASE OF LANDS  
AND INTERESTS IN LAND  
AMONG  
THE CHENEGA CORPORATION  
AND  
THE UNITED STATES OF AMERICA  
AND  
THE STATE OF ALASKA**

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## AGREEMENT FOR SALE AND PURCHASE

This Agreement for Sale and Purchase is entered into among The Chenega Corporation (Chenega), an Alaska Native village corporation, existing pursuant to the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1601 *et seq.*, and duly organized under the business for profit laws of the State of Alaska; and the United States of America (United States); and the State of Alaska (State). Chenega, the United States and the State are collectively referred to as the "Parties."

### WITNESSETH

WHEREAS, pursuant to Section 12 of ANCSA, 43 U.S.C. § 1611, Chenega owns the surface estate of, or has valid prioritized selections on, lands located in Southwestern Prince William Sound, Alaska, consisting of approximately 59,500 acres, which are the subject of this Agreement (Lands);

WHEREAS, the subsurface rights associated with the Lands are owned by Chugach Alaska Corporation;

WHEREAS, the Lands are within the oil spill area as defined by the *Exxon Valdez* Oil Spill Trustee Council (Trustee Council) in its Final Restoration Plan, which was approved on November 2, 1994;

WHEREAS, by Resolution of May 31, 1996, the Trustee Council determined that the purchase of a fee interest and conservation easement in the Lands is an appropriate means to restore a portion of the injured resources and reduced services resulting from the *Exxon Valdez* Oil Spill of March 24, 1989 (EVOS), and has authorized the expenditure of a portion of the settlement funds received by the United States and the State of Alaska as a result of their claims against the Exxon Corporation, et al. (Exxon) arising from the EVOS;

WHEREAS, the United States, acting by and through the Forest Service within the U.S. Department of Agriculture, and the State desire to purchase a fee simple interest in a portion of the Lands and the United States desires to purchase a conservation easement in the remaining portion of the Lands;

WHEREAS, the Federal Trustees for the natural resources injured by the EVOS have authorized the expenditure of a portion of the federal EVOS restitution funds to assist in the funding of the acquisition of the Lands;

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged and confessed, the Parties hereby covenant and agree as follows:

#### 1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the following meanings:

- a. Agreement. The term "Agreement" as used herein shall mean this "Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska," and all attached appendices and exhibits.
- b. ANCSA. The term "ANCSA" as used herein shall mean the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601, et. seq., as heretofore amended and supplemented.
- c. ANILCA. The term "ANILCA" as used herein shall mean the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, as heretofore amended and supplemented.
- d. Chenega Conservation Easement. The term "Chenega Conservation Easement" as used herein shall mean the conservation easement granted by Chenega to the United States and the State in the form set forth at Exhibit I.
- e. Chenega Conservation Easement Lands. The term "Chenega Conservation Easement Lands" as used herein shall mean the interest in the surface estate to be conveyed under this Agreement of certain lands currently owned or to be received by Chenega and more fully described at Appendix A (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).
- f. Chenega Conveyance Lands. The term "Chenega Conveyance Lands" as used herein shall mean the fee interests in the surface estate of certain lands currently owned or to be received by Chenega to be conveyed under this Agreement and more fully described at Appendix B (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).
- g. Chenega Development and Homesite Easement. The term "Chenega Development and Homesite Easement" as used herein shall mean the easement granted by Chenega to the United States and the State in the form set forth at Exhibit II.
- h. Development Lands. The term "Development Lands" as used herein shall mean the interest in the surface estate to be conveyed under this Agreement of certain lands currently owned or to be received by Chenega and more fully described at Appendix C (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).
- i. Homesite Lands. The term "Homesite Lands" as used herein shall mean the interest in the surface estate to be conveyed under this Agreement of certain lands currently owned or to be received by Chenega and more fully described at Appendix D (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).

j. Chenega Selection Lands. The term "Chenega Selection Lands" as used herein shall mean those lands validly selected and prioritized up to Chenega's remaining ANCSA entitlement, and more fully described at Appendix E (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).

k. EVOS. The term "EVOS" as used herein shall mean the *Exxon Valdez* oil spill of March 24, 1989.

l. Federal Conservation Easement. The term "Federal Conservation Easement" as used herein shall mean an easement granted by Chenega to the United States in the form set forth at Exhibit III.

m. Federal Conveyance Lands. The term "Federal Conveyance Lands" as used herein shall mean those Chenega Conveyance Lands described at Appendix F to be conveyed to the United States in fee at closing as per Paragraph 3 of this Agreement together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964. (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).

n. Hazardous Substances. The term "Hazardous Substances" as used herein shall have the same meaning as given that term by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767, as amended and supplemented, or Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*, or by AS 46.03.826(5).

o. Restrictive Covenant. The term "Restrictive Covenant" shall mean the restrictive covenants in the form set forth in the applicable Federal and State Conservation Easements and the Warranty Deeds;

p. State Conservation Easement. The term "State Conservation Easement" as used herein shall mean an easement granted by Chenega to the State in the form set forth at Exhibit IV.

q. State Conveyance Lands. The term "State Conveyance Lands" as used herein shall mean those Chenega Conveyance Lands described at Appendix G to be conveyed to the State in fee at closing as per Paragraph 3 of this Agreement together with all right, title, and interest in avulsed lands, if any, within the area described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964. (such description is subject to further review and changes, including acreage chargeability, as necessary to ensure accuracy).

r. Subsistence Access Easement. The term "Subsistence Access Easement" shall mean the rights reserved by Chenega for the rural residents of the Village of Chenega Bay to access the Federal Conveyance Lands for purposes of conducting lawful subsistence activities as set forth in the Warranty Deed attached at Exhibit VI.

s. Warranty Deed. The term "Warranty Deed" as used herein shall mean a deed by which Chenega shall convey to the United States and the State, and warrant that it has so conveyed, all the rights, title and interests it received from the United States pursuant to ANCSA, except for those exceptions and reservations specifically provided for in this Agreement, and in the forms set forth at Exhibits V and VI.

## 2. CHENEGA SELECTIONS

a. The United States shall endeavor in good faith and use its best efforts to convey promptly Chenega's selections located on the Federal and State Conveyance Lands.

b. The Parties agree that, once the United States completes the conveyance of the Chenega Selection Lands, Chenega will have obtained its full ANCSA entitlement. The Parties recognize that many of the lands to be conveyed hereunder have not been surveyed and that the precise charge against Chenega's ANCSA entitlement arising from such conveyances has not therefore been determined. The Parties mutually agree that the determination by the Bureau of Land Management, U.S. Department of the Interior, of acreage chargeability as reflected on the lands described in Appendix E shall be deemed final. The Parties also mutually agree that no change in the charge against Chenega's ANCSA entitlement shall be made as a result of any future survey of these lands, notwithstanding any future change in the method of computing the acres charged to entitlement.

## 3. SALE AND PURCHASE OF INTEREST IN THE LANDS

Subject to the terms and conditions of this Agreement, at closing the Parties agree to the following:

a. Chenega shall convey to the United States the Chenega Conservation Easement with respect to the Chenega Conservation Easement Lands, and the Chenega Development and Homesite Easement with respect to the Chenega Development and Homesite Lands.

b. Chenega shall convey to the State the State Conservation Easement with respect to the Federal Conveyance Lands in satisfaction of the requirements of paragraph 5 of this Agreement.

c. Chenega shall convey to the United States by Warranty Deed all of the rights, title and interest of Chenega in the surface estate of the Federal Conveyance Lands, reserving therefrom the Subsistence Access Easement and the right to enforce the Restrictive Covenant, which reservations the United States agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related State Conservation Easement.

d. Chenega shall convey to the United States the Federal Conservation Easement with respect to the State Conveyance Lands in satisfaction of the requirements of paragraph 5 of this Agreement.



e. Chenega shall convey to the State by Warranty Deed all of the rights, title and interest of Chenega in the surface estate of the State Conveyance Lands, reserving therefrom the right to enforce the Restrictive Covenant, which reservation the State agrees to accept and further agrees to be bound by the terms thereof, and subject to the enforcement rights established in the related Federal Conservation Easement.

f. The United States shall pay to Chenega the sum of Thirty Four Million and no/100 Dollars (\$34,000,000.00) upon recordation of the easements and warranty deeds referred to in subparagraphs 3.a-e.

#### 4. CLOSING

a. The closing shall occur within sixty (60) days of shareholder approval pursuant to paragraph 17 of this Agreement or execution of this Agreement by the Parties, whichever last occurs, except that the time for this closing may be extended, at the request of any party, for a period not to exceed sixty (60) days from that date if, despite the good faith best efforts of the United States, court approval of disbursement of the funds is not obtained or the conditions precedent set forth in paragraph 7 have not been completed. The United States agrees to exert its good faith best efforts to obtain all approvals, including court approval, so as to make payment within said sixty (60) day period, and, if the time period is extended, will endeavor in good faith to complete this acquisition as soon as reasonably practical within the extended time period. In the event the United States fails to make timely payment, Chenega shall have the right, but not the obligation, to extend the closing further in order to complete the transaction as otherwise agreed to by the Parties upon satisfaction of the conditions precedent set forth in paragraph 7.

b. The Parties shall agree in writing on a time, date, and place of closing. The Parties shall execute and provide written closing instructions to the closing agent no later than ten days prior to the date of closing, which instructions shall provide, among other things, that documents will be recorded when the closing agent can disburse payment to the party entitled thereto. Costs of closing, if any, shall be paid by the United States. The costs of surveying homesites and development sites exclusions, if any, shall be paid by Chenega. Any fees or costs for recordation of instruments or other curative material to release or subordinate mortgages, deeds of trust, judgments, or other encumbrances shall be paid by Chenega.

#### 5. ENFORCEMENT RIGHTS

a. In recognition of the joint Federal and State responsibility to ensure that expenditure of the EVOS settlement funds properly achieves the Trustee Council's restoration objectives, the Trustee Council has required that, in return for the commitment of settlement funds for this acquisition, certain rights be established in the United States and the State with respect to this transaction. Accordingly, with respect to the interests conveyed to the United States in the Federal Conveyance Lands, Chenega shall convey to the State a conservation easement authorizing the State to enforce the restoration objectives of this acquisition and the title of the United States shall be

subject to such easement. Further, with respect to the interest conveyed to the State in the State Conveyance Lands, Chenega shall convey to the United States a conservation easement authorizing the United States to enforce the restoration objectives of this acquisition and the title of the State shall be subject to such easement. The conveyance documents are attached as Exhibits III - VI and are subject to approval and necessary modifications prior to closing as to form and substance as may be required by DOJ and DOL and agreed upon by the Parties.

b. The Parties agree that this Agreement is not intended, and shall not be construed, to create any other third-party beneficiary rights.

## 6. RESTRICTIVE COVENANT

a. Chenega hereby confirms, and the United States and the State acknowledge, that Chenega is only willing to undertake the sale of the Federal and State Conveyance Lands under this Agreement because of their intended management for conservation and wilderness purposes respectively by the United States as National Forest System lands or by the State as park lands. Accordingly, the United States and the State agree that the Federal and State Conveyance Lands purchased pursuant to this Agreement shall be maintained in perpetuity in their natural, pristine state in accordance with the terms of the Restrictive Covenant contained in the applicable Federal and State Conservation Easements and the Warranty Deeds.

b. In the event Chenega or the State becomes aware of an event or circumstance when the Federal Conveyance Lands or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Chenega or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that the Federal Conveyance Lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Federal Conveyance Lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title, it shall revert automatically to Chenega. If the State accepts fee title, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said lands or timber rights shall revert automatically to Chenega. The Federal Conveyance Lands shall continue in any event to be subject to the Restrictive Covenant. The Federal Conveyance Lands shall also continue to be subject to the Easement for Subsistence Access except that Chenega agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have

the obligation referenced in paragraph 6(g) below to manage the property so as to ensure public access.

c. If the State attempts to convey the State Conveyance Lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said portion of the State Conveyance Lands or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept it. If the United States does not accept fee title, it shall revert automatically to Chenega. If the United States accepts fee title, in the event Chenega or the State becomes aware of an event or circumstance when the State Conveyance Lands or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Chenega or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that the State Conveyance Lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the State Conveyance Lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to Chenega. The State Conveyance Lands shall continue in any event to be subject to the Restrictive Covenant.

d. If title automatically conveys or reverts under the conditions described in paragraphs 6(b) or 6(c) above, the party which ceases to hold fee title shall retain a Conservation Easement with restrictive covenants identical to those contained in the State and Federal Conservation Easements, over the land it formerly owned. The intention is that, should title to the State or Federal Conveyance Lands, or any portion thereof, ever be conveyed or revert as provided in paragraphs 6(b) or 6(c) above, as between Chenega, the State and the United States, one party will hold fee title, and the other two will hold conservation easements with enforceable restrictive covenants.

e. In any retained Conservation Easement as described in the above paragraph 6(d), and in the State and Federal Conservation Easements, it shall be provided that the party named in the "Restricted Activities" section of the easement will change as ownership changes, so that the fee owner will always make the determinations called for in that paragraph. However, the easements shall also provide that if fee title is conveyed from the United States to any other entity, any determinations by that entity under the "Restricted Activities" section of the easement shall be subject to approval by Chenega and the State.

f. The United States and the State further agree that the Restrictive Covenant shall run with the land and shall be binding upon the United States and the State and their assigns or successors in interest in perpetuity.

g. The Federal Conveyance Lands and the State Conveyance Lands shall be managed so as to ensure public access, for purposes of subsistence use, sport fishing and hunting, personal use fishing, trapping, recreational uses and commercial fishing in accordance with applicable federal and State laws and regulations and the objective of restoring and protecting natural resources.

h. In granting the Federal and State Conservation Easements, Chenega reserves the non-exclusive right to enforce the Restrictive Covenant therein contained. The United States and the State further agree that the Restrictive Covenant may be enforced by either Chenega or the United States or the State, as applicable, with respect to the Federal and State Conservation Easements and Warranty Deeds, respectively.

## 7. CONDITIONS PRECEDENT

The Parties mutually agree to endeavor in good faith to obtain satisfaction of these conditions precedent at the earliest opportunity in order that closing may take place as soon as possible:

a. Prior to closing, the United States shall execute the interim conveyance for the Chenega Selection Lands.

b. The obligation of the United States to complete these transactions is subject to disbursement of the necessary joint settlement funds received from Exxon by the United States District Court for the District of Alaska.

c. Completion of a title opinion or title review satisfying the U.S. Department of Justice (DOJ) regulations at 40 U.S.C. § 255 and the State Department of Law (DOL), and receipt of an opinion of counsel for Chenega, satisfactory to DOJ and DOL, confirming its authority to enter into this Agreement and complete the transactions contemplated thereby. In order to obtain a title opinion or title review satisfying the DOJ and DOL requirements, the draft forms set forth at Exhibits I - VI are subject to approval and necessary modifications prior to closing as to form and substance that may be required by DOJ or DOL and agreed upon by the Parties.

d. No development or timber harvesting is to take place on the Chenega Conservation Easement Lands or the Chenega Conveyance Lands prior to closing.

e. A Hazardous Substance survey must be completed and establish that there are no releases of Hazardous Substances on the Chenega Conservation Easement Lands and the Chenega Conveyance Lands, except for EVOS.

f. Satisfactory compliance by the Parties with the National Environmental Policy Act (NEPA).

g. Shareholder approval pursuant to paragraph 17 of this Agreement.



