

1 EXXON VALDEZ OIL SPILL
2 TRUSTEE COUNCIL
3 Wednesday, June 27, 2007
4 Anchorage, Alaska
5 TRUSTEE COUNCIL MEMBERS PRESENT:
6 STATE OF ALASKA - MR. CRAIG TILLERY for
7 DEPARTMENT OF LAW: MR. TALIS COLBERG
8 (Chair) Attorney General
9 U.S. DEPARTMENT OF AGRICULTURE, MR. STEVE ZEMKE for
10 U.S. FOREST SERVICE MR. JOE MEADE
11 Forest Supervisor
12 STATE OF ALASKA - DEPARTMENT MR. TOM BROOKOVER for
13 OF FISH AND GAME: MR. DENBY LLOYD
14 Commissioner
15 U.S. DEPARTMENT OF INTERIOR: MR. RANDALL LUTHI for
16 U.S. Department of Interior
17
18 STATE OF ALASKA - DEPARTMENT MR. LARRY HARDIG
19 OF ENVIRONMENTAL CONSERVATION: Commissioner
20 U.S. DEPARTMENT OF COMMERCE, MR. CRAIG O'CONNOR for
21 National Marine Fisheries Svc: MR. JAMES W. BALSIGER
22 Administrator, AK Region

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1 TRUSTEE COUNCIL STAFF PRESENT:

2

3	MICHAEL BAFFERY	Executive Director
4	CHERRI WOMAC	Administrative Officer
5	BARBARA HANNAH	Administrative Officer
6	CARRIE HOLBA	ARLIS Librarian
7	MICHAEL SCHLEI	Analyst Programmer
8	SHANE ST. CLAIR	Analyst Programmer
9	MANDY MIGURA	Acting Program Coordinator
10	CATHERINE BOERNER	Acting Science Director
11	CAROL FRIES	ADNR
12	DEDE BOHN	U.S. Geological Survey
13	RITA LOVITT	Alaska Department of Law
14	GINA BELT	Department of Justice
15	JENNIFER KOHOUT	U.S. Fish & Wildlife Svc.
16	PETE HAGEN	NOAA
17	DAWN GERMAIN	USDA Office of General Counsel
18	LISA TOUSSIANT	USDOJ AK Regional Solicitor

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P R O C E E D I N G S

(Anchorage, Alaska - 06/27/2007)

(On record)

CHAIRMAN TILLERY: Let's begin the meeting today. This is the June 27th, 2007 meeting of the Exxon Valdez Oil Spill Trustee Council. I'm Craig Tillery with the Alaska Department of Law and will be chairing the meeting. And if the other Council members could identify themselves for the record.

MR. HARTIG: Larry Hartig, Commissioner of Alaska Department of Environmental Conservation.

MR. LUTHI: Randall Luthi from the Department of the Interior.

MR. O'CONNOR: Craig O'Connor from NOAA.

MR. BROOKOVER: Tom Brookover with Department of Fish and Game.

MR. ZEMKE: Steve Zemke, Department of Agriculture, Chugach National Forrest.

CHAIRMAN TILLERY: Okay. Thank you. The first item on the agenda is approval of the agenda. Is there a motion?

MR. ZEMKE: I move to approve the agenda.

CHAIRMAN TILLERY: Is there a second?

MR. O'CONNOR: I would second it but I would like to request, Mr. Chairman, that we have an

1 executive session and that it be scheduled for the noon
2 hour.

3 CHAIRMAN TILLERY: And the purpose of the
4 executive session?

5 MR. O'CONNOR: To deal with some personnel
6 matters.

7 CHAIRMAN TILLERY: Okay. Is there any
8 objection to that

1 change to the agenda?

2 MR. ZEMKE: None.

3 CHAIRMAN TILLERY: Okay. Any objection to
4 the agenda as amended?

5 (No audible responses)

6 CHAIRMAN TILLERY: Hearing none, the agenda
7 is approved.

8 MR. BAFFREY: Hang on. Cordova. You're
9 talking about the agenda now?

10 CHAIRMAN TILLERY: Yeah.

11 MR. BAFFREY: At the February 16th meeting,
12 the Trustee Council meeting, the discussion about the
13 Cordova proposal was tabled until two meetings from then,
14 that would be today. So whether it was an official at that
15 meeting, if you want to continue tabling it, it should be
16 -- I think it should be discussed today. If you want I can
17 put that within the Executive Director's report.

18 CHAIRMAN TILLERY: Why don't you bring that
19 up in that -- yeah, the Executive Director's report?

20 MR. BAFFREY: Okay.

21 CHAIRMAN TILLERY: That's kind of my
22 thought. So, okay. The next item is the approval of the
23 meeting notes and we actually have I guess three sets of
24 meeting notes for January 10th, February 16th, and March
25 9th. Is there a motion on those?