- h. All trespassers, lessees, licensees and other occupants shall be removed from the Federal and State Conveyance Lands prior to closing.

8. DEVELOPMENT SITES

a. Chenega retains ownership of the Development Lands located adjacent to the Chenega Conservation Easement Lands and Chenega Conveyance Lands. Chenega's intended commercial development and use of these lands is an integral part of Chenega's willingness to enter into this Agreement and Chenega retains the right to use these lands for commercial purposes by providing lodging, meals, rentals, transportation and related services as well as opportunities for eco-tourism, fishing, hiking, hunting, kayaking, sightseeing and other similar outdoor based recreational activities. Chenega shall have the right to construct structures and related facilities on these lands, as set forth in the Chenega Development and Homesite Easement.

b. Chenega retains an easement for purpose of access across and entry upon lands adjoining the Development Lands to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Chenega's right to construct waterlines and water systems is subject to the prior written consent of the United States, or the State, depending on which entity holds title to the adjoining property, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Chenega's access for water, the United States or the State, as appropriate, shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Chenega shall have access to a sufficient source of water in order to facilitate Chenega's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Chenega shall provide an as-built survey, with description(s), in recordable form, acceptable to the United States or the State, as appropriate, to locate all improvements.

9. HOMESITES

Chenega retains ownership of the Homesite Lands that are located adjacent to the Chenega Conservation Easement Lands and Chenega Conveyance Lands. The Parties acknowledge that Chenega has adopted a Shareholder Homesite Program pursuant to Section 1407 of ANILCA and that Chenega intends to use these lands for purposes of that program. The Homesite Lands shall be subject to the Chenega Development and Homesite Easement and said lands may be conveyed to the United States or the State in accordance with the terms and conditions of that easement.

10. ARTIFACTS

Chenega, to the extent it holds ownership, reserves ownership of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Lands to the extent consistent with the rights that it may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State, including the Alaska Historic Preservation Act.

## 11. REPRESENTATIONS AND WARRANTIES

Chenega represents and warrants as follows:

a. Subject to the provisions of subsections 14(g) and 17(b) of ANCSA, the provisions of the act of May 17, 1906, 34 Stat. 197, as amended, and Section 905 of ANILCA, to the extent applicable, the regulations promulgated thereunder, and the reservations, restrictions and limitations set forth in the conveyances from the United States to Chenega, Chenega will be at closing the sole legal owner of the surface estate of the Lands to be conveyed to the United States and the State under this Agreement except as provided in subparagraph 11.b. hereof.

b. Title to the Lands to be conveyed to the United States and the State under this Agreement shall be, at closing, free and clear of all liens, charges, encumbrances, clouds and defects of record except for (i) liens, charges, encumbrances, clouds and defects of record, acceptable to DOJ and DOL; (ii) liens, charges, encumbrances, clouds and defects not of record which existed prior to the date(s) on which said Lands were conveyed to Chenega pursuant to Section 14 of ANCSA where Chenega had no actual knowledge of such liens, charges, encumbrances, clouds and defects not of record; (iii) all restrictions, reservations, encumbrances and limitations set forth in the conveyances from the United States to Chenega arising under ANCSA and the rules and regulations promulgated thereunder; (iv) Federal Conservation Easement; (v) State Conservation Easement; (vi) any exceptions and reservations included in the State and United States Warranty Deeds (Exhibits V and VI).

c. To the best of its knowledge and belief, Chenega has not placed, stored, spilled, dumped or released, nor has it allowed any other person or entity, not disclosed in the Hazardous Substance survey, since the conveyance of the Lands to Chenega by the United States pursuant to ANCSA, to place, store, spill, dump or release any Hazardous Substance or petroleum, including crude oil or any fraction thereof that is not otherwise considered a Hazardous Substance, on the Lands; the Lands are not now nor since conveyance to Chenega have they ever been used for industrial purposes; nor, except as disclosed in the Hazardous Substance Survey, has any third party ever placed, stored, spilled, dumped or released any Hazardous Substance, or petroleum, including crude oil or any fraction thereof that is not otherwise considered a Hazardous Substance, on the Lands during the time the Lands were owned by Chenega. The Parties stipulate and agree that no violation of the warranties in this paragraph shall be deemed to occur as a result of oiling of the Lands by the EVOS.

12. RECORDATION

A copy of this Agreement and any amendment hereto may be recorded by any party following execution thereof by the Parties.

13. EXECUTION IN SEPARATE COUNTERPARTS

For purposes of expeditious execution of this Agreement or any amendments hereto, this Agreement or any amendments may be signed in separate counterparts by the Parties, which, when all have so signed, shall be deemed a single Agreement or amendment hereto, and the effective date of the Agreement or any amendment hereto shall be the date upon which the last of the subscribed Parties signs the Agreement or the amendment.

14. AUTHORITY

Each signatory to this Agreement represents that the signatory is authorized to execute this Agreement.

15. UNANTICIPATED EVENTS

The Parties acknowledge that there may exist circumstances beyond the reasonable control of a party that interfere with the Parties' ability to complete the transaction and to comply with the time constraints set forth in this Agreement. The Parties agree to use their best good faith efforts to complete the transactions contemplated by this Agreement as set forth herein. In the event that circumstances occur beyond the reasonable control of a party that significantly impair or detract from the rights and benefits provided to any of the Parties, then the Parties will negotiate, in good faith, such reasonable modifications of this Agreement as are necessary to protect the rights, interests and duties of the Parties under this Agreement and to carry out the intent of this Agreement.

16. RESERVATION OF EXXON CLAIMS

Chenega reserves and retains any and all claims and causes of action against Exxon Corporation, Exxon Shipping Company and any other person or entity for any and all loss, injury or damage, including compensatory and punitive damages, sustained by Chenega as a result of the EVOS. The Parties further agree that nothing in this Agreement or any document executed pursuant to this Agreement shall be deemed a release, waiver or assignment of any claim Chenega, or its individual shareholders, may have against Exxon Corporation, Exxon Shipping Company and any other person or entity as a result of the EVOS, including, but not limited to, real property damage or loss.

17. SHAREHOLDER VOTE

Pursuant to AS § 10.06.570 this Agreement or a final draft thereof shall be submitted to the shareholders of Chenega for a vote of approval of at least two-thirds of the outstanding shares of Chenega stock as soon as reasonably possible either before or after execution of this Agreement. If the Agreement fails to receive the required shareholder approval, it shall be null and void and have no effect.

18. GENERAL PROVISIONS

a. This Agreement embodies the entire agreement and understanding among the Parties and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

b. This Agreement may be modified, supplemented, or amended only by a document in writing executed by all of the Parties hereto.

c. The failure of any party to this Agreement to insist upon the strict performance of any provision of this Agreement or to exercise any right, power, or remedy consequent upon a breach thereof shall not constitute a waiver by said party of any such provision, breach, or subsequent breach of the same or any other provision.

d. Except as otherwise provided in this Agreement, the Parties hereto shall be entitled to any and all remedies provided by law.

e. If, prior to closing, any material provision of this Agreement or any application thereof shall be invalid or unenforceable, this Agreement as a whole likewise shall be deemed invalid or unenforceable. However, after closing, if any material provision of this Agreement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate, in good faith, such reasonable modifications of this Agreement as are necessary to protect the rights, interest and duties of the Parties under this Agreement and to carry out the intent of this Agreement.

f. This Agreement shall be interpreted, construed, and enforced in accordance with applicable federal or State law. To the extent allowed by law, jurisdiction for resolution of any dispute related to implementation of this Agreement or to the terms of any of the conveyance instruments granted thereunder, shall rest in the applicable federal or state court.

g. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Any lease, sale, transfer or other disposition by Chenega of any interest in the Chenega Conservation Easement Lands or the Chenega Development Lands shall be made subject to this Agreement and any amendments thereto. Any authorization to use said lands granted by Chenega shall be subject to this Agreement and any amendments thereto.



h. The Parties hereby agree to take any and all actions, and to execute, acknowledge, and deliver any and all documents, reasonably necessary to effect the purposes of this Agreement.

i. The descriptive paragraph headings throughout this Agreement are for convenience and reference only, and the words contained therein shall not be used to expand, modify, or amplify the meaning of this Agreement or to aid in the interpretation or construction of this Agreement.

j. No member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share or part of this Agreement, or to any benefit to arise therefrom.

k. Nothing herein shall be construed as obligating the Forest Service or the United States or the State to the expenditure of funds or the future payment of money in excess of that authorized by law.

l. Unless expressly provided otherwise, all notices, requests, orders and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally to the addresses, or upon receipt if mailed by certified or registered mail, return receipt requested, with postage prepaid, as follows:

1) To Chenega:

President  
The Chenega Corporation  
3333 Denali Street, Suite 260  
Anchorage, AK 99503

With a copy to:

C. Walter Ebell, Esq.  
Jamin, Ebell, Bolger & Gentry  
300 Mutual Life Building  
605 First Avenue  
Seattle, WA 98104

2) To the State:

Commissioner, Department of Natural Resources  
State of Alaska  
3601 C Street, Suite 1210  
Anchorage, AK 99503-5921

With a copy to:

Attorney General  
State of Alaska  
P.O. Box 110300 - Dimond Courthouse  
Juneau, AK 99811-0300

3) To the United States:

Regional Forester  
U.S. Department of Agriculture  
Forest Service  
709 West 9th Street, Room 549  
Juneau, AK 99802

With a copy to:

U.S. Department of Agriculture  
Office of the General Counsel  
P.O. Box 021628  
Juneau, AK 99802

m. The commitments, representations and warranties contained in this Agreement shall survive closing and delivery of the easements and the Warranty Deeds. In the event of any conflict between this Agreement and the terms of any of the conveyance instruments granted hereunder, the terms of the conveyance instruments shall control.

n. The United States and the State intend to work cooperatively in research activities on the Federal and State Conveyance Lands. If the United States conveys fee title to the Federal Conveyance Lands the State shall have a right to conduct research on said land as follows: to plan, arrange for, and conduct: 1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; 2) the establishment of multi-year vegetation plots; and 3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the

area. Information on fish and wildlife collected through such activities and projects will be made available to Chenega upon its request to the extent authorized by law.

o. When performing research, study, or survey activities and projects on the Chenega Conservation Easement Lands or the Chenega Conveyance Lands, the United States and the State agree, to the extent allowed by law and to the extent funding is available, to provide Chenega with notice and an opportunity to respond to requests for proposals that may be issued to participate in such activities and projects.

p. Nothing herein shall be deemed to pertain to, affect or in any way limit, the rights of the subsurface owner to utilize that estate in accordance with applicable law.

q. Nothing herein shall be deemed or construed to grant any rights to the public or to entities that are not Parties to this Agreement or in privity with said Parties.

IN WITNESS WHEREOF, the Parties have set their hands and seals as of the date herein written.

THE CHENEGA CORPORATION

By: Charles W. Totemoff  
Charles W. Totemoff  
Its: President

Date: 2-5-97

Subscribed before me this 5<sup>th</sup> day of February 1997, by Charles W. Totemoff.

STATE OF ALASKA

By: Tony Knowles  
Tony Knowles  
Its: Governor

Date: 2/5/97

Subscribed before me this 5<sup>th</sup> day of February 1997, by Tony Knowles.

UNITED STATES OF AMERICA

By: Dan Glickman  
Dan Glickman  
Its: Secretary of Agriculture

Date: 2/5/97

Subscribed before me this 5<sup>th</sup> day of February, 1997, by Dan Glickman.

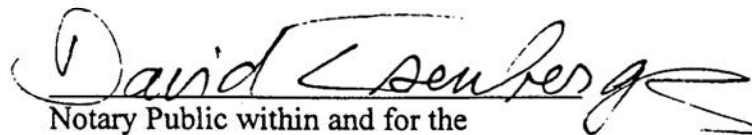
David Eisenberg  
Washington, D.C.  
My Commission Expires August 31, 2000



DISTRICT OF COLUMBIA, SS

This is to certify that on February 5, 1997, before me, the undersigned, a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Charles W. Totemoff, personally known to me, and known to me to be the President of The Chenega Corporation, an Alaska Native village corporation organized and existing under the laws of the State of Alaska, and who as such executed the foregoing Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska ("Agreement"), and acknowledged that the said Agreement is the free act and deed of The Chenega Corporation, and that he executed the same as President for the use and purposes therein expressed and with full authority to do so.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 5th day of February, 1997.

  
Notary Public within and for the  
District of Columbia

My Commission Expires On:

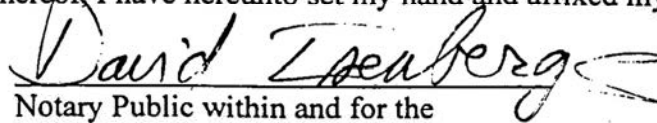
August 31, 2000.



DISTRICT OF COLUMBIA, SS

This is to certify that on February 5, 1997, before me, the undersigned, a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Tony Knowles, personally known to me, and known to me to be the Governor of the State of Alaska, and who as such executed the foregoing Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska ("Agreement"), and acknowledged that the said Agreement is the free act and deed of the State of Alaska, and that he executed the same as Governor for the use and purposes therein expressed and with full authority to do so.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 5th day of February, 1997.

  
Notary Public within and for the  
District of Columbia

My Commission Expires On:

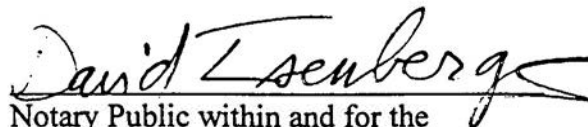
August 31, 2000.



DISTRICT OF COLUMBIA, SS

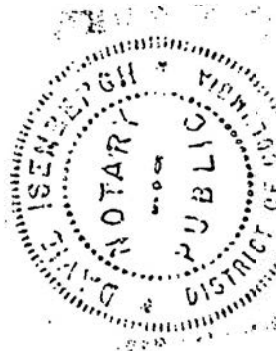
This is to certify that on February 5, 1997, before me, the undersigned, a Notary Public in and for the District of Columbia, duly commissioned and sworn as such, personally appeared Dan Glickman, personally known to me, and known to me to be the Secretary of the United States Department of Agriculture, and who as such executed the foregoing Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska ("Agreement"), and acknowledged that the said Agreement is the free act and deed of the United States of America, and that he executed the same as Secretary of the United States Department of Agriculture, for the use and purposes therein expressed and with full authority to do so.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 5th day of February, 1997.

  
Notary Public within and for the  
District of Columbia

My Commission Expires On:

August 31, 2000.