1 MR. O'CONNOR: I would move their approval,
2 Mr. Chairman.

3 CHAIRMAN TILLERY: Is there a second?

4 MR. HARTIG: I wasn't at the January
5 meeting, so -- or the February meeting. Or not the January
6 meeting, so I wasn't going to second the motion.

7 MR. ZEMKE: I'll second.

8 CHAIRMAN TILLERY: It's been moved and
9 seconded. Are there -- is there any discussion or any
10 proposed changes to the meeting notes?

11 (No audible responses)

12 CHAIRMAN TILLERY: Hearing none, is there
13 any objection to the meeting notes?

14 (No audible responses)

15 CHAIRMAN TILLERY: Hearing none, the
16 meeting notes are approved. And the next item on the
17 agenda is the public advisory comments. Who would be
18 presenting those from the Public Advisory Committee?

19 MR. LAVIN: This is Pat Lavin, I'm the vice
20 chair of Public Advisory Committee online.

21 CHAIRMAN TILLERY: Thank you, Pat. Can you
22 go ahead then?

23 MR. LAVIN: Sure. I don't have a report
24 from a PAC meeting or anything because I don't believe
25 we've met since the beginning of March and I think our

1 chair, Stacy Studebaker, has provided an update on that
2 meeting. But maybe I'll just very quickly underline again
3 I think what she had reported on the last time bears on
4 some of the conversations you'll have for today's meeting
5 and about, you know, kind of a process of moving toward
6 restoration within the context of the existing restoration
7 plan.

8 The PAC certainly met and is very
9 supportive of the notion of staying focused on a
10 restoration for species that remain on either the not
11 recovering or not fully recovered lists. You know, a lot
12 of support for some of the specific ways in which that has
13 taken shape, including herring restoration and -- and other
14 sort of motions towards restoration that are -- that are I
15 think coming up on the agenda a little bit later today.

16 So just maybe underlining that the PAC has
17 worked with the staff around that idea and I think there's
18 a lot of support for that right now. Thank you.

19 CHAIRMAN TILLERY: Okay. Are there
20 questions for Mr. Lavin?

21 (No audible responses)

22 CHAIRMAN TILLERY: I just have one. You
23 indicate that the PAC was supportive of restoration for
24 species that are not recovering or not recovered. Another
25 option we have under the consent decree is enhancement of

1 species that are in fact recovered. Does the PAC's
2 thoughts suggest that that is something that shouldn't be
3 pursued?

4 MR. LAVIN: No, I wouldn't read it that
5 way. I don't know that we've spent a great deal of time on
6 that point specifically but I think there wouldn't be
7 objection to that, although it might sort of rank, at least
8 when it comes around to the PAC kind of prioritizing maybe
9 some of the different proposals or -- or different themes
10 to focus on in a request for proposals, that might for the
11 PAC drop down to sort of a category two, maybe. But no, I
12 wouldn't say that the PAC would object to something like
13 that.

14 CHAIRMAN TILLERY: Okay. Thank you. That
15 certainly is a logical approach. Okay. Is there anyone
16 else from the Public Advisory Committee that would like to
17 make a comment?

18 (No audible responses)

19 CHAIRMAN TILLERY: Okay. Hearing none,
20 let's move on to public comment. We would appreciate it if
21 people could try to limit their comments to about three
22 minutes per person as we have a relatively full agenda and
23 a fairly short schedule for it.

24 So, Michael, who do we have online?

25 MR. BAFFREY: I don't have that.

1 CHAIRMAN TILLERY: What locations?

2 MR. BAFFREY: And Cherri just left, so I
3 would say.....

4 CHAIRMAN TILLERY: Well, let's -- absent
5 knowing that, we'll start with Anchorage. Is there anyone
6 in Anchorage who would like to -- from the public who would
7 like to comment? And if you can just, of course, state
8 your name and spell it.

9 DR. BIRD: My name is Nancy Bird, just like
10 the bird that flies, B-I-R-D. I am President of the Prince
11 William Sound Science Center and Executive Director of the
12 Oil Spill Recovery Institute in Cordova. And I just wanted
13 to welcome the new trustee members and I have two comments.

14 Basically one is that I really am pleased
15 by the herring planning process that's been going on and
16 though it seems like it's kind of a little bit of a
17 stalling because of the changes in staff here and such, I
18 feel like it's still moving along and want to encourage
19 that. We have some projects that are ongoing in Prince
20 William Sound related to the herring work that is very
21 critical and we hope that you will continue in some form.
22 So I look forward to what comes out of that process.