# APPENDIX A

## CHENEGA CONSERVATION EASEMENT LANDS

### I. Conservation Easement Lands With Public Access.

#### Seward Meridian

T. 1 N., R. 8 E.		Sec. 35	5.25
Sec. 11	16.00		
Sec. 14	430.25	T. 3 N., R. 7 E.	
Sec. 15	281.75	Sec. 25	163.25
Sec. 22	363.50	Sec. 36	222.00
Sec. 23	358.50		
Sec. 26	38.00	T. 3 N., R. 8 E	
Sec. 27	163.00	Sec. 1	50.50
		Sec. 2	254.00
T. 1 N., R. 9 E.		Sec. 3	60.50
Sec. 1	385.00, Exc. USS 2496	Sec. 4	1.00 SE $\frac{1}{4}$
Sec. 2	82.25	Sec. 8	38.75 SE $\frac{1}{4}$
Sec. 11	300.00	Sec. 9	358.50
Sec. 12	638.00	Sec. 10	362.50
Sec. 13	135.25	Sec. 11	620.00
Sec. 14	12.50	Sec. 12	180.50
Sec. 24	7.00	Sec. 13	110.00
		Sec. 14	632.75
T. 1 N., R. 10 E.		Sec. 15	575.25
Sec. 6	603.00	Sec. 16	638.00
Sec. 7	617.00	Sec. 17	149.75
Sec. 17	340.00	Sec. 19	92.50 E $\frac{1}{2}$ , SW $\frac{1}{4}$
Sec. 18	518.00	Sec. 20	487.00
Sec. 19	400.00	Sec. 21	555.00
Sec. 20	167.00	Sec. 22	640.00
		Sec. 23	460.00
USS 1639,		Sec. 26	315.50
Tract A	104.46	Sec. 27	535.00
		Sec. 28	640.00
T. 2 N., R. 8 E.		Sec. 29	640.00
Sec. 26	14.75	Sec. 30	521.50
Sec. 30	320.25	Sec. 31	618.92
Sec. 31	570.00	Sec. 32	640.00
Sec. 32	245.00	Sec. 33	640.00

Sec. 34        610.00  
Sec. 35        216.50

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-54  
within surveyed Section 31,  
Township 2 North, Range 8 East,  
Seward Meridian  
4.99 acres

Alaska State Land Survey No. 96-55  
within surveyed Section 22,  
Township 1 North, Range 8 East,  
Seward Meridian  
5.00 acres

Alaska State Land Survey No. 96-56  
within surveyed Section 7,  
Township 1 North, Range 10 East,  
Seward Meridian  
5.00 acres

Chenega Corporation Homesite Lease #01  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 23, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #08  
NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #09  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #10  
SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 19, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #14  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;  
SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #15

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;

SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #16

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;

SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #17

NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #31

SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 19, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #33

SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 35, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #35

NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #37

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;

SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #38

NW $\frac{1}{4}$  SE $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #39

NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #47

SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #56

SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 23, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #29

SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 22, T. 1 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #30

SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 22, T. 1 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #13  
SE¼ NW¼, Sec. 18, T. 1 N., R. 10 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #20  
NE¼ SW¼, Sec. 1, T. 1 N., R. 9 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #34  
SE¼ NW¼, Sec. 18, T. 1 N., R. 10 E., SM (1.5 acres)

CONTAINING APPROXIMATELY 19,098.39 ACRES MORE OR LESS.

II. Conservation Easement Lands Without Public Access

Seward Meridian

T. 2 N., R. 7 E.  
Sec. 1 68.00

T. 2 N., R. 8 E.  
Sec. 2 174.25  
Sec. 3 640.00  
Sec. 4 640.00  
Sec. 5 636.25  
Sec. 6 300.75  
Sec. 7 83.50  
Sec. 8 138.00 W½  
Sec. 9 206.00 E½  
Sec. 10 303.50  
Sec. 11 46.25

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-52  
within surveyed Sections 5 and 6,  
Township 2 North, Range 8 East,  
Seward Meridian  
20.00 acres

Alaska State Land Survey No. 96-53  
within surveyed Section 10,  
Township 2 North, Range 8 East,  
Seward Meridian  
10.00 acres

Chenega Corporation Homesite Lease #28  
SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #40  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #41  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #46  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #51  
SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

CONTAINING APPROXIMATELY 3,199.00 ACRES MORE OR LESS

## APPENDIX B

## CHENEGA CONVEYANCE LANDS

## Seward Meridian

## I. Lands to be acquired by the United States.

T. 1 N., R. 10 E.		Sec. 7	273.50
Sec. 5	540.00	Sec. 8	1.25 NW¼NE¼
Sec. 8	235.00, including that	Sec. 18	190.75
	portion of MS 929 in	Sec. 19	10.00 NW¼
	Sec. 8		
		T. 4 N., R. 7 E.	
T. 3 N., R. 7 E.		Sec. 11	605.00
Sec. 1	513.25	Sec. 14	530.00
Sec. 2	640.00	Sec. 15	560.00
Sec. 3	605.00	Sec. 21	639.00
Sec. 4	621.00	Sec. 22	630.00
Sec. 8	575.00	Sec. 23	640.00
Sec. 9	465.00	Sec. 24	640.00
Sec. 10	475.00	Sec. 25	570.50
Sec. 11	640.00	Sec. 26	485.00
Sec. 12	640.00	Sec. 27	640.00
Sec. 13	615.00	Sec. 28	545.00
Sec. 14	623.25	Sec. 33	590.00
Sec. 15	338.50	Sec. 34	620.00
Sec. 16	169.50	Sec. 35	640.00
Sec. 17	615.00	Sec. 36	355.00
Sec. 20	360.00 W½ E½, W½		
Sec. 22	276.25	T. 4 N., R. 8 E.	
Sec. 23	223.75	Sec. 29	140.00 SW¼,
Sec. 24	117.00		SW¼ SE¼
Sec. 26	5.00	Sec. 30	320.00 S½
Sec. 27	390.00	Sec. 31	510.25
Sec. 29	66.00 W½ NE¼,	Sec. 32	424.00
	E½ NW¼	Sec. 36	22.00
T. 3 N., R. 8 E.			
Sec. 4	25.50 W½		
Sec. 5	471.00		
Sec. 6	150.00		



Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-57  
within Sections 22 and 27  
Township 3 North, Range 7 East,  
Seward Meridian  
3.00 acres

Alaska State Land Survey No. 96-51  
within surveyed Sections 8 and 9,  
Township 3 North, Range 7 East,  
Seward Meridian  
5.00 acres

CONTAINING APPROXIMATELY 20,968.25 ACRES MORE OR LESS

II. Lands to be acquired by the State.  
Seward Meridian

T. 3 N., R. 8 E.		Sec. 16	640.00
Sec. 4	26.00 Lots 1-5	Sec. 17	491.00
		Sec. 18	602.74
T. 4 N., R. 7 E.		Sec. 19	489.44
Sec. 12	505.00	Sec. 20	561.00
Sec. 13	640.00	Sec. 21	640.00
		Sec. 22	626.00
T. 4 N., R. 8 E.		Sec. 23	422.50
Sec. 1	26.00	Sec. 24	386.00
Sec. 2	227.25	Sec. 25	56.50
Sec. 3	381.25	Sec. 26	560.00
Sec. 4	539.00	Sec. 27	640.00
Sec. 5	628.00	Sec. 28	556.50
Sec. 7	308.25	Sec. 29	210.25 N $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 8	413.00		
Sec. 9	325.50	Sec. 30	240.14 N $\frac{1}{2}$
Sec. 10	415.25	Sec. 33	266.00
Sec. 11	542.00	Sec. 34	398.00
Sec. 12	299.25	Sec. 35	66.50
Sec. 13	635.00		
Sec. 14	579.75	T. 4 N., R. 9 E.	
Sec. 15	610.00	Sec. 6	118.00

Sec. 7	431.75
Sec. 17	30.00
Sec. 18	525.00
Sec. 19	250.00
Sec. 30	1.00

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-49  
within surveyed Sections 7 and 12,  
Township 4 North, Ranges 8 and 9 East,  
Seward Meridian  
31.48 acres

Alaska State Land Survey No. 96-50  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
9.50 acres

CONTAINING APPROXIMATELY 16,267.84 ACRES MORE OR LESS

APPENDIX C

CHENEGA DEVELOPMENT EASEMENT LANDS

Alaska State Land Survey No. 96-49, Tract A  
within surveyed Sections 7 and 12,  
Township 4 North, Ranges 8 and 9 East,  
Seward Meridian  
29.99 acres

Alaska State Land Survey No. 96-50, Tract A  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
5.00 acres  
(This development site may be relocated to a different location in Paddy Bay)

Alaska State Land Survey No. 96-51  
within surveyed Sections 8 and 9,  
Township 3 North, Range 7 East,  
Seward Meridian  
5.00 acres

Alaska State Land Survey No. 96-54  
within surveyed Section 31,  
Township 2 North, Range 8 East,  
Seward Meridian  
4.99 acres

Alaska State Land Survey No. 96-55  
within surveyed Section 22,  
Township 1 North, Range 8 East,  
Seward Meridian  
5.00

Alaska State Land Survey No. 96-56  
within surveyed Section 7,  
Township 1 North, Range 10 East,  
Seward Meridian  
5.00 acres

Alaska State Land Survey No. 96-52, Tract A  
within surveyed Sections 5 and 6,  
Township 2 North, Range 8 East,  
Seward Meridian  
10.00 acres

Alaska State Land Survey No. 96-52, Tract B  
within surveyed Sections 5 and 6,  
Township 2 North, Range 8 East,  
Seward Meridian  
10.00 acres

Alaska State Land Survey No. 96-53  
within surveyed Section 10,  
Township 2 North, Range 8 East,  
Seward Meridian  
10.00 acres

APPENDIX D

CHENEGA HOMESITE EASEMENT LANDS

Alaska State Land Survey No. 96-49, Tract B  
within surveyed Sections 7 and 12,  
Township 4 North, Ranges 8 and 9 East,  
Seward Meridian  
1.49 acres

Alaska State Land Survey No. 96-50, Tract B  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
1.5 acres

Alaska State Land Survey No. 96-50, Tract C  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
1.5 acres

Alaska State Land Survey No. 96-50, Tract D  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
1.5 acres

Alaska State Land Survey No. 96-57  
within Sections 22 and 27,  
Township 3 North, Range 7 East,  
Seward Meridian  
3.00 acres

Chenega Corporation Homesite Lease #01  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 23, T. 3 N., R. 8 E., SM (1.5 acres)

Chenega Corporation Homesite Lease #08  
NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #09  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #10  
SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 19, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #14  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;  
SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #15  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;  
SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #16  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;  
SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #17  
NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #31  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 19, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #33  
SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 35, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #35  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #37  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9;  
SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #38  
NW $\frac{1}{4}$  SE $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 10, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #39  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

Chcnega Corporation Homesite Lease #47  
SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, T. 3 N., R. 8 E., SM (1.5 acres)

- Chenega Corporation Homesite Lease #56  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 23, T. 3 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #29  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 22, T. 1 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #30  
SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 22, T. 1 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #13  
SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 18, T. 1 N., R. 10 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #20  
NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 1, T. 1 N., R. 9 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #34  
SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 18, T. 1 N., R. 10 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #28  
SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #40  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #41  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #46  
NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)
- Chenega Corporation Homesite Lease #51  
SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9, T. 2 N., R. 8 E., SM (1.5 acres)

APPENDIX E

CHENEGA SELECTION LANDS

Seward Meridian

I. Section 12(a)

T. 4 N., R. 7 E.

Sec. 21

639

II. Section 12(b)

U.S. Survey No. 1639

104.46

T. 1 N., R. 10 E.

Sec. 17

340

T. 3 N., R. 7 E.

Sec. 20

360 W $\frac{1}{2}$  E $\frac{1}{2}$ , W $\frac{1}{2}$

Sec. 29

66 W $\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$

CONTAINING APPROXIMATELY 1,509.46 ACRES MORE OR LESS.



APPENDIX F

FEDERAL CONVEYANCE LANDS

Seward Meridian

T. 1 N., R. 10 E.		Sec. 18	190.75
Sec. 5	540.00	Sec. 19	10.00 NW¼
Sec. 8	235.00, including that portion of MS 929 in Sec. 8	T. 4 N., R. 7 E.	
		Sec. 11	605.00
		Sec. 14	530.00
T. 3 N., R. 7 E.		Sec. 15	560.00
Sec. 1	513.25	Sec. 21	639.00
Sec. 2	640.00	Sec. 22	630.00
Sec. 3	605.00	Sec. 23	640.00
Sec. 4	621.00	Sec. 24	640.00
Sec. 8	575.00	Sec. 25	570.50
Sec. 9	465.00	Sec. 26	485.00
Sec. 10	475.00	Sec. 27	640.00
Sec. 11	640.00	Sec. 28	545.00
Sec. 12	640.00	Sec. 33	590.00
Sec. 13	615.00	Sec. 34	620.00
Sec. 14	623.25	Sec. 35	640.00
Sec. 15	338.50	Sec. 36	355.00
Sec. 16	169.50		
Sec. 17	615.00	T. 4 N., R. 8 E.	
Sec. 20	360.00 W½ E½, W½	Sec. 29	140.00 SW¼, SW¼ SE¼
Sec. 22	276.25	Sec. 30	320.00 S½
Sec. 23	223.75	Sec. 31	510.25
Sec. 24	117.00	Sec. 32	424.00
Sec. 26	5.00	Sec. 36	22.00
Sec. 27	390.00		
Sec. 29	66.00 W½ NE¼, E½ NW¼		
T. 3 N., R. 8 E.			
Sec. 4	25.50 W½		
Sec. 5	471.00		
Sec. 6	150.00		
Sec. 7	273.50		
Sec. 8	1.25 NW¼NE¼		

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-57  
within Sections 22 and 27  
Township 3 North, Range 7 East,  
Seward Meridian  
3.00 acres

Alaska State Land Survey No. 96-51  
within surveyed Sections 8 and 9,  
Township 3 North, Range 7 East,  
Seward Meridian  
5.00 acres

CONTAINING APPROXIMATELY 20,968.25 ACRES MORE OR LESS.

# APPENDIX G

## STATE CONVEYANCE LANDS

### Seward Meridian

T. 3 N., R. 8 E.		Sec. 29	210.25 N½, N½ SE¼,
Sec. 4	26.00 Lots 1-5		SE¼ SE¼
		Sec. 30	240.14 N½
T. 4 N., R. 7 E.		Sec. 33	266.00
Sec. 12	505.00	Sec. 34	398.00
Sec. 13	640.00	Sec. 35	66.50
T. 4 N., R. 8 E.			
Sec. 1	26.00	T. 4 N., R. 9 E.	
Sec. 2	227.25	Sec. 6	118.00
Sec. 3	381.25	Sec. 7	431.75
Sec. 4	539.00	Sec. 17	30.00
Sec. 5	628.00	Sec. 18	525.00
Sec. 7	308.25	Sec. 19	250.00
Sec. 8	413.00	Sec. 30	1.00
Sec. 9	325.50		
Sec. 10	415.25		
Sec. 11	542.00		
Sec. 12	299.25		
Sec. 13	635.00		
Sec. 14	579.75		
Sec. 15	610.00		
Sec. 16	640.00		
Sec. 17	491.00		
Sec. 18	602.74		
Sec. 19	489.44		
Sec. 20	561.00		
Sec. 21	640.00		
Sec. 22	626.00		
Sec. 23	422.50		
Sec. 24	386.00		
Sec. 25	56.50		
Sec. 26	560.00		
Sec. 27	640.00		
Sec. 28	556.50		

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-49  
within surveyed Sections 7 and 12,  
Township 4 North, Ranges 8 and 9 East,  
Seward Meridian  
31.48 acres

Alaska State Land Survey No. 96-50  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
9.50 acres

CONTAINING APPROXIMATELY 16,267.84 ACRES MORE OR LESS

# APPENDIX E

## Chenega Selection Lands

APPENDIX E

BOOK 132 PAGE 354  
Valdez Recording District

CHENEGA SELECTION LANDS

I. Section 12(a)

T. 4 N., R. 7 E.

Sec. 21          639

II. Section 12(b)

U.S. Survey No. 1639 104.46

T. 1 N., R. 10 E.

Sec. 17          340

T. 3 N., R. 7 E.

Sec. 20          360 W $\frac{1}{2}$  E $\frac{1}{2}$ , W $\frac{1}{2}$

Sec. 29          66 W $\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$

CONTAINING APPROXIMATELY 1,509.46 ACRES MORE OR LESS.