23 Secondly, on the Cordova Center project, I
24 understand that that is on your agenda at some point today
25 but that it is likely to be deferred. And would just state

1 that that is the understanding of folks in Cordova,
2 otherwise they probably would have been here in person. If
3 I could just add my own personal note on that, taking off
4 my hat as the science center board member, although we can
5 certainly support that project, I would encourage you to
6 look at that project at a lower level of funding that what
7 the city is requesting at this point. I think it can be
8 related to the restoration but I'm not supportive of it at
9 the current rate that they're asking for, so, thank you.

10 CHAIRMAN TILLERY: Thank you very much.

11 Are there questions for Ms. Bird?

12 (No audible responses)

13 CHAIRMAN TILLERY: Thank you. Thank you,
14 Nancy. Is there anyone else in Anchorage who would like to
15 comment?

16 (No audible responses)

17 CHAIRMAN TILLERY: I think Vern McCorkle,
18 you're online. Did you wish to comment.

19 MR. McCORKLE: I don't. So thank you very
20 much. I'm a member of the PAC and the Public Advisory
21 Committee, the public at large member, and I have no
22 comments at this time. Thank you very much.

23 CHAIRMAN TILLERY: Okay. And I believe we
24 have Cordova online. Is there anyone there who would like
25 to comment? Ross?

1 MR. MULLINS: Mr. Chairman, this is Ross
2 Mullins in Cordova.

3 CHAIRMAN TILLERY: Okay. Thank you. Do you
4 have a comment?

5 MR. MULLINS: Yes, I do. I am happy to see
6 the constitution of the new Trustee Council. I sincerely
7 hope that you will learn from your predecessors that the
8 route they were pursuing, that is trying to dismantle the
9 restoration reserve fund, is not acceptable to the public.
10 We that live here in Prince William Sound are still
11 laboring under the detriment of the oil spill, as you know,
12 herring being one species that stands out like a sore
13 thumb. And we are strongly supportive of moving this
14 herring restoration process ahead.

15 I am particularly concerned that we aren't
16 moving quickly enough to implement intervention. It is my
17 opinion, because of my 18 year involvement with the herring
18 fisheries when they were formally being prosecuted, that
19 intervention using fisherman labor and investment from the
20 Trustee Council can serve to jumpstart this miserable
21 situation we have with herring in Prince William Sound. I
22 think that topic needs to get a lot more airing than it has
23 and I would urge you gentlemen to pursue anything you can
24 do to see that the herring resource in Prince William Sound
25 is addressed in an active and urgent manner.

1 We all know what's been happening with the
2 staff at the Trustee Council. We've lost our science
3 director, who was doing a very good job trying to put a
4 science plan together. And if that were to languish
5 because of her departure, I think that would be a great
6 tragedy for this region and I urge you to make this one of
7 your highest priorities. Thank you very much.

8 CHAIRMAN TILLERY: Thank you very much,
9 Ross. Are there questions for Mr. Mullins?

10 (No audible responses)

11 CHAIRMAN TILLERY: Okay. Thank you. Is
12 there anyone else in Cordova?

13 (No audible responses)

14 CHAIRMAN TILLERY: Is there anyone else
15 online who would like to make a comment?

16 (No audible responses)

17 CHAIRMAN TILLERY: Okay. Hearing none, we
18 will close the public comment session at this time. The
19 next item on the agenda is habitat protection. Who will be
20 presenting that? Ms. Fries.

21 MR. BAFFREY: Yes. Carol, is Ron online?

22 MS. FRIES: Ron, are you online?

23 MR. BAFFREY: Ron Marcoux, are you online?

24 (No audible response)

25 MR. BAFFREY: All right. You'll get to be

1 his -- back-up man. Call him. Do you want me to.....

2 MS. FRIES: We could go ahead and start
3 early. There are two action items before you today. One
4 is the Northern Afognak project. The other is the small
5 parcel in Kiliuda Bay on Kodiak Island. As many of you are
6 aware, the Trustee Council has previously purchased lands
7 on Northern Afognak. The Seal Bay and Tonki Cape parcels
8 were purchased early in the restoration process and were
9 designated Afognak Island State Park. A second purchase
10 took place with Afognak Joint Venture in 1998. Since that
11 time, Rocky Mountain Elk Foundation and the American Land
12 Conservancy have been working with the state to purchase
13 additional lands along the northern shoreline of Afognak
14 Island. And the objective is to create a continuous block
15 of habitat that provides protection for a variety of
16 injured resources, including pink salmon, dolly varden,
17 Pacific herring, bald eagles, black oyster catchers, harbor
18 seals, harlequin ducks, marbled murrelets, pigeon
19 guillemots, river otters, and sea otters, and services
20 supported by those resources.

21 In 2001 and 2002, the Trustee Council
22 passed two resolutions supporting this effort that
23 documented the restoration values of this area. And the
24 points from that resolution are identified in your packet.
25 There's a summary of the Afognak Island project.