# APPENDIX F

## Federal Conveyance Lands

# APPENDIX F

BOOK 132 PAGE 356  
Valdez Recording District

## FEDERAL CONVEYANCE LANDS

### T. 1 N., R. 10 E.

Sec. 5	540.00
Sec. 8	235.00, including that portion of MS 929 in Sec. 8

### T. 3 N., R. 7 E.

Sec. 1	513.25
Sec. 2	640.00
Sec. 3	605.00
Sec. 4	621.00
Sec. 8	575.00
Sec. 9	465.00
Sec. 10	475.00
Sec. 11	640.00
Sec. 12	640.00
Sec. 13	615.00
Sec. 14	623.25
Sec. 15	338.50
Sec. 16	169.50
Sec. 17	615.00
Sec. 20	360.00 W½ E½, W½
Sec. 22	276.25
Sec. 23	223.75
Sec. 24	117.00
Sec. 26	5.00
Sec. 27	390.00
Sec. 29	66.00 W½ NE¼, E½ NW¼

### T. 3 N., R. 8 E.

Sec. 4	25.50 W½
Sec. 5	471.00
Sec. 6	150.00
Sec. 7	273.50
Sec. 8	1.25 NW¼NE¼
Sec. 18	190.75
Sec. 19	10.00 NW¼

### T. 4 N., R. 7 E.

Sec. 11605.00  
Sec. 14530.00  
Sec. 15560.00  
Sec. 21639.00  
Sec. 22630.00  
Sec. 23640.00  
Sec. 24640.00  
Sec. 25570.50  
Sec. 26485.00  
Sec. 27640.00  
Sec. 28545.00  
Sec. 33590.00  
Sec. 34620.00  
Sec. 35640.00  
Sec. 36355.00

T. 4 N., R. 8 E.

Sec. 29      140.00 SW $\frac{1}{4}$ ,  
                 SW $\frac{1}{4}$  SE $\frac{1}{4}$

Sec. 30320.00 S $\frac{1}{2}$   
Sec. 31510.25  
Sec. 32424.00  
Sec. 36   22.00

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-57  
within Sections 22 and 27  
Township 3 North, Range 7 East,  
Seward Meridian  
3.00 acres

Alaska State Land Survey No. 96-51  
within surveyed Sections 8 and 9,  
Township 3 North, Range 7 East,  
Seward Meridian  
5.00 acres

CONTAINING APPROXIMATELY 20,968.25 ACRES MORE OR LESS.

# APPENDIX G

## State Conveyance Lands

APPENDIX G

STATE CONVEYANCE LANDS

T. 3 N., R. 8 E.  
Sec. 4 26.00 Lots 1-5

T. 4 N., R. 7 E.  
Sec. 12505.00  
Sec. 13640.00

T. 4 N., R. 8 E.  
Sec. 1 26.00  
Sec. 2 227.25  
Sec. 3 381.25  
Sec. 4 539.00  
Sec. 5 628.00  
Sec. 7 308.25  
Sec. 8 413.00  
Sec. 9 325.50  
Sec. 10 415.25  
Sec. 11 542.00  
Sec. 12 299.25  
Sec. 13 635.00  
Sec. 14 579.75  
Sec. 15 610.00  
Sec. 16 640.00  
Sec. 17 491.00  
Sec. 18 602.74  
Sec. 19 489.44  
Sec. 20 561.00

T. 4 N., R. 8 E.  
Sec. 21 640.00  
Sec. 22 626.00  
Sec. 23 422.50  
Sec. 24 386.00  
Sec. 25 56.50  
Sec. 26 560.00  
Sec. 27 640.00  
Sec. 28 556.50  
Sec. 29 210.25 N $\frac{1}{2}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Sec. 30 240.14 N $\frac{1}{2}$



Sec. 33266.00  
Sec. 34398.00  
Sec. 35 66.50

T. 4 N., R. 9 E.

Sec. 6	118.00
Sec. 7	431.75
Sec. 17	30.00
Sec. 18	525.00
Sec. 19	250.00
Sec. 30	1.00

Excluded from the above described lands are the following parcels which are to be retained by Chenega Corporation.

Alaska State Land Survey No. 96-49  
within surveyed Sections 7 and 12,  
Township 4 North, Ranges 8 and 9 East,  
Seward Meridian  
31.48 acres

Alaska State Land Survey No. 96-50  
within surveyed Sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
9.50 acres

CONTAINING APPROXIMATELY 16,267.84 ACRES MORE OR LESS

# EXHIBIT I

BOOK 132 PAGE 363  
Valdez Recording District

Chenega Conservation Easement  
(with and without public access)

**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR  
TO CLOSING AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF  
JUSTICE AND THE ALASKA DEPARTMENT OF LAW**

**EXHIBIT I**

**CHENEGA CONSERVATION EASEMENT**

THIS Conservation Easement is made this \_\_\_ day of \_\_\_\_\_, 1997, by The Chenega Corporation ("Chenega"), an Alaska Native Village Corporation within the meaning of the Alaska Native Claims Settlement Act ("ANCSA"), as amended, 43 U.S.C. § 1601 et. seq., and organized and existing under the laws of the State of Alaska, and the United States of America and its assigns ("United States"), under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. § 428a, and the State of Alaska and its assigns ("State"), under the authority of AS § 38.05.035(a)(12), and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Lands Among the Chenega Corporation and the United States and the State of Alaska dated \_\_\_\_\_, 1997 ("Agreement"). Chenega, the United States, and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Chenega is the owner in fee simple of the surface estate of certain real property located adjacent to the Chugach National Forest, Alaska, which is described below ("Protected Property"); and

WHEREAS, the Protected Property contains natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and amenities important and valuable to the restoration of natural resources and services injured or reduced by the Exxon Valdez oil spill of March 24, 1989 ("EVOS") including those described in the Final Restoration Plan adopted by the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") on November 2, 1994, ("Conservation Values"); and

WHEREAS, Chenega intends to convey to the United States the right to enter upon the Protected Property in order to restore natural resources and services injured by EVOS, and to preserve, protect, and manage the Conservation Values of the Protected Property in perpetuity; and

WHEREAS, Chenega intends to convey to the State the right to enforce the preservation and protection of the Conservation Values of the Protected Property in perpetuity as specified below; and

WHEREAS, subject to the rights to be granted to the United States and the State, Chenega reserves and retains all other rights and privileges as landowner, including certain rights that are specified herein ; and

WHEREAS, the Parties intend that the public will be permitted access to a portion of the Protected Property as provided herein, for sport hunting, sport fishing, and other natural lands based recreational opportunities, and for other similar purposes, according to the provisions of this Easement, and in accordance with applicable laws, rules, regulations, and policies governing management of the Chugach National Forest; and

WHEREAS, the United States agrees by accepting this grant to honor the intentions of Chenega stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Property, consistent with Chenega's retained rights and privileges as landowner;

NOW THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - § 34.17.060, applicable federal law, and the Agreement, Chenega does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, including, but not limited to, conditions, limitations and restrictions contained in the interim conveyance (or patent) dated \_\_\_\_\_, and recorded on \_\_\_\_\_ at pages \_\_\_\_\_ through \_\_\_\_\_, Book \_\_\_\_\_ of the records of the Valdez Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth ("Easement") as to the real property more particularly described as follows:

**[INSERT LEGAL DESCRIPTION HERE]**  
**[HOMESITE AND DEVELOPMENT AREAS EXCLUDED]**

Containing in sum 22,560 acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Chenega may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties if any, of record, and subject to the following right retained by Chenega:

Chenega retains an easement for purpose of access across and entry upon any portions of the subject lands adjoining the Development Lands described in the Chenega Development and Homesite Easement recorded simultaneously herewith, to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Chenega's right to construct waterlines and water systems is subject to the prior written consent of the United States or its assigns, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Chenega's access for water, the United States or its assigns shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Chenega shall have access to a sufficient source of water in order to facilitate Chenega's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Chenega shall provide an as-built survey, with descriptions, in recordable form, acceptable to the United States, to locate all improvements.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

### Section 1. Purpose

The purpose of this Easement is to ensure that the Conservation Values of the Protected Property will be maintained in perpetuity and to prevent any use of the Protected Property that will materially impair or interfere with its Conservation Values. This includes the protection of environmentally important forested and non-forested areas and the promotion of forested and non-forested fish and wildlife habitat conservation and other conservation opportunities such as the protection of important scenic, cultural, fish, wildlife and recreational resources, riparian areas, and other ecological values. Consistent with the specific provisions of this Easement, the Parties intend that this Easement will confine use of the Protected Property to such activities as are compatible with the preservation of the Conservation Values of the Protected Property.

The Parties further intend to ensure the reservation and enjoyment by Chenega, landowner of the Protected Property, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.



## Section 2. Rights Conveyed to the United States

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the rights set forth in Section 2.d. are also conveyed to the State:

- a. To enter upon the Protected Property in order to achieve the purpose and enforce the terms of this Easement.
- b. To enter upon the Protected Property in order to restore natural resources and services injured or reduced by EVOS. Nothing herein shall be construed to establish upon the United States an obligation to restore any particular natural resources or services.
- c. To prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Easement and, in the event the Protected Property is damaged by any inconsistent activity or use, to require the restoration of such areas or features of the Protected Property at the sole cost and expense of those responsible for the damage.
- d. To plan, arrange for, and conduct: 1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; 2) the establishment of multi-year vegetation plots; and 3) at the discretion of the United States and the State and with the prior written consent of Chenega, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities on the Protected Property to be operated by the United States or the State for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that minimizes adverse effects on the Conservation Values of the Protected Property and shall be designed in such manner as to blend into the natural character of the area. Information on fish and wildlife collected through such activities and projects will be made available to Chenega upon its request to the extent authorized by law.
- e. To establish temporary seasonal camps for research and management purposes, which camps may be in different locations each year. Such temporary camps may only consist of tent platforms and related facilities and equipment, which shall be removed when a season's work is completed, and shall be constructed, managed, and operated in a manner that minimizes adverse effects on the Conservation Values of the Protected Property. Such temporary camps shall involve only those facilities reasonably related to the research and management operations and shall

be designed in such manner as to reasonably blend into the natural character of the area. The locations and use of such temporary camps and related facilities shall be determined by the United States, with the prior written consent of Chenega which consent shall not be delayed or withheld unreasonably.

- f. To monitor, assess and police use (as provided for in Section 4.a. and 4.b. of this Easement) by Chenega and the public of the Protected Property. Chenega shall provide the United States and the State such information on the commercial and non-commercial use of the Protected Property as is necessary for the United States and the State to exercise their rights under this Easement.
- g. To take all reasonable steps to ensure that Chenega's rights and privileges as reserved herein are protected and preserved, including limiting or denying access to persons or parties who interfere with Chenega's rights and privileges under this Easement.
- h. To ensure the public is permitted access to the portion of the Protected Property as provided herein in a manner that is consistent with the provisions of this Easement.

### Section 3. Prohibited Uses

- a. **RESTRICTED ACTIVITIES:** The activities listed below are prohibited on the Protected Property except as determined, after consultation with Chenega, to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the subject lands consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the subject lands, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the United States.
  - i. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
  - ii. changing the topography of the Protected Property in any manner;

- iii. removing or destroying plants except for subsistence uses or medicinal uses;
  - iv. using biocides;
  - v. the 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
  - vi. operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.
- b. **PROHIBITED ACTIVITIES:** The following listed activities by any person are prohibited:
- i. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except (1) for Subsistence Uses; (2) for personal use as may be authorized under the terms of a land use permit issued pursuant to this Easement; (3) for the purpose of implementing the activities identified in section 3.a. (Restricted Activities) above;
  - ii. introducing fish, wildlife or plants not indigenous to Southwestern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Chenega, the United States and the State; and
  - iii. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

#### **Section 4. Chenega's Retained Rights and Privileges as Landowner**

Chenega reserves, retains and continues to have all legal rights and privileges as landowner that do not unreasonably interfere with or violate the rights and restrictions granted to the United States and the State by and through this Easement, including the rights and privileges set forth below:

- a. Chenega retains the right, to the extent it has the right, to condition non-commercial public access to, and use of, the Protected Property upon the issuance of a land use permit. Chenega will issue the land use permits to the public and will have the right to charge an administrative fee for processing such land use permits. The administrative fees will be set at an amount to be determined by Chenega and the United States and shall not exceed the cost of administering such a permit system. The fees may be reasonably adjusted in the future in recognition of increased costs, inflation and other relevant information. Issuance or denial of land use permits from Chenega shall be made on the basis of standards and criteria determined jointly by Chenega and the United States to be compatible with the purpose of this Easement. The standards and criteria shall include provisions to control permitted public access and use in a manner that will ensure protection of the Conservation Values of the Protected Property and that will not interfere unreasonably with Chenega's commercial control and use of the Protected Property. The standards and criteria also shall include consideration of the amount, location, timing, and type of access to and use of the Protected Property. If the standards and criteria include confidential archaeological resources information, the United States and the State shall maintain the confidentiality of such information to the extent permitted by federal and State law, respectively. Chenega and the United States shall meet at least biannually to establish, review and revise, as appropriate, the standards and criteria. Chenega retains the right to administer the land use permit system itself, or may, with the United States's consent, implement another method of administration in conjunction with the United States.

However, Chenega retains the right, to the extent it has the right, to exclude the public from and is not obligated to allow public access to the portion of the Protected Property located on Southern Chenega Island, more particularly described as follows:

[INSERT LEGAL DESCRIPTION HERE]

Containing in sum 3,199 acres more or less.

- b. Chenega retains the right, to the extent it has the right, to control all commercial access to and use of the Protected Property. This right includes the right to conduct, authorize, permit, license, charge use fees, regulate, limit or exclude all commercial operations on or utilizing the Protected Property. Chenega shall require commercial operators and users to comply with the terms of this Easement in any authorization or permit issued by Chenega. Commercial operations specifically include, by way of example and not limitation, ecotourism and commercial guiding for sport hunting, sport fishing, recreational and similar activities. An individual or group holding a land use permit issued by Chenega under the terms of this Easement and accessing the Protected Property under the terms and conditions of the land use permit ("Individual") shall not be considered a commercial user even though the Individual gains access to the Protected Property by means of a commercial carrier. A commercial carrier, including an airplane or boat charter operator, while providing transportation to an Individual to or from the Protected Property or between sites on the Protected Property, but not guiding or providing any other commercial related services to the Individual, is not a commercial operation for purposes of this section, as long as the commercial carrier is in compliance with the terms and conditions of the land use permit held by the Individual. All commercial operations authorized or permitted by Chenega on the Protected Property must comply with applicable federal and State licensing requirements, statutes and regulations, although Chenega is not required to ensure such compliance.
- c. Chenega retains the right, to the extent it has the right, to invoke an emergency closure, not to exceed thirty (30) days in duration, of all or portions of the Protected Property in the event that the permitted access is incompatible with the purpose of this Easement. In the event Chenega closes all or a portion of the Protected Property, at the same time that it gives the permittees public notice of the closure, it shall give the United States written notice of the closure and the reasons for the closure. The United States shall have the authority to extend, modify or reverse the closure if, following consultation with Chenega, it determines such action is appropriate and warranted under the circumstances, provided the United States first gives Chenega a written statement setting forth the reasons for its decision.
- d. Chenega retains the right, to the extent it has the right, to control access for Subsistence Uses of the Protected Property. "Subsistence Uses" as used in this Easement shall mean the customary and traditional uses of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family



consumption; for barter, or sharing for personal or family consumption; and for customary trade. The term --

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish and wildlife or their parts, taken for Subsistence Uses --

(a) for other fish or game or their parts; or

(b) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

Subsistence Uses do not include sport hunting and sport fishing.