1 Since that time, Rocky Mountain Elk
2 Foundation and the American Land Conservancy, in
3 partnership with the State, have secured two National
4 Coastal Wetlands grants, several smaller coastal grants,
5 and over two million in private donations to contribute
6 toward the overall effort on Northern Afognak. In December
7 of 2005, the partners closed on the Waterfall parcel. It
8 is identified on the map in your packet. It is located on
9 the western shoreline of Perenos Bay. The map that we're
10 discussing looks like this one. And the Waterfall parcel
11 is highlighted over on the western side of Perenos Bay.

12 In December of 2005, we closed on the
13 Waterfall parcel identified on the map and two timber
14 harvest units that are on the eastern edge of Perenos Bay
15 that AJV retained the timber rights on those two units at
16 the time of the 1998 purchase by EVOS. The partners
17 currently have two National Coastal Wetland grants in hand
18 to pursue the parcel identified on your map and Natives of
19 Kodiak, Portage Lake.

20 In addition, a grant's been submitted to
21 the Forrest Legacy Program for the parcels identified on
22 your map as Shuyak 2A and Shuyak 2B. The Rocky Mountain
23 Elk Foundation, American Land Conservancy, have also
24 entered into discussions with Uganik for parcels 3A and 3B.

25 At this time, Rocky Mountain Elk Foundation

1 and the American Land Conservancy are moving forward with
2 due diligence efforts to take advantage of the summer field
3 season and they would appreciate Trustee Council conceptual
4 and financial consideration of this effort. Due diligence
5 in closing costs are estimated to approach \$400,000. And
6 if you look at the last page in the writeup on the Afognak
7 project, there is a document that details the anticipated
8 due diligence and closing costs associated with this
9 effort.

10 At this time the partners request \$174,000
11 as a contribution toward this effort. And DNR would
12 request that the counsel, should they choose to support
13 this effort, select Rocky Mountain Elk Foundation as the
14 recipient for \$160,000 of that amount to use for due
15 diligence requirements consistent with State and Trustee
16 Council requirements.

17 The Rocky Mountain Elk Foundation's past
18 experience and current activities with respect to the land
19 under consideration indicate that working with them will
20 streamline the process and make the most efficient use of
21 these funds. And authorization of these funds would be
22 appreciated from July 2007 through September 30th, 2008, in
23 order to accommodate the timing for appraisals and hazmat.

24 Ron Marcoux of Rocky Mountain Elk
25 Foundation was willing to help. Ron is online. He's from

1 Rocky Mountain Elk Foundation and he is also available to
2 answer any questions you might have regarding Rocky
3 Mountain Elk Foundation and American Land Conservancy's
4 efforts and interests in this area.

5 Does anyone have any questions or concerns?

6 CHAIRMAN TILLERY: Are there any questions
7 for Carol?

8 MR. BAFFREY: I do. When you say 174,000
9 as a contribution, what does that mean?

10 MS. FRIES: That means that the total
11 estimated, based on the budget that we have laid out, based
12 on previous experience and we anticipated to be costs for
13 appraisals, timber cruises, et cetera, we anticipate the
14 total cost or due diligence basically to work through the
15 project to be in excess of 400,000.

16 MR. BAFFREY: Okay.

17 MS. FRIES: There are two small coastal
18 grants that Rocky Mountain Elk Foundation and American Land
19 Conservancy have brought to the table. The State is
20 donating some time. Rocky Mountain Elk Foundation and
21 American Land Conservancy on -- for instance on the
22 Waterfall project, contributed staff time and all of these
23 things get factored together to count toward, match, and
24 you have to juggle Federal grant dollars, required match
25 dollars if EVOS is interested and willing to contribute

1 that, it gets rolled into the equation.

2 MR. BAFFREY: So you're actually asking for
3 less than half of the estimated due diligence?

4 MS. FRIES: At this point in time, what I
5 would like to say is that I anticipate that DNR, if this
6 goes forward and the Trustee Council indicates interest in
7 this, DNR may come back through the '08 budget. I would
8 like to kind of keep to the '08 budget cycle and ask for
9 funds for staff time to assist in this. DNR is already
10 contributing 25,000 in staff services through the grant
11 process.

12 MR. BAFFREY: Got it.

13 MS. FRIES: And then at -- once we've
14 looked through the appraisal process and the hazmat
15 process, this will then come back to you for consideration
16 as to whether or not you'd like to proceed to closing on
17 any or all of the parcels.

18 MR. LUTHI: Mr. Chairman, I have a
19 question.

20 CHAIRMAN TILLERY: Mr. Luthi.

21 MR. LUTHI: Thank you. And this is for the
22 new old man on the Council. Could you -- either one of you
23 -- go into a little more detail about the -- what the
24 potential threats are to the land and why we think it's so
25 important that we purchase it?

1 MS. FRIES: I -- the Portage Lake parcel in
2 particular and Natives of Kodiak have a subdivision of land
3 prepared. The area is logged in various areas. The
4 Portage Lake area is not logged. I mean, they have set
5 that aside. They have their subdivision planned and that
6 area would likely to be put on the market and sold as sites
7 for recreation, like cabins.

8 Ron, do you have anything that you want to
9 add? You've spoken with them directly. I have not.

10 MR. MARCOUX: All right. Can you hear me
11 okay, Carol?

12 MS. FRIES: Yes.

13 MR. MARCOUX: No, I think subdivision on
14 the lake certainly is a threat, that is the road that comes
15 in from the south there that would provide opportunities
16 for that. Again, there are some other spots in there where
17 we think that certainly cabins could be brought in as well.
18 There's been extensive logging and what we're looking at is
19 some opportunities to protect key old growth areas for
20 wildlife benefit. So those are probably the two greatest
21 threats that I could see occurring.

22 MR. LUTHI: Thank you, Mr. Chairman.

23 CHAIRMAN TILLERY: And Ms. Fries, in
24 addition to the sort of threats, my understanding is that
25 the Natives of Kodiak parcel is actually -- is a key, so a

1 transportation corridor or something to allow people to
2 connect the two different sides of the park.

3 MS. FRIES: Right. Thank you. That is
4 correct. That parcel is key to providing legal public
5 access from -- if you look at the map of Afognak, we have
6 acquired land on the eastern side of the island, and there
7 refuge lands on the west and EVOS acquired lands on the
8 western side. And there is no legal means for the public
9 to traverse from the eastern side to the western side. So
10 the Portage Lake parcel is a key component of trying to
11 assure viable public access.

12 MR. O'CONNOR: And that's something we
13 want?

14 MS. FRIES: Yes.

15 CHAIRMAN TILLERY: Are there other
16 questions from Council.....

17 MR. O'CONNOR: Yes.

18 CHAIRMAN TILLERY:members?

19 MR. O'CONNOR: I have some questions.

20 CHAIRMAN TILLERY: Mr. O'Connor.

21 MR. O'CONNOR: Who ultimately will own this
22 land if we acquire it.....

23 MS. FRIES: The.....

24 MR. O'CONNOR:in the end?

25 MS. FRIES:State of Alaska would own

1 it.

2 MR. O'CONNOR: And do you have a sense at
3 this point as to an order of magnitude on the acquisition
4 costs? Are we talking about a million dollars? Are we
5 talking about 50 million dollars? What -- I realize.....

6 MS. FRIES: In.....

7 MR. O'CONNOR:there haven't been
8 surveys and appraisals and stuff.

9 MS. FRIES: Correct.

10 CHAIRMAN TILLERY: Well, although, Ms. --
11 is it correct that some of these Rocky Mountain Elk
12 Foundation actually has under some form of an option?

13 MS. FRIES: Ron, do you want to speak to
14 that?

15 MR. MARCOUX: Carol, we do have options
16 currently on all three of the parcels.

17 MS. FRIES: And to speak to the magnitude
18 of the overall effort, in 2002, the resolution that the
19 Trustee Council passed authorized up to ten -- authorized
20 10.4 million as a matching contribution to the efforts that
21 were ongoing in this area. That included two parcels that
22 are not part of what we're looking at now. But I think if
23 you look at that and you factor in, you know, the Federal
24 grant funds, you know, are you asking the magnitude of the
25 EVOS contribution or the total picture?

1 MR. O'CONNOR: Well, both.

2 MS. FRIES: Okay. I -- the only number
3 that I can speak to is the 10.4 million that was on the
4 table in 2002. And that number was derived from a draft of
5 the Shuyak-Uganik parcels and the parcel -- the remaining
6 lands between what EVOS has previously purchased. Those
7 lands are owned by AJV and they're not on the table at this
8 point in time because they're in the process of dissolving
9 the corporation and they're not at this point ready to
10 sell.

11 So I think probably 10 million is in the
12 ballpark in terms of the total package price. Perhaps 15
13 million. Ron?

14 MR. MANCOUX: I think that's in the
15 ballpark with that, Carol. Again, you know, 10 to 15
16 certainly would cover it and that's probably the best we
17 could do right now for an overall cost.

18 MR. ZEMKE: As you -- oh, okay.

19 MR. O'CONNOR: And the other players have
20 sufficient monies to put into the pot in the end to
21 complete the acquisition?

22 MS. FRIES: Rocky Mountain Elk Foundation
23 and American Land Conservancy has brought in excess of two
24 million dollars to the table on the Waterfall parcel. At
25 this point in time, I think -- and Ron, you can speak to

1 this -- I have faith in their ability to raise funds. I do
2 not know specifically. I mean, they have identified
3 matching funds for the Portage Lake component in order to
4 submit the grant and make that a viable project from Fish
5 and Wildlife Services, from a grant program perspective.