- e. Chenega retains ownership to the extent it holds ownership, of all Alaska Native human remains, cultural artifacts, and sacred objects currently located on the Protected Property. In addition, Chenega retains all rights that may be afforded as specified in the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Indian Forest Resources Management Act, the National Museum of the American Indian Act, the Indian Arts and Crafts Act, the Native American Language Acts, and related laws of the State of Alaska, including the Alaska Historic Preservation Act.
- f. Chenega retains the rights, to the extent it has the rights, specified in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), 43 U.S.C. § 1636, regarding the Alaska Land Bank provisions. Neither by entering into this Easement nor by performing in accordance with its terms do the Parties intend to affect any protections that may be afforded to Chenega by Section 907 of ANILCA.
- g. Chenega retains the rights, to the extent that it has the rights, specified in Section 14(f) of ANCSA.
- h. Chenega retains the right, to the extent it has the right, to acquire sand, gravel or rock from the owner of the subsurface estate of the Protected Property. Provided, however, Chenega may exercise such rights to facilitate the removal of sand, gravel, or rock subject to the prior written consent of the United States which consent shall not be delayed or withheld unreasonably. The Parties intend to



ensure that Chenega has a sufficient source of sand, gravel, and rock without purchasing such materials from a distant site in order to facilitate Chenega's economic development of the Development Lands, as defined in the Agreement. In determining whether to consent to the exercise of Chenega's rights, the United States shall consider the location and volume of sand, gravel, or rock to be removed, the reasonable availability of sand, gravel, or rock in the areas to be developed, and any significant adverse effects on the Conservation Values of the Protected Property resulting from the removal of such material. Chenega shall not sell, or otherwise provide in any manner, sand, gravel, or rock removed from the Protected Property to any third party except in conjunction with such development.

#### Section 5. Public Access and Use

The granting of this Easement does not convey to the public the right to enter the Protected Property for any purpose whatsoever. The Parties intend and agree, however, that the public will be permitted access to and use of the Protected Property, except that portion described in Section 4.a., for sport hunting, sport fishing, camping, hiking and other natural resource based recreation, and for other similar purposes, but not for Subsistence Uses. All permitted public access to or use of the Protected Property shall be in compliance with Chenega's retained landowner rights under the terms of this Easement, including its right to require valid land use permits for non-commercial public access and use, its rights with respect to commercial operations, and its rights to control access for Subsistence Uses. The Parties intend that the United States will utilize its available legal authorities for cooperative management agreements to provide law enforcement and trespass control and assistance to Chenega in connection with the permitted public access and use under this Easement, subject to the availability of appropriated funds and personnel for such purpose, and agency discretion.

This conveyance is subject to the right of the public to access pursuant to Section 17(b) of ANCSA, as reserved in conveyances from the United States of America to Chenega pursuant to the ANCSA dated \_\_\_\_\_, 19\_\_\_\_, and recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ in the land records of the Valdez Recording District, Third Judicial District, State of Alaska, and nothing herein shall be deemed to pertain to, or otherwise affect, expand or limit said rights.

#### Section 6. Acts Beyond Chenega's Control

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Chenega for any injury to or change in the Protected Property resulting from causes beyond Chenega's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any injury to or change in the Protected Property resulting from a third party's intentional or negligent act or prudent action taken by Chenega under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property

resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to the Protected Property under applicable federal or State laws.

### Section 7. Subsequent Transfers

Chenega agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitations, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

### Section 8. Rights of the State

To accomplish the purpose of this Easement, the right to enforce compliance by the United States and Chenega with the terms of the Prohibited Uses set forth in Section 3 of this Easement is granted and conveyed to the State by this Easement. Also granted to State is the right to enter upon the Protected Property in order to monitor compliance with the Prohibited Uses and applicable State law. The State also is granted and conveyed the right to plan, arrange for and conduct fish, wildlife and habitat surveys and research pursuant to Section 2.d.

### Section 9. Enforcement

a. In the event Chenega or the United States becomes aware of an event or circumstance of non-compliance with the terms of this Easement, or in the event the State becomes aware of an event or circumstance of noncompliance with the terms of the Prohibited Uses set forth in Section 3 of this Easement, that party shall give notice to the other Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance.

b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

### Section 10. General Provisions

a. The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be

construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.

- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- c. The United States and the State shall have the right to make surveys, plats, take photographs and prepare such other documents as may be necessary or desirable to administer the provisions of this Easement so long as copies of any such surveys, plats, photographs and documents are made available to Chenega upon request. Any such map, plat or other suitable document may be recorded at the discretion of the United States or the State in the land records of the respective recording district wherein the Protected Property is located.
- d. The provisions of this Easement are enforceable in law or equity by Chenega, the United States and the State, their successors or assigns, consistent with Section 9 of this Easement.
- e. This Easement shall be interpreted under applicable provisions of federal and State law pertaining to real property.
- f. Chenega is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Protected Property for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- g. Chenega is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Chenega shall be liable for and hold the United States and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the United States and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the Protected Property to Chenega and prior to the effective date of this Easement, and for all releases caused by, or contributed to, by Chenega or its agents subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances that are released by the United States in the course of engaging in activities that are

authorized by this Easement. This clause may be enforced by Chenega or the United States or the State in a court of law. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to occur as a result of the EVOS.

- h. The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- i. Chenega hereby covenants to and with the United States and its assigns, that Chenega is lawfully seized of the surface estate in fee of the above granted real property, free and clear of encumbrances, except as specified herein, that Chenega has a good and lawful right and power to encumber the same, and that Chenega will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Chenega pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and its assigns, against the lawful claims and demands of all persons.
- j. Nothing herein shall be deemed to affect or in any way limit the rights of the subsurface owner to utilize that estate in accordance with applicable law. Nothing herein shall be deemed to authorize, create or recognize in Chenega rights to control or limit public access to the Protected Property that Chenega does not hold currently.
- k. If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate in good faith such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.
- l. The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

TO HAVE AND TO HOLD unto the United States and the State, their successors, and assigns forever.

IN WITNESS WHEREOF, The Chenega Corporation, the United States of America, and the State of Alaska have set their hands on the day and year first above written.

THE CHENEGA CORPORATION

By: \_\_\_\_\_  
Charles W. Totemoff  
President

STATE OF ALASKA                    )  
  ) ss:  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_ day of \_\_\_\_\_, 1996, me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Charles W. Totemoff to me known to be the identical individual described and who executed the within and foregoing CONSERVATION EASEMENT as President of The Chenega Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that he signed the same as President of The Chenega Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Alaska  
My Commission Expires:

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this \_\_ day of \_\_\_\_\_, 1996.



\_\_\_\_\_  
Phil Janik  
Regional Forester  
Alaska Region  
U.S.D.A. Forest Service

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, at \_\_\_\_\_, Alaska, the foregoing instrument was acknowledged before me by Phil Janik, of the Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

**STATE OF ALASKA**

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

By: \_\_\_\_\_  
Marty Rutherford  
Deputy Commissioner  
Department of Natural Resources  
State of Alaska

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 1996, at \_\_\_\_\_, Alaska, the foregoing instrument was acknowledged before me by Marty Rutherford, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

6003\02D.016

EXHIBIT II  
Chenega Development and  
Homesite Easement



**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR  
TO CLOSING AS TO FORM AND SUBSTANCE BY THE U.S. DEPARTMENT OF  
JUSTICE AND THE ALASKA DEPARTMENT OF LAW**

**EXHIBIT II**

**CHENEGA DEVELOPMENT AND HOMESITE EASEMENT**

THIS Easement is made this \_\_\_ day of \_\_\_\_\_, 1997, by The Chenega Corporation ("Chenega"), an Alaska Native Village Corporation within the meaning of the Alaska Native Claims Settlement Act ("ANCSA"), as amended, 43 U.S.C. § 1601 et. seq., and organized and existing under the laws of the State of Alaska, and the United States of America and its assigns ("United States"), and the State of Alaska and its assigns ("State"), under the authority of AS § 38.05.035(a)(12), and pursuant to the Agreement for the Sale and Purchase of Lands and Interests in Lands Among the Chenega Corporation and the United States and the State of Alaska dated \_\_\_\_\_, 1997 ("Agreement"). Chenega, the United States, and the State are collectively referred to hereinafter as "Parties."

WHEREAS, Chenega is the owner in fee simple of the surface estate of certain real property ("Development Lands" and "Homesite Lands," collectively "Retained Lands") located adjacent to the Chenega Conveyance Lands and Chenega Conservation Easement Lands, as defined in the Agreement (collectively the "Adjacent Lands"); and

WHEREAS, the Adjacent Lands contain natural, scenic, wooded, and other similar or related resources and values, including fish and wildlife and their habitats, as well as attributes and amenities important and valuable to the restoration of natural resources and services injured or reduced by the Exxon Valdez Oil Spill of March 24, 1989 ("EVOS"), including those described in the final Restoration Plan adopted by the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") on November 2, 1994, ("Conservation Values"); and

WHEREAS, Chenega intends to use the Development Lands for commercial development purposes related to eco-tourism, fishing, hiking, hunting, kayaking and sightseeing and similar outdoor based recreational activities by providing lodging, meals, rentals, transportation and related services; and

WHEREAS, Chenega intends to construct structures and related facilities, such as, cabins, lodging facilities and limited marina facilities, on the Development Lands; and

WHEREAS, the Parties intend that such structures and related facilities shall be constructed, managed and operated in a manner that reasonably minimizes adverse effects on the Adjacent Lands, and shall be of a rustic design so as to blend into the natural character of the area; and

WHEREAS, Chenega has adopted a Shareholder Homesite Program pursuant to Section 1407 of Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371 ("ANILCA"); and

WHEREAS, the Homesite Lands have been or will be leased by shareholders of Chenega pursuant to the Homesite Program; and

WHEREAS, Chenega intends to restrict the use of the Retained Lands pursuant to the terms of this Easement; and

WHEREAS, Chenega intends to convey to the United States and State the right to enforce the restrictions in perpetuity as specified below; and

WHEREAS, subject to the rights granted to the United States and the State, Chenega reserves and retains all other rights and privileges as landowner, including certain rights that are specified herein; and

WHEREAS, the United States and the State agree by accepting this grant to honor the intentions of Chenega stated herein and to preserve and protect in perpetuity the land use restrictions consistent with Chenega's retained rights and privileges as landowner;

NOW THEREFORE, pursuant to the laws of the State of Alaska and in particular AS § 34.17.010 - § 34.17.060, applicable federal law, and the Agreement, Chenega does hereby grant, transfer, and convey to the United States and the State, their successors and assigns, forever, with special warranties of title, subject to conditions, limitations and restrictions of record, including, but not limited to, conditions, limitations and restrictions contained in the interim conveyance (or patent) dated \_\_\_\_\_, and recorded on \_\_\_\_\_ at pages \_\_\_\_\_ through \_\_\_\_\_, Book \_\_\_\_\_ of the records of the Valdez Recording District, Third Judicial District, State of Alaska, an easement in perpetuity over the Retained Lands of the nature and character and to the extent hereinafter set forth ("Easement") as to the real property more particularly described as follows:

1. **Developments Lands:**

a. Eshamy Bay:

Containing in sum 29.99 acres more or less.

b. Paddy Bay:

Containing in sum 5 acres more or less.

c. Jackpot Bay:

Containing in sum 5 acres more or less.

d. Glacier Water Cove Tract A:

Containing in sum 10 acres more or less.

e. Glacier Water Cove Tract B:

Containing in sum 10 acres more or less.

f. Kake Cove:

Containing in sum 10 acres more or less.

g. Point Countess:

Containing in sum 4.99 acres more or less.

h. Flemming Island:

Containing in sum 5 acres more or less.

i. Little Bay:

Containing in sum 5 acres more or less.

2. **Homesite Lands.**

a. **Mainland.**

i.

ii.

iii.

iv.

v.

vi.

b. **Chenega Island.**

i.

ii.

iii.

iv.

v.

vi.

vii.

viii.

ix.

x.

xi.

xii.

xiii.

xiv.

xv.

xvi.

xvii.

xviii.

xix.

xx.

xxi.

c. Flemming Island.

i.

ii.

d. Knight Island.

i.

ii.

iii.

Containing in sum \_\_\_\_\_ acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Chenega may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The acquiring federal agency is the Forest Service within the U.S. Department of Agriculture, acting under the authority of the Act of August 3, 1956, as amended, 7 U.S.C. § 428a.

**Section 1. Purpose.**

a. The purpose of this Easement is to ensure that the Conservation Values of the Adjacent Lands will be maintained in perpetuity and to ensure that use of the Development Lands and the Homesite Lands will minimize any adverse effects on the Conservation Values of the Adjacent Lands. This includes the protection of environmentally important forested and non-forested areas and the promotion of forested and non-forested fish and wildlife habitat conservation and other conservation opportunities such as the protection of important scenic, cultural, fish, wildlife and recreational resources, riparian areas, and other ecological values. Consistent with the specific provisions of this Easement, the Parties intend that this Easement will confine use of the Development Lands and Homesite Lands to such activities as are compatible with the preservation of the Conservation Values of the Adjacent Lands.

b. The Parties further intend to ensure the reservation and enjoyment by Chenega, landowner of the Retained Lands, of all legal rights and privileges that are not specifically granted to the United States and the State by and through this Easement.

**Section 2. Use of Development Lands.**

Chenega shall retain the right, to the extent it has the right, to develop and use the Development Lands only for commercial purposes related to eco-tourism, fishing, hiking, hunting, kayaking, sightseeing and other similar outdoor based recreational activities by providing lodging, meals, rentals, transportation and related services. Chenega shall retain the right, to the extent it has the right, to construct structures and related facilities on the Development Lands, including cabins, lodges and limited marina facilities (including docks, fueling stations, and pump out facilities, but excluding boatyards). However, the nature, size and use of such structures and related facilities shall be consistent with the purpose of this Easement and the conservation objectives of the Agreement and the documents executed pursuant thereto. Such structures and related facilities shall be constructed, managed and operated in a manner that reasonably minimizes adverse effects on the Adjacent Lands. The structures and related facilities shall involve only those buildings reasonably related to the operations described above and shall be designed in a rustic manner so as to blend into the natural character of the area. In addition, the structures on the Fleming Island, Jackpot Bay, Little Bay, Paddy Bay, and Point Countess Development Lands only may consist of rustic cabins and occupancy support facilities; however, no more than three cabins may be constructed on the Jackpot Bay site and no more than three cabins may be constructed on the Paddy Bay site. The location, design and use of the structures and related facilities shall be determined by Chenega, but shall be subject to the written consent of the United

States or the State, depending on which entity owns the Adjacent Lands, which consent shall not be delayed or withheld unreasonably.