6 And Ron, I don't know, can you speak to the
7 ability of the organizations to raise additional funds to
8 bring this across the finish line?

9 MR. MARCOUX: Carol, we're looking at some
10 additional, like I said -- I mean, you've brought up
11 Forrest Legacy funding. It depends what happens with the
12 president's budget right now as to whether or not he signs
13 the bill or if anything gets changed. We got a good chance
14 for funding there. We also have some matching funding in
15 terms of the some of the timber right that we've purchased
16 that we're willing to throw into the pot to transfer to the
17 State as well. So we are looking at some private funding,
18 private foundation funding, to help us with the project.
19 So we're continuing to work in regard.

20 CHAIRMAN TILLERY: Mr. Zemke.

21 MR. ZEMKE: You had mentioned that Alaska
22 Joint Venture lands in between the two parcels and.....

23 MS. FRIES: Correct.

24 MR. ZEMKE:previous parcels. And you
25 say at this, what's the time line for the dissolution of

1 partnership and then would you anticipate that they would
2 up those lands for purchase by the Trustee Council or other
3 functions?

4 MS. FRIES: I don't -- Ron, can you answer
5 that question?

6 MR. MARCOUX: Carol, I didn't hear it
7 clearly. Could you help again, please?

8 MS. FRIES: Sure. Steve Zemke from the
9 Forrest Service was asking if we had any indication of
10 AJV's time line from completing dissolution, and then is
11 there a sense as to whether or not the -- essentially if
12 AJV breaks up, those parcels will be held by Koniag or
13 Afognak Native Corporation, and they haven't determined
14 what's going to go where. And Steve is wondering whether
15 the resulting land owners have indicated an interest to
16 consider selling these lands to the Council once they have
17 gone through that process.

18 MR. MARCOUX: They haven't given any
19 indication if they will or won't. What they've asked us to
20 do is be patient while they work through their dissolution.
21 So that's where that stands right now. We've stepped back
22 and we're going to wait until they figured out how they
23 petition themselves.

24 CHAIRMAN TILLERY: Any other questions, Mr.
25 Zemke?

1 MR. ZEMKE: We were talking before about
2 the amount of the parcels like Shuyak and Uganik that were
3 clear cut and you were going to indicate how much land
4 was.....

5 MS. FRIES: I have a map that will
6 illustrate that probably better than I could possibly
7 describe it. So why don't we pass those around. Actually,
8 can I grab one of those, please?

9 MR. O'CONNOR: No.

10 MS. FRIES: No? Oh, come on.

11 MR. LUTHI: We'll give you a whole bunch
12 back.

13 MS. FRIES: Okay. Thank you. Just, it
14 would help to look at something. I just -- Steve, does
15 that answer your.....

16 MR. ZEMKE: Yeah.

17 MS. FRIES:question?

18 MR. ZEMKE: So it looks like at least
19 portions of them are heavy -- obviously heavy log and most
20 all the available timber I would say, at least merchantable
21 timber, is probably gone.

22 MS. FRIES: They have -- yeah, they have
23 been logged. I mean, I think you can -- and essentially
24 the Shuyak 2B and Uganik 3B have pretty much been logged.
25 I think they've maximized what they're going to get out of

1 there. Portions of the Uganik 3A are -- to the west, are
2 hopefully still in tact.

3 MR. ZEMKE: Long term does DNR have the
4 resources to manage this extensive infrastructure that's
5 there, the roads and the culverts and the bridges? Have
6 those all been put to bed and -- or is there is extensive
7 rea --

8 MS. FRIES: Part of the way we structure
9 the agreements, the landowner is still responsible for his
10 practices after compliance. And so they will be
11 responsible for reforestation and the moving of roads.

12 MR. ZEMKE: Okay. That's all I had.

13 CHAIRMAN TILLERY: Mr. O'Connor.

14 MR. O'CONNOR: Are we acquiring this in
15 fee?

16 MS. FRIES: Yes.

17 MR. O'CONNOR: We're not just getting a
18 conservation easement, we're taking the whole thing over.
19 And at least a large portion of the land we're acquiring
20 has already been timbered, just looking at the map.

21 MS. FRIES: Correct.

22 MR. O'CONNOR: And what is the value to us
23 of the timbered property as far as.....

24 MS. FRIES: When you.....

25 MR. O'CONNOR:habitat? It's already

1 been timbered. The habitat has been spoiled as a result of
2 that. Why.....

3 MS. FRIES: It will.....

4 MR. O'CONNOR:are we acquiring it?

5 MS. FRIES: It will come back. You get --
6 you get it at a bargain rate.

7 MR. O'CONNOR: Okay. So we're going to
8 make sure that this is never timbered again and it goes
9 back to its native condition?

10 MS. FRIES: I have to be careful what I say
11 here because the Forest Legacy program is set up so that
12 you're not removing land from forest uses; however, forest
13 uses can invol -- can encompass -- I mean, a forest use
14 is.....

15 MR. O'CONNOR: Timbering.

16 MS. FRIES:habitat.

17 MR. O'CONNOR: Yeah.

18 MS. FRIES: So.....

19 MR. O'CONNOR: It's also timbering, right?

20 MS. FRIES: Pardon me?

21 MR. O'CONNOR: It's also timbering, is it
22 not?

23 MS. FRIES: Yes, but that's not the intent
24 to -- I mean, we're -- through the Forest Legacy grant, we
25 are acquiring the parcels for their habitat values. There

1 is no intent to log it.

2 MR. O'CONNOR: How do we assure that? If
3 we acquire it, how do we assure that that's.....

4 MS. FRIES: We will have to write in to --
5 we'll have to carefully construct the deed and the
6 conservation easement. And this, I think, is something
7 that we need to probably put on the table for those
8 trustees who have not been involved in the program before.

9 MR. O'CONNOR: Uh-huh.

10 MS. FRIES: When we acquire a parcel, the
11 -- for instance, if the State acquires fee on these
12 parcels, the Federal government will then acquire a
13 conservation easement. It provides the right to enforce
14 the terms of the easement against the State. And if the
15 terms of easement are restricted as such that you are not
16 moving timber, there is no ATV use, I believe. There's a
17 variety of restrictions that are associated with the
18 parcel. You can't go up there and put a lodge on it, for
19 instance. And so there are restrictions that are attached
20 to the parcel that are enforced by the opposite government.

21 MR. O'CONNOR: If.....

22 MS. FRIES: And all of the acquisitions
23 have been set up that way.

24 MR. O'CONNOR: If this is important enough
25 to us to spend 10 million dollars, which is -- sounds like

1 it's perhaps two-thirds of the acquisition price
2 ultimately.....

3 MS. FRIES: Correct.

4 MR. O'CONNOR:why wouldn't we just go
5 ahead and purchase the whole thing as the Trustee Council
6 and not require the partners to continue to acquire money
7 and donate money to this process? Why don't we just do it?

8 MS. FRIES: I'm sure that everyone would be
9 very happy if you were willing to do that.

10 MR. O'CONNOR: Do you understand
11 historically why we had some hesitancy or some limitation
12 on our willingness to commit to this? That limitation
13 being 10 million dollars or whatever.

14 MS. FRIES: I think there were some -- do
15 you -- Craig, would you like to.....

16 CHAIRMAN TILLERY: Yeah, Ms. Fries.....

17 MS. FRIES:speak to that?

18 CHAIRMAN TILLERY:I think at the
19 time, the 10 million dollars was for a somewhat different
20 set of lands and it did encompass the entire thing. It
21 wasn't used as leverage. But in all of our land
22 transactions, whenever we have been able to use our money
23 to leverage additional monies, thereby saving joint trust
24 funds, we sort of view that as part of our obligation as
25 trustees, is to minimize, you know, the -- or to maximize

1 the use of our funds, I guess, by leveraging it with other
2 funds.

3 This is a unique opportunity because there
4 has been a reticence on the part of the Council for the
5 last four years to engage in any land habitat protection
6 activities. And in that interim, the Rocky Mountain Elk
7 Foundation and others have stepped up and have been able,
8 in smaller ways with smaller pots of money, been able to do
9 a number of projects here and in other places. We like to
10 take advantage, I think, of that experience and willingness
11 on their part to allow our money to go further.

12 MS. FRIES: With that said, I think that
13 the partners would be very appreciative of any assistance
14 that you are so inclined to provide.

15 CHAIRMAN TILLERY: Just to make sure we
16 clarify this, the -- your request today is not for 10
17 million dollars, it is for simply \$174,000 to do the
18 initial things, primarily such things as timber appraisal,
19 land appraisal, hazmat surveys, et cetera, that will
20 actually pave the way and answer many of the questions Mr.
21 O'Connor has had with regard to the value and.....

22 MS. FRIES: Correct.

23 CHAIRMAN TILLERY:so forth.

24 MS. FRIES: Yes.

25 CHAIRMAN TILLERY: As well as an assessment

1 of the property, I would expect.

2 MS. FRIES: Yes.

3 MR. O'CONNOR: Okay. Thank you.

4 MR. ZEMKE: One other question.

5 MS. FRIES: Yes.

6 MR. ZEMKE: Who owns subsurface rights on
7 this and are we -- would the process be to acquire those
8 also?

9 MS. FRIES: Koniag owns the subsurface on
10 northern Afognak. We have purchased the subsurface under
11 the previously acquired EVOS parcels. I would imagine that
12 at such a point in time when we are finished, we might
13 consider going back to Koniag and asking if they would be
14 willing to sell the subsurface on the remaining parcels.