### Section 3. Use of Homesite Lands.

a. Chenega has adopted a Shareholder Homesite Program pursuant to Section 1407 of ANILCA in the form attached hereto as Exhibit 1 and incorporated herein by reference ("Homesite Program").

b. Chenega shall use the Homesite Lands solely for purposes of the Homesite Program. In the event the Homesite Program is canceled or ceases to exist, then the Homesite Lands located adjacent to Chenega Conveyance Lands, as defined in the Agreement, shall be conveyed in fee for no additional payment to the United States or the State depending on which entity owns the Adjacent Lands, and the Homesite Lands located adjacent to the Chenega Conservation Easement Lands, as defined in the Agreement, shall become subject to the Chenega Conservation Easement dated \_\_\_\_\_, and recorded on \_\_\_\_\_ at pages \_\_\_\_\_ through \_\_\_\_\_, Book \_\_\_\_\_ of the records of the Valdez Recording District, Third Judicial District, State of Alaska.

c. Any assignment, conveyance, encumbrance or transfer of a Homesite Program lease or issuance of a new Homesite Program lease on the Homesite Lands shall be subject to the prior written approval of the United States and the State if the assignment conveyance, encumbrance, transfer or lease is to an individual owning less than 100 shares of Chenega settlement common stock or individuals owning less than 100 shares of Chenega settlement common stock collectively.

d. Any amendments to the Homesite Program that affect the Homesite Lands shall be subject to the prior written approval of the United States and the State, which approval shall not be delayed or withheld unreasonably; however, the Homesite Lands use shall be restricted to single family (including traditional extended family customs) residential occupancy (including subsistence) only and in no event shall the Homesite Lands be subdivided or used for commercial purposes.

### Section 4. Rights Conveyed to the United States and the State.

To accomplish the purpose of this Easement, the following rights are conveyed to the United States and the State:

a. To enter upon the Development Lands with reasonable advance notice to Chenega in order to achieve the purpose of this Easement.



- b. To enter upon the Homesite Lands with reasonable advance notice to the occupant and Chenega in order to achieve the purpose of this Easement, and then only in accordance with the Homesite Program and the lease executed pursuant thereto, when accompanied by a representative of Chenega.
- c. To prevent any use of the Development Lands that is inconsistent with the terms of this Easement.
- d.. To prevent any use of the Homesite Lands that is inconsistent with the terms of this Easement.

#### **Section 5. Chenega's Retained Rights and Privileges as Landowner**

Chenega reserves, retains and continues to have all legal rights and privileges as landowner that do not unreasonably interfere with or violate the rights and restrictions granted to the United States and the State by and through this Easement.

#### **Section 6. Acts Beyond Chenega's Control**

Nothing contained in this Easement shall be construed to entitle the United States or the State to bring any action against Chenega for any injury to or change in the Retained Lands resulting from causes beyond Chenega's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any injury to or change in the lands resulting from a third party's intentional or negligent act or prudent action taken by Chenega under emergency conditions to prevent, abate or mitigate significant injury to the lands resulting from such causes. Nothing contained in this Easement shall be construed to limit the obligation of third parties for injury or damage to the lands under applicable federal or State laws.

#### **Section 7. Subsequent Transfers**

Chenega agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitations, a leasehold interest. The United States or the State may transfer, assign, or delegate any of its rights or responsibilities under this Easement to a third party, but only if the third party is required to and agrees to be bound by and to carry out the purpose of this Easement.

#### **Section 8. Enforcement**

- a. In the event any party becomes aware of an event or circumstance of non-compliance with the terms of this Easement, that party shall give notice to the other



Parties, their successors or assigns, at their last known post office address, of such event or circumstance of noncompliance. If the event or circumstance of noncompliance is not corrected immediately, the party making such notification is entitled to institute suits to enjoin any breach or enforce any covenant of this Easement.

- b. Nothing in this Section shall limit any other legal rights or remedies available to the Parties.

#### Section 9. General Provisions

- a. The Parties agree that this Easement is not intended, and shall not be construed, to create any third party beneficiary hereof and that nothing in this Easement shall be construed as creating any rights of enforcement by any other person or entity that is not a party to this Easement.
- b. This instrument shall be construed so as to effect the purpose for which it was granted to the United States and the State. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Easement.
- c. The United States and the State shall, to the extent permitted by law and consistent with the purpose of this Easement, administer their regulatory and permitting processes so as to accommodate Chenega's development objectives on the Development Lands.
- d. The provisions of this Easement are enforceable in law or equity by Chenega, the United States and the State, their successors or assigns, consistent with Section 8 of this Easement.
- e. This Easement shall be interpreted under general provisions of federal and State law pertaining to real property.
- f. Chenega is not relieved from liability by this Easement for injuries occurring on, and resulting from, the condition of the Retained Lands for which it would otherwise ordinarily be liable. The United States and the State each shall be responsible for losses, damages, or liabilities arising out of any act or omission of its employees, or its agents to the extent each otherwise would be responsible for such losses, damages, or liabilities under applicable federal or State law.
- g. Chenega is not relieved from liability by this Easement for the costs associated with the cleanup of hazardous substances under the Comprehensive Environmental

Response, Compensation and Liability Act (CERCLA) and similar federal and State laws for which it would otherwise ordinarily be liable. Chenega shall be liable for and hold the United States and the State harmless from liability under said statutes, and pursuant to said statutes shall indemnify the United States and the State for all costs relating to cleanup, including attorneys fees, of hazardous substances that were released subsequent to the conveyance of the property to Chenega and prior to the effective date of this Easement, and for all releases caused by, or contributed to, by Chenega or its agents subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances that are released by the United States or the State. This clause may be enforced by Chenega or the United States or the State in a court of law. To the extent any of the lands were oiled as a result of the EVOS, the Parties stipulate and agree that no violation of this clause shall be deemed to occur as a result of the EVOS.

- h. The Parties agree that the covenants, terms, conditions, and restrictions of this Easement shall run with the land and shall be binding upon the Parties, their successors and assigns in perpetuity. The terms of this Easement may be waived or modified only by the unanimous written agreement of the Parties.
- i. Chenega hereby covenants to and with the United States and the State, that Chenega is lawfully seized of the surface estate in fee of the above described real property, free and clear of encumbrances, except as specified herein, that Chenega has a good and lawful right and power to encumber the same, and that Chenega will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Chenega pursuant to ANCSA, to and including the moment at which this Easement is conveyed to the United States and the State, against the lawful claims and demands of all persons.
- j. Nothing herein shall be deemed to affect or in any way limit the rights of the subsurface owner to utilize that estate in accordance with applicable law. Furthermore, nothing herein shall be deemed to affect Chenega's rights, as landowner of the Retained Lands, pursuant to Section 14(f) of ANCSA.
- k. If any material provision of this Easement or any application thereof shall be invalid or unenforceable, then the Parties will negotiate, in good faith, such reasonable modifications of this Easement as are necessary to protect the duties, rights and interests of the Parties under this Easement and to carry out the intent of this Easement.

1. The parties make no representations as to whether the lands that are described herein by survey include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

TO HAVE AND TO HOLD unto the United States and the State, their successors, and assigns forever.

IN WITNESS WHEREOF, The Chenega Corporation, the United States of America, and the State of Alaska have set their hands on the day and year first above written.

**THE CHENEGA CORPORATION**

By: \_\_\_\_\_  
Charles W. Totemoff  
President

STATE OF ALASKA                    )  
  ) ss:  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 1996, me, the undersigned, a Notary Public in and for the State of Alaska, commissioned and sworn, personally appeared Charles W. Totemoff to me known to be the identical individual described and who executed the within and foregoing EASEMENT as President of The Chenega Corporation, the Corporation that executed the within and foregoing instrument, and acknowledged to me that he signed the same as President of The Chenega Corporation in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Alaska  
My Commission Expires:

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, the United States hereby accepts this Easement conveying to the United States and its assigns, the interests in lands described therein.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Phil Janik  
Regional Forester  
Alaska Region  
U.S.D.A. Forest Service

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 1996, at \_\_\_\_\_, Alaska, the foregoing instrument was acknowledged before me by Phil Janik, of the Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

STATE OF ALASKA

Pursuant to AS § 38.05.035(a)12, I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

By: \_\_\_\_\_  
Marty Rutherford  
Deputy Commissioner

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 1996, at \_\_\_\_\_, Alaska, the foregoing instrument was acknowledged before me by Marty Rutherford, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

6003\02D.018

EXHIBIT III  
Federal Conservation Easement  
(State fee lands)



**DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR  
TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE  
AND ALASKA DEPARTMENT OF LAW.**

**EXHIBIT III  
DRAFT FEDERAL CONSERVATION EASEMENT**

AFTER RECORDING RETURN TO:  
U.S. Department of Agriculture  
Forest Service  
P.O. Box 21628  
Juneau, Alaska 99802-1628

**CONSERVATION EASEMENT**

THIS Conservation Easement is made this \_\_\_\_ day of \_\_\_\_\_, 1997, by **The Chenega Corporation** ("Chenega"), 3333 Denali Street, Suite 260, Anchorage, AK 99503, ("Grantor") and the **United States of America**, and its assigns ("Grantee") under the authority of 7 U.S.C. § 428a and the Agreement for Sale and Purchase of Lands and Interests in Land Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1997 ("Agreement").

WHEREAS, the real property subject to this conservation easement (the "Protected Property") is a natural area located near the Chugach National Forest that provides significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, Grantor is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the State of Alaska ("State") of the Protected Property, subject to certain third-party rights to be held by the Grantee to ensure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Grantor intends to convey its interest in the surface estate of the Protected Property to the State; and

WHEREAS, Grantor desires to provide to the Grantee an independent right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1997, Grantor does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, including, but not limited to, conditions, restrictions and limitations contained in Interim Conveyance (or Patent) \_\_\_\_\_ dated \_\_\_\_\_ and recorded on \_\_\_\_\_ at pages \_\_\_\_\_ through \_\_\_\_\_, book \_\_\_\_\_, of the records of the Valdez Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth ("Easement"), as to the property described as follows:

Containing in sum \_\_\_\_\_ acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Chenega may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The acquiring federal agency is the U.S. Department of Agriculture, Forest Service.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties if any, of record, and subject to the following right retained by Chenega:

Chenega retains an easement for purpose of access across and entry upon any portions of the subject lands adjoining the Development Lands described in the Chenega Development and Homesite Easement recorded simultaneously herewith, to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Chenega's right to construct waterlines and water systems is subject to the prior written consent of the State, or its assigns, which consent shall not be delayed or withheld unreasonably. In determining whether to consent to Chenega's access for water, the State, or its assigns shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Chenega shall have access to a sufficient source of water in order to facilitate Chenega's economic development and use of the Development Lands. At such time as any waterlines and water systems

are constructed pursuant to this paragraph, Chenega shall provide an as-built survey, with descriptions, in recordable form, acceptable to the State, to locate all improvements.

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

1. RESTRICTED ACTIVITIES:

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the subject lands consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the subject lands, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the United States and Chenega.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitation for use by research or management personnel only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the subject land, from having the right to construct five public use cabins and occupancy support facilities on the above described lands at Eshamy Lake, Eshamy Lagoon, and Paddy Bay; however, no more than one cabin may be constructed in Paddy Bay and no more than two cabins may be constructed in Eshamy Lagoon, so long as Chenega has given written consent to the State's design and location of such structures, which consent may not be delayed or withheld unreasonably. To the extent reasonably possible, any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and

managed in a manner that minimizes adverse effects on the land,

- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. the 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
- f. operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. PROHIBITED ACTIVITIES:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses or for the purpose of implementing the activities identified in section 1 (Restricted Activities) above;
- b. introducing fish, wildlife or plants not indigenous to Southwestern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Chenega, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

\* \* \* \*

The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

Nothing herein shall be deemed to create in any third party the right to enforce these covenants.

Nothing herein shall be deemed to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

Grantor agrees that these restrictive covenants shall run with the lands and shall be binding upon Grantor, its successors and assigns.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Easement is validly conveyed to the United States of America and its assigns, against the lawful claims and demands of all persons.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

(Grantor)  
The Chenega Corporation

By: \_\_\_\_\_  
Charles W. Totemoff, President

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Charles W. Totemoff, President of The Chenega Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing CONSERVATION EASEMENT on behalf of The Chenega Corporation,

and who acknowledged to me that he signed the same as President of The Chenega Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My Commission expires: \_\_\_\_\_

ACCEPTANCE

Pursuant to 7 U.S.C. § 428a and the Agreement for Sale and Purchase of Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, the Grantee hereby accepts this Conservation Easement conveying to the United States and its assigns, those interests in lands described therein.

\_\_\_\_\_  
Phil Janik  
Regional Forester  
Alaska Region  
USDA Forest Service

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, that undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Phil Janik, known to me and to me known to be the Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing Conservation Easement conveying to the United States, those lands described therein, and he executed the foregoing instrument freely and voluntarily.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day  
and year first written above.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the State of Alaska  
My commission expires: \_\_\_\_\_

6003\02D.014



EXHIBIT IV  
State Conservation Easement  
(Federal Conveyance Lands)

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW.

**EXHIBIT IV**  
**DRAFT STATE CONSERVATION EASEMENT**

**AFTER RECORDING RETURN TO:**

State of Alaska  
Department of Law  
Environmental Section  
1031 W. 4th Avenue, Suite 200  
Anchorage, Alaska 99501

CONSERVATION EASEMENT

THIS Conservation Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 1997, by **The Chenega Corporation** ("Chenega"), 3333 Denali Street, Suite 260, Anchorage, AK 99503 ("Grantor") and the **State of Alaska** ("State") ("Grantee") under authority of AS § 38.05.035(a)(12) the Agreement for Sale and Purchase of Lands and Interests in Land Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1997 ("Agreement")..

WHEREAS, the real property subject to this conservation easement (the "Protected Property") lies within the boundaries of the Chugach National Forest, as national forest system lands administered by the U.S. Department of Agriculture Forest Service within the State of Alaska; and

WHEREAS, Grantor is the owner in fee simple of the surface estate of the Protected Property, which is described below; and

WHEREAS, the Protected Property is a natural area that provided significant habitat for migratory birds and other fish and wildlife and plant species that were injured as a result of the *Exxon Valdez* oil spill of March 24, 1989; and

WHEREAS, the Exxon Valdez Oil Spill Trustee Council ("Trustee Council") has approved the use of joint settlement funds for acquisition by the United States of America ("United States") of the Protected Property, subject to certain third-party rights to be held by the State in order to assure that the restoration objectives for use of the settlement funds are achieved; and

WHEREAS, Grantor intends to convey its fee simple interest in the surface estate of the Protected Property to the United States; and

WHEREAS, Grantor desires to provide Grantee an independent and non-exclusive right in perpetuity to enforce the restrictive covenants as to the surface estate set forth herein and to undertake limited research on the property under specified circumstances;

NOW THEREFORE, pursuant to the laws of Alaska and in particular Alaska Statute § 34.17.010 - § 34.17.060, and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, Grantor does hereby grant and convey to Grantee, its successors and assigns, forever, with special warranties of title, subject to conditions, restrictions and limitations of record, including, but not limited to, conditions, restrictions and limitations contained in Interim Conveyance (or Patent) \_\_\_\_\_ dated \_\_\_\_\_ and recorded on \_\_\_\_\_ at pages \_\_\_\_\_ through \_\_\_\_\_, book \_\_\_\_\_, of the records of the Valdez Recording District, Third Judicial District, State of Alaska, a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth (the "Easement"), as to the property described as follows:

Containing in sum \_\_\_\_\_ acres more or less.

TOGETHER WITH the avulsed lands, if any, in which Chenega may hold title, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

SUBJECT, however, to easements, rights and reservations of the United States, and third parties, if any, of record and subject to the following right retained by Chenega:

Chenega retains an easement for purpose of access across and entry upon any portions of the subject lands adjoining the Development Lands described in the Chenega Development and Homesite Easement recorded simultaneously herewith, to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required

- e. the 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
- f. operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. PROHIBITED ACTIVITIES:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose of implementing the activities identified in section 1 (Restricted Activities) above;
- b. introducing fish, wildlife or plants not indigenous to Southwestern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Chenega, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

If the United States conveys fee title to the Protected Property, the State shall have a right to conduct research on said land as follows: to plan, arrange for, and conduct: 1) fish, wildlife, and habitat surveys and research by all customary means and techniques, which include the use of aircraft, radio telemetry, and capture drugs; 2) the establishment of multi-year vegetation plots; and 3) with the prior written consent of the owner of the land, which consent shall not be delayed or withheld unreasonably, the right to establish, construct and operate weir sites and sonar sites and reasonably related facilities for the purposes of fish and wildlife management and general monitoring of ecosystem health. To the extent reasonably possible such sites shall be constructed, managed and operated in a manner that is consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes, and, must be designed in a rustic manner so as to blend into the natural character of the area. Information on fish and wildlife collected

through such activities and projects will be made available to Chenega upon its request to the extent authorized by law.

\* \* \* \* \*

Nothing herein shall be deemed to create in any third party the right to enforce these covenants.

Nothing herein shall be deemed to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

Grantor agrees that these restrictive covenants shall run with the lands and shall be binding upon Grantor, its successors and assigns.

The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the above granted real property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend this Easement, limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which this Easement is validly conveyed to the State of Alaska and its assigns, against the lawful claims and demands of all persons.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

(Grantor)  
The Chenega Corporation

By: \_\_\_\_\_  
Charles W. Totemoff, President

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Charles W. Totemoff, President of The Chenega Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing CONSERVATION EASEMENT on behalf of The Chenega Corporation, and who acknowledged to me that he signed the same as President of The Chenega Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My Commission expires: \_\_\_\_\_

ACCEPTANCE BY THE STATE OF ALASKA

Pursuant to AS § 38.05.035(a)(12), I do hereby accept title to the above described interest in real property on behalf of the State of Alaska.

By: \_\_\_\_\_

Marty Rutherford  
Deputy Commissioner  
Department of Natural Resources  
State of Alaska

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1996, by Marty Rutherford, who is known to me to be the Deputy Commissioner of the Department of Natural Resources, State of Alaska.

(Signature) \_\_\_\_\_

(Printed or typed name of Notary) \_\_\_\_\_

NOTARY PUBLIC in and for Alaska

My Commission expires: \_\_\_\_\_

(SEAL)

6003\02D.012



EXHIBIT V  
State Warranty Deed

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW.

**EXHIBIT V**  
**DRAFT STATE WARRANTY DEED FORM**

AFTER RECORDING RETURN TO:

State of Alaska  
Department of Law  
Environmental Section  
1031 W. Fourth Avenue, Suite 200  
Anchorage, AK 99501

**WARRANTY DEED**

THIS Indenture, made this \_\_\_\_ day of \_\_\_\_\_, 1997, between **The Chenega Corporation** ("Chenega"), 3333 Denali Street, Suite 260, Anchorage, AK 99503, Grantor, and the **State of Alaska** ("State") and its assigns, Grantee, under the authority of AS § 41.21.020(a)(3), and the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1997 ("Agreement").

WITNESSETH, that the Grantor, for and in consideration of the terms of the Agreement, which provides for several simultaneous conveyances of lands and interests in lands from Chenega to the State of Alaska and to the United States, of which this is one, for a total sum of thirty-four million and no/100 Dollars (\$34,000,000.00), to it in hand paid by the United States, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee and its assigns, forever, the surface estate of all those lands lying and being in the Southwestern Prince William Sound, State of Alaska (Protected Property), containing approximately \_\_\_\_\_ acres, more or less; and more particularly described as follows:

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee and its assigns, FOREVER.

SUBJECT, however, to:

I. Public Access

The State shall manage the Protected Property so as to ensure public access, including access by the residents of Chenega Bay, Alaska for purposes of subsistence use, sport fishing and hunting, personal use fishing, trapping, recreational uses, and commercial fishing in accordance with applicable laws and regulations and the objective of restoring and protecting natural resources.

II. Restrictive Covenants

Grantor reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

1. Restricted Activities:

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the subject lands consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the subject lands, to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States.. If the owner of the fee simple estate is any other entity, determinations under this section shall be made subject to approval by the State and Chenega.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information; provided that, notwithstanding the above limitation for use by research or management personnel only, this provision shall not be construed to prohibit the State, if it is the owner of all or any applicable portion of the subject land, from having the right to construct

five public use cabins and occupancy support facilities on the above described lands at Eshamy Lake, Eshamy Lagoon, and Paddy Bay; however, no more than one cabin may be constructed in Paddy Bay and no more than two cabins may be constructed in Eshamy Lagoon, so long as Chenega has given written consent to the State's design and location of such structures, which consent may not be delayed or withheld unreasonably. To the extent reasonably possible, any such public use cabins must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land,

- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. the 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
- f. operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. Prohibited Activities:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose

of implementing the activities identified in section 1  
(Restricted Activities) above;

- b. introducing fish, wildlife or plants not indigenous to Southwestern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Chenega, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material.

III. Enforcement:

- 1. Nothing contained in the Restrictive Covenants shall be construed to entitle the Grantor to bring any action against the Grantee for any injury to or change resulting from causes beyond the Grantee's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the Grantee under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
- 2. In the event Chenega becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants, Grantor shall give written notice to the Grantee, its successors or assigns at its last known Post Office address, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, the Grantor is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to the Grantor.

IV. Water easement:

Chenega retains an easement for purpose of access across and entry upon any portions of the subject lands adjoining the Development Lands described in the Chenega Development and Homesite Easement recorded simultaneously herewith, to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Chenega's right to construct waterlines and water systems is subject to the prior written consent of the State, or its assigns, which consent shall

not be delayed or withheld unreasonably. In determining whether to consent to Chenega's access for water, the State, or its assigns shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Chenega shall have access to a sufficient source of water in order to facilitate Chenega's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Chenega shall provide an as-built survey, with descriptions, in recordable form, acceptable to the State, to locate all improvements.

IV. Items of Record:

Easements, rights and reservations of the United States, and third parties, if any, of record.

VI. Conservation Easement:

Enforcement Rights of the United States as established by the Conservation Easement granted by Grantor to the United States dated \_\_\_\_\_, 1997, and recorded immediately prior to this deed, authorizing the United States on a non-exclusive basis to enforce the Restrictive Covenants set forth therein.

VII. Reverter:

If the State attempts to convey the Protected Property or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said portion of the Protected Property or said timber rights shall be conveyed automatically to the United States, provided that the United States agrees to accept it. If the United States does not accept fee title, it shall revert automatically to Chenega. If the United States accepts fee title, in the event Chenega or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the land be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Chenega or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that the Protected Property, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the Protected Property, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to Chenega. The Protected Property shall continue in any event to be subject to the Restrictive Covenant.



\* \* \* \* \*

The foregoing easements and Restrictive Covenants shall run with the above-granted lands and shall be binding upon the Grantee and its assigns, or successors in interests;

Nothing herein shall be deemed to cause a merger of the surface and subsurface estates, and nothing herein shall be deemed to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly conveyed to the State and its assigns, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the Grantor hereunto sets its hand and seal the day and year first above written.

(Grantor)  
The Chenega Corporation

By: \_\_\_\_\_  
Charles W. Totemoff, President

ACKNOWLEDGMENT

STATE OF ALASKA )

State Warranty Deed  
Page 6 of \_\_\_\_\_



THIRD JUDICIAL DISTRICT

) ss.  
)

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Charles W. Totemoff, President of The Chenega Corporation, to me known and known to be the person he represented himself to be, and the same identical person who executed the above and foregoing WARRANTY DEED on behalf of The Chenega Corporation, and who acknowledged to me that he signed the same as President of The Chenega Corporation, in the name of and for and on behalf of said Corporation, freely and voluntarily and by authority of its Board of Directors and shareholders for the use and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My Commission Expires: \_\_\_\_\_

ACCEPTANCE

Pursuant to § AS 41.21.020(a)(3), and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, the Grantee hereby accepts this WARRANTY DEED conveying to the State of Alaska and its assigns, those interests in lands described therein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

By: \_\_\_\_\_

Marty Rutherford  
Deputy Commissioner  
Department of Natural Resources  
State of Alaska

ACKNOWLEDGMENT

STATE OF ALASKA

)

THIRD JUDICIAL DISTRICT ) ss.  
 )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Marty Rutherford, known to me and to me known to be the Deputy Commissioner, State of Alaska, Department of Natural Resources, and she acknowledged to me that she signed as accepting the foregoing WARRANTY DEED conveying to the United States, those lands described therein, and she acknowledged to me that she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)

NOTARY PUBLIC in and for Alaska  
My commission expires: \_\_\_\_\_

6003\02D.015

EXHIBIT VI  
United States Warranty Deed

DRAFT INSTRUMENT SUBJECT TO FINAL APPROVAL AND MODIFICATION PRIOR TO CLOSING AS TO FORM AND SUBSTANCE BY U.S. DEPARTMENT OF JUSTICE AND ALASKA DEPARTMENT OF LAW.

**EXHIBIT VI**  
**DRAFT UNITED STATES WARRANTY DEED FORM**

AFTER RECORDING RETURN TO:  
U.S. Department of Agriculture  
Forest Service  
P.O. Box 21628  
Juneau, Alaska 99802-1628

**WARRANTY DEED**

THIS Indenture, made this \_\_\_\_ day of \_\_\_\_\_, 1997, between **The Chenega Corporation** ("Chenega"), 3333 Denali Street, Suite 260, Anchorage, AK 99503, Grantor, and the **United States of America** ("United States") and its assigns, Grantee, under the authority of 7 U.S.C. § 428a, and the Agreement for the Sale and Purchase of Lands and Interests in Land Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1997 ("Agreement").

WITNESSETH, that the Grantor, for and in consideration of the terms of the Agreement, which provides for several simultaneous conveyances of lands and interests in lands from Chenega to the State of Alaska and to the United States, of which this is one, for a total sum of thirty-four million and no/100 Dollars (\$34,000,000.00), to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, conveys and warrants to the Grantee and its assigns, forever, the surface estate of all those lands lying and being in the Southwestern Prince William Sound, State of Alaska ("Protected Property"), containing approximately \_\_\_\_\_ acres, more or less; and more particularly described as follows:

TOGETHER WITH all right, title, and interest in avulsed lands, if any, within the area above described, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The herein described lands are acquired for administration by the Secretary of Agriculture ("Secretary") through the Forest Service.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee and its assigns, FOREVER.

SUBJECT, however to:

I. Easement for Subsistence Access:

Grantor reserves unto itself the right for the residents of Chenega Bay, Alaska (which are defined to mean those persons maintaining their primary, permanent abode in Chenega Bay, Alaska) (hereinafter "residents") to enter upon and travel across the Protected Property for the purposes of engaging in lawful customary and traditional uses (hereinafter "uses" or "such uses") of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. As used herein, the term:

1. "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and
  - a. "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses --
  - b. for other fish or game or their parts; or
  - c. for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

In exercising the rights reserved herein, the residents may utilize such means of transportation as are permitted to the general public on adjacent federal lands and all means of transportation which were customarily utilized by the residents for engaging in such uses on the above-granted lands as of June 1, 1996; provided however, that the Secretary or his delegate (hereinafter simply, Secretary) may impose such reasonable restrictions on such means of transportation as may be necessary to protect the natural state of said lands. Nothing herein shall be construed as (1) permitting the level of such uses of wild, renewable resources upon the above-granted lands to be inconsistent with the conservation of healthy fish and wildlife

populations, or (2) preventing the Secretary from closing the above-granted lands to such uses of a wild, renewable resource if necessary for reasons of public safety, administration, or to assure the continued viability of such resources; provided however, that the Secretary shall not limit or preclude such uses of fish and wildlife on the above-granted lands by the residents for purposes of public safety or administration unless the Secretary has taken all other reasonable actions necessary to remedy the conditions giving rise to the proposed limitations or preclusions, including, but not limited to, the termination of all other activities, consumptive or non-consumptive, on such lands that contribute to such conditions. The Secretary shall, consistent with his other legal obligations, manage the above-granted lands in a good faith manner which acknowledges and seeks to preserve the rights described in this easement. Nothing herein shall be construed to create any fiduciary or trust obligation whatsoever on the part of the Secretary, his successors and assigns, or the United States and its assigns with respect to the Grantor for the management of such lands. Nothing herein shall be construed to affect the authority of the State of Alaska to regulate or prohibit the taking of fish and wildlife upon the above-granted lands. Nothing herein shall be construed to affect the authority of the United States under the provisions of any federal law governing the conservation or protection of fish and wildlife, including, but not limited to, the Alaska National Interest Lands Conservation Act, PL 96-487, 94 Stat. 2371, Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. § 1187), the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. §§ 1531-1534), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. §§ 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. §§ 742a-754), the Migratory Bird Treaty Act, as amended (40 Stat. 755; 16 U.S.C. §§ 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. §§ 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. §§ 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. §§ 777-777k), or any amendments, currently or in the future to any one or more of such acts.

II. Restrictive Covenants:

Grantor reserves unto itself the non-exclusive right to enforce the following Restrictive Covenants:

1. Restricted Activities:

The activities listed below are prohibited on the Protected Property except as determined to be necessary for conveying information to the public to protect public safety or natural resources, or for research or management of the subject lands consistent with the goal of maintaining the land in perpetuity for conservation and wilderness purposes. Any buildings or mobile homes determined to be necessary for research or management of the subject lands,

to the extent reasonably possible, must be designed in a rustic manner so as to blend into the natural character of the area, must be constructed and managed in a manner that minimizes adverse effects on the land, and must be operated for use by research or land management personnel only. Determinations under the provisions of this section will be made by the owner of the fee simple estate if the owner is the State or the United States. If the owner of the fee simple estate is any other entity, determinations under this section shall be made by the owner subject to approval by the State and Chenega.

- a. constructing or placing buildings, fixed or improved camping accommodations, or mobile homes, fences, billboards or signs other than those signs for boundary, trespass, direction or general information;
- b. changing the topography of the Protected Property in any manner;
- c. removing or destroying plants except for subsistence uses or medicinal uses;
- d. using biocides;
- e. the 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
- f. operating motorized vehicles, provided that this provision shall not be construed to prohibit the use of float equipped aircraft on waterbodies within the Protected Property.

2. Prohibited Activities:

The following listed activities by any person are prohibited:

- a. removing or harvesting timber, including but not limited to, all standing and downed timber, logs, inventory, lumber, and any other goods or products obtained or derived from the forest, now or in the future, except for subsistence uses and for the purpose



of implementing the activities identified in section 1 (Restricted Activities) above;

- b. introducing fish, wildlife or plants not indigenous to Southwestern Prince William Sound, including, but not limited to, the grazing of domestic animals or the introduction of reindeer, unless unanimously agreed upon by Chenega, the United States and the State; and
- c. dumping or releasing trash, garbage, hazardous substances or other unsightly or offensive material

III. Enforcement:

1. Nothing contained in the Restrictive Covenants shall be construed to entitle the Grantor to bring any action against the Grantee for any injury to or change resulting from causes beyond the Grantee's control, including, without limitation, natural caused fire, flood, storm, and earth movement, or from any action resulting from a third party's negligence or prudent action taken by the Grantee under emergency conditions to prevent, abate or mitigate significant injury resulting from such causes. Nothing contained herein shall be construed to limit the obligation under applicable state or federal laws of third parties for injury or damage to the above-described lands. Nothing contained herein shall be construed to create any third party rights.
2. In the event Chenega becomes aware of an event or circumstance of non-compliance with the Restrictive Covenants set forth in the foregoing paragraphs, Grantor shall give written notice to the Grantee, its successors or assigns at its last known Post Office address, of such event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected immediately, the Grantor is entitled to institute suits to enjoin any breach or enforce any covenant and require that the Protected Property be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. Nothing in this section shall limit any other legal rights or remedies available to the Grantor.

IV. Water easement:

Chenega retains an easement for purpose of access across and entry upon any portions of the Protected Property adjoining the Development Lands described in the Chenega Development and Homesite Easement recorded simultaneously herewith, to transport fresh potable water, which may be allocated to Chenega pursuant to federal or State law, necessary to support the development and use of the Development Lands and to construct and maintain waterlines and water systems required for such purposes. Chenega's right to construct waterlines and water systems is subject to the prior written consent of the United States, or its assigns, which

consent shall not be delayed or withheld unreasonably. In determining whether to consent to Chenega's access for water, the United States, or its assigns shall consider the location and volume of water to be used, the reasonable availability of water in the areas to be developed, the proposed means and route of transport and any significant adverse effects on the ecosystem resulting from the removal of such water. The Parties intend that Chenega shall have access to a sufficient source of water in order to facilitate Chenega's economic development and use of the Development Lands. At such time as any waterlines and water systems are constructed pursuant to this paragraph, Chenega shall provide an as-built survey, with descriptions, in recordable form, acceptable to the United States, to locate all improvements.

IV. Items of Record:

Easements, rights and reservations of the United States, and third parties, if any, of record.

VI. Conservation Easement:

Enforcement Rights of the State of Alaska as established by the Conservation Easement granted by Grantor to the State of Alaska dated \_\_\_\_\_, 1997, and recorded immediately prior to this deed, authorizing the State of Alaska on a non-exclusive basis to enforce the Restrictive Covenants set forth therein.

VII. Reverter:

In the event Chenega or the State becomes aware of an event or circumstance when the Protected Property or any portion thereof, cease to be in compliance with the terms of any applicable Restrictive Covenant, that party shall give notice to the United States of such event or circumstance of non-compliance, and make demand that it be enjoined, corrected and/or that the lands be restored as is appropriate to the circumstances. If the event or circumstance of non-compliance is not ceased immediately and corrected promptly, Chenega or the State may institute suits to enjoin any breach of, or to enforce compliance with, the Restrictive Covenant, and to require that said lands, or the affected portion thereof, be restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance. If the event or circumstance of non-compliance is not corrected promptly and the subject lands, or portion thereof, are not restored promptly to substantially the same condition that existed prior to the event or circumstance of non-compliance, then title to said lands or portion thereof shall be conveyed automatically to the State, provided that the State agrees to accept it. If the State does not accept fee title, it shall revert automatically to Chenega. If the State accepts fee title, in the event that the State subsequently attempts to convey said lands or any part thereof in fee simple or to convey the timber rights thereto to another entity, at the time of such conveyance title to said lands or portion thereof or timber rights shall revert automatically to Chenega. The Protected Property shall continue in any event to be subject to the Restrictive Covenant. The Protected

Property shall also continue to be subject to the Easement for Subsistence Access except that Chenega agrees that if fee title to some or all of said lands is conveyed to the State, under this provision or otherwise, then the Easement for Subsistence Access shall terminate as to such lands, but the State will have the obligation referenced in paragraph 6(g) of the Agreement to manage the property so as to ensure public access.

\* \* \* \* \*

The foregoing easements and Restrictive Covenants shall run with the above-granted lands and shall be binding upon the Grantee and its assigns, or successors in interests;

Nothing herein shall be deemed to affect, expand or limit the rights of the subsurface owner to utilize that estate in accordance with applicable law.

The parties make no representations as to whether the lands that are described herein include avulsed lands, including but not limited to those lands that may have been uplifted or subsided in the earthquake of March 27, 1964.

The Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized of the surface estate in fee simple of the Protected Property, has a good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as shown above, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof, limited to that portion of the chain of title from the moment of conveyance by the United States to Grantor pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 et. seq., to and including the moment at which such title is validly reconveyed to the United States and its assigns, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the Grantor hereunto sets its hand and seal the day and year first above written.

(Grantor)  
The Chenega Corporation

By: \_\_\_\_\_  
Charles W. Totemoff, President

ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss.

BOOK 132 PAGE 428  
Valdez Recording District

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

NOTARY PUBLIC in and for Alaska  
My Commission Expires: \_\_\_\_\_

Pursuant to 7 U.S.C. § 428a, and the Agreement for the Sale and Purchase of Lands and Interests in Lands Among The Chenega Corporation and the United States of America and the State of Alaska, dated \_\_\_\_\_, 1996, the Grantee hereby accepts this WARRANTY DEED conveying to the United States and its assigns, those interests in lands described therein.

By: \_\_\_\_\_  
Phil Janik  
Regional Forester  
Alaska Region  
USDA Forest Service

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared \_\_\_\_\_, known to me and to me known to be the Regional Forester, Alaska Region, USDA Forest Service, and he acknowledged to me that he signed as accepting the foregoing WARRANTY DEED conveying to the United States, those lands described therein, and he acknowledged to me that he executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)  
6003\02D.013

\_\_\_\_\_  
NOTARY PUBLIC in and for Alaska  
My commission expires: \_\_\_\_\_

CONFORMED COPY

97-617

RECORDED - FILED N/C	
VALDEZ REC. DIST.	
DATE	6/26 19 97
TIME	8:32 A.M.
Requested by	US DEPT OF AGRIC.
Address	PO BOX 21628
JUNEAU, AK 99803-	

1628



**AMENDMENT TO AGREEMENT**

This Amendment to Agreement is entered into among The Chenega Corporation ("Chenega"), and the United States of America ("United States") and the State of Alaska ("State"). Chenega, the United States and the State are collectively referred to as the "Parties."

**WITNESSETH**

WHEREAS, the Parties entered into an Agreement for Sale and Purchase of Lands and Interest in Lands Among The Chenega Corporation and the United States of America and the State of Alaska on February 5, 1997 ("Agreement") for the sale and purchase of lands and interest in lands located southwestern Prince William Sound, Alaska;

WHEREAS, the Agreement provides for Chenega to retain ownership of certain Development Lands;

WHEREAS, the Parties desire to relocate the Development Site in Paddy Bay to a mutually agreeable location;

WHEREAS, Roger Stowell, d/b/a Sound Experience, a licensee of Chenega, has operated a hunting and fishing lodge in Paddy Bay for the last several years and desired to continue this operation at its current location during 1997;

WHEREAS, the Parties desired to accommodate Mr. Stowell upon the condition that he vacate his current location and completely remove all buildings and improvements on or before October 15, 1997;

WHEREAS, Chenega is prepared to guarantee Mr. Stowell's timely performance by posting certain collateral and agreeing to other conditions;

NOW, THEREFORE, in consideration of the promises and mutual covenants of the Parties and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties agree as follows:

1. Relocation of Paddy Bay Development Site.

a. The Agreement in Appendix C describes the Paddy Bay Development Site as follows:

Alaska State Land Survey No. 96-50, Tract A  
Within surveyed sections 28 and 29,  
Township 4 North, Range 8 East,



Seward Meridian  
5.00 acres

b. The Paddy Bay Development Site shall be relocated and the site shall be described in Appendix C as follows:

Alaska State Land Survey No. 97-16, Tract A-2  
Within surveyed sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
4.99 acres

c. Chenega shall retain an easement for purpose of access across and entry upon the lands described below in order to construct, maintain and use a septic system, including septic tank and drain field, required for the disposal of wastes and wastewater from the relocated Paddy Bay Development Site ("Wastewater Treatment Easement"). If and when the septic system is constructed, the State may introduce no more than one hundred gallons of waste and wastewater into the system annually. Such introduction shall be done in a reasonable manner so as to not damage the system and shall be coordinated with Chenega or its representatives at the site. The Wastewater Treatment Easement Lands are described as follows:

Alaska State Land Survey No. 97-16, Tract B  
Within surveyed sections 28 and 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
2.00 acres

d. The conveyance documents shall be modified in a manner consistent with the foregoing amendments.

2. Sound Experience Lodge Site.

ā. Roger Stowell, d/b/a Sound Experience, 15412 N. Fircrest Circle, Spokane, Washington 99208, ("Stowell") operated a hunting and fishing lodge, pursuant to a license agreement entered into with Chenega, on the following described property ("Sound Experience Lodge Site"):

Lots 5 and 6,  
Within surveyed Section 29,  
Township 4 North, Range 8 East,  
Seward Meridian  
16.5 acres

b. The State and the United States agree that the lodge operations may continue at the current site for the 1997 season on the following conditions:

i. Chenega shall retain temporary ownership of the Sound Experience Lodge Site.

ii. Chenega shall not develop or use the relocated Paddy Bay Development Site or the Wastewater Treatment Easement until the escrow closes pursuant to the following subparagraphs and Chenega retains ownership of the site and easement.

iii. Chenega shall deposit One Hundred Thousand and no/100 Dollars (\$100,000.00) into escrow at closing.

iv. Chenega shall deposit the following executed conveyance documents into escrow at closing:

(1) Federal Conservation Easement and State Warranty Deed for the relocated Paddy Bay Development Site and the Sound Experience Lodge Site.

(2) A release and quit claim of the Wastewater Treatment Easement.

v. Stowell or Chenega shall vacate the Sound Experience Lodge Site and completely remove all buildings and improvements therefrom on or before October 15, 1997. Stowell or Chenega also shall clean the site in a manner necessary so that there are no Hazardous Substances on the site, except for EVOS, on or before October 15, 1997.

vi. The State shall complete a Hazardous Substance survey of the Sound Experience Lodge Site as soon as reasonably possible after the site is vacated in order to establish that there are no releases of Hazardous Substances on the site, except for EVOS.

vii. As soon as reasonably possible, following vacation and cleaning of the Sound Experience Lodge Site and completion of the Hazardous Substance survey by the State, and if the Hazardous Substance survey concludes the site is acceptable, the Parties shall instruct the escrow agent in writing to record the Federal Conservation Easement and State Warranty Deed for the Sound Experience Lodge Site and return to Chenega the Federal Conservation Easement and State Warranty

Deed for the Paddy Bay Development Site, the release and quit claim of the Wastewater Treatment Easement and the One Hundred Thousand and no/100 Dollars (\$100,000) plus accrued interest.

- viii. In the event the Hazardous Substance survey reveals that remedial action is necessary for the Sound Experience Lodge Site, Stowell or Chenega shall clean the site to the reasonable satisfaction of the State as soon as practicable, but in no case later than September 1, 1998.
  - ix. Subject only to causes beyond the reasonable control of Stowell or Chenega, such as strikes, material shortages, fires, and other acts of God, which Stowell or Chenega could not by the exercise of due diligence have avoided (however, in no case later than June 1, 1998), if Stowell or Chenega fails to vacate and clean the Sound Experience Lodge Site on or before October 15, 1997, upon receipt of written notice of default from the State the escrow agent shall record the Federal Conservation Easements and the State Warranty Deeds for the Paddy Bay Development Site and the Sound Experience Lodge Site and the release and quit claim of the Wastewater Treatment Easement and deliver the One Hundred Thousand and no/100 Dollars (\$100,000), plus accrued interest, to the State.
  - x. Subject only to causes beyond the reasonable control of Stowell or Chenega, such as strikes, material shortages, fires, and other acts of God, which Stowell or Chenega could not by the exercise of due diligence have avoided, if Stowell or Chenega, after receiving notice that remedial action is needed, fails to clean the Sound Experience Lodge Site to the reasonable satisfaction of the State on or before September 1, 1998, upon receipt of written notice of default from the State, the escrow agent shall record the Federal Conservation Easements and the State Warranty Deeds for the Paddy Bay Development Site and the Sound Experience Lodge Site and the release and quit claim of the Wastewater Treatment Easement and deliver the One Hundred Thousand and no/100 Dollars (\$100,000), plus accrued interest, to the State.
- c. The conveyance documents shall be modified in a manner consistent with the foregoing amendments.
  - d. Western Alaska Land Title Company, Kodiak, Alaska, shall be the escrow agent and the Parties shall execute prior to closing appropriate escrow instructions.

3. Effectiveness of Agreement.

Except as set forth in this Amendment, all of the provisions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Agreement as of the date herein written.

THE CHENEGA CORPORATION

By: Charles W. Totemoff  
Charles W. Totemoff  
Its: President  
Date: 6-25-97

STATE OF ALASKA

By: Carol L. Shobe  
Carol L. Shobe for  
Marty Rutherford  
Its: Deputy Commissioner  
Department of Natural Resources  
Date: June 25, 1997

UNITED STATES OF AMERICA

By: Phil Janik  
Phil Janik  
Its: Regional Forester  
Alaska Region  
U.S. Department of Agriculture  
Forest Service  
Date: 25 June 1997

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the 25<sup>th</sup> day of June, 1997, at Anchorage, Alaska, before me personally appeared Charles W. Totemoff of The Chenega Corporation, an Alaska Native village corporation organized and existing under the laws of the State of Alaska, to me known to be the President of said corporation, and he acknowledged before me that he executed the foregoing Agreement on behalf of The Chenega Corporation by authority of its Board of Directors for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Susan E. Smith  
Notary Public in and for Alaska  
My commission expires: 2-3-98

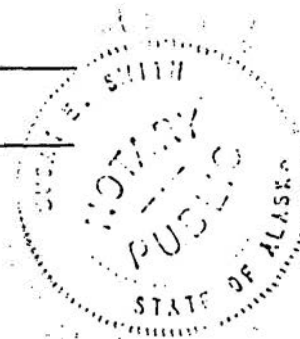


STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the 25<sup>th</sup> day of June, 1997, at Anchorage, Alaska, the foregoing instrument was acknowledged before me by Carol L. Shobe, known to me and to me known to be the person she represented herself to be, for Marty Rutherford, Deputy Commissioner of the Department of Natural Resources of the State of Alaska on behalf of the State of Alaska.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Susan E. Smith  
Notary Public in and for Alaska  
My commission expires: 2-3-98



STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on the 25<sup>th</sup> day of June, 1997, at Juneau, Alaska, the foregoing instrument was acknowledged before me by Phil Janik, of the Alaska Region of the Forest Service within the Department of Agriculture of the United States of America, on behalf of the United States of America.

GIVEN UNDER MY HAND and official seal the day and year last above written.



Elizabeth L. Valdez  
Notary Public in and for Alaska  
My commission expires: 10/10/98

6003\02D.026

Amendment to Agreement  
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CONFORMED COPY

97-618

RECORDED - FILED <u>N/C</u>	
VALDEZ REC. DIST.	
DATE <u>6/26</u>	19 <u>97</u>
TIME <u>8:55</u>	<u>AM</u>
Requested by <u>US DEPT OF AGRIC</u>	
Address <u>PO BOX 21628</u>	
JUNEAU AK 99802-	

1628