15 The other thing that we do as one of our
16 due diligence steps for both the Federal grant programs and
17 we've done it on EVOS acquisitions on Afognak, we hire a
18 consultant to provide us with an assessment of the economic
19 development potential of the subsurface. And then we
20 evaluate the risk that is presented to the grant by not
21 acquiring -- I mean, because we're obviously not going to
22 get the subsurface at the same time that we acquire the
23 surface.

24 On northern Afognak, the development
25 potential, we have done -- we have hired two consultants.

1 We've done this twice and the development potential of the
2 subsurface is virtually nil. So I don't see that as a
3 significant risk. And we need to look at it from the terms
4 of the requirements for the Coastal Wetland grant and also
5 from EVOS's perspective so that we don't negatively impact
6 the surface's table we're purchasing.

7 MR. MARCOUX: Carol, I'll just point, we
8 have talked with Koniag.

9 MS. FRIES: Oh.

10 MR. MARCOUX: They said that they would
11 work with us in that regard and wouldn't hold things up for
12 the smaller Native corporations.

13 MS. FRIES: Oh, good.

14 CHAIRMAN TILLERY: Are there other
15 questions of Council members?

16 MR. O'CONNOR: I would move we approve.

17 CHAIRMAN TILLERY: It's been moved. And
18 would your motion then take the form of moving that we
19 adopt this resolution that's been presented to us?

20 MR. O'CONNOR: Yes.

21 CHAIRMAN TILLERY: Is there a second to
22 that motion?

23 MR. HARTIG: I'll second.

24 CHAIRMAN TILLERY: It's been moved and
25 seconded. Is there discussion from Council members?

1 MR. O'CONNOR: Yes.

2 CHAIRMAN TILLERY: There is?

3 MR. O'CONNOR: Yes.

4 CHAIRMAN TILLERY: Okay. Mr. O'Connor.

5 MR. O'CONNOR: I would like us to, if we
6 are serious about the acquisition of this parcel or these
7 parcels, readdress the issue of leveraging. My inclination
8 would be that if this is important to us, we should
9 exercise full acquisition and dedicate the money necessary
10 to be sure that this is purchased and not expect others to
11 try to scrape together money. I understand the leveraging
12 concept, but by the same token, if this matters to us, we
13 have an adequate amount of money to acquire this piece of
14 property or these properties and I think we should do it.
15 Well, that's just my editorial comment.

16 CHAIRMAN TILLERY: And that would be for
17 sort of the next phase, I.....

18 MR. O'CONNOR: That's correct.

19 CHAIRMAN TILLERY: Are there other comments
20 by Council members?

21 (No audible responses)

22 CHAIRMAN TILLERY: Okay. If we can I guess
23 take a vote, Michael.

24 MR. BAFFREY: Okay. Larry?

25 MR. HARTIG: In favor of it, yeah.

1 MR. BAFFREY: Randall?

2 MR. LUTHI: Aye.

3 MR. BAFFREY: Craig O'Connor?

4 MR. O'CONNOR: Yes.

5 MR. BAFFREY: Tom?

6 MR. BROOKOVER: Yes.

7 MR. BAFFREY: Steven?

8 MR. ZEMKE: Yes.

9 CHAIRMAN TILLERY: Yes. Okay. The motion
10 carries. The resolution is adopted. I suppose it's
11 possible someone could actually have this prepared by the
12 end of the meeting so that we could sign it and save that
13 little bit of logistical difficulty.

14 The next item I guess is Chokwak?

15 MS. FRIES: Yes. That's correct. Thank
16 you. The small parcel process has resulted in several
17 parcels coming forward for nomination. In 2004, the
18 Trustee Council asked a previous Executive Director to
19 revisit the small parcel process. We updated the policies
20 and procedures so that they were more concise and/or easier
21 for the public and non-governmental organizations and the
22 agencies to understand. And the Council adopted the
23 revised procedures and policy and reaffirmed their
24 commitment to the small parcel program in October of 2005.
25 And typically, small parcels that are brought before you,

1 they come only from willing sellers and they are generally
2 less than 1,000 acres. The parcel before you today is a
3 parcel owned by the heirs of Phillip Chokwak. His son
4 James Chokwak brought this parcel to our consider -- to our
5 attention in 2002. He sold his allotment, which is located
6 just to the west of his father's, and immediately following
7 that he began discussions with Department of Law and DNR to
8 try to work through the same process with is father's
9 allotment on behalf of the heirs.

10 As Mr. Tillery noted, there was sort of a
11 hiatus in the small parcel -- well, in the habitat program
12 in general. Mr. Chokwak has been very patient. He has
13 worked through the process with BIA and the State. We have
14 completed due diligence on this parcel. In May of 2006,
15 the Council authorized funds for due diligence activities
16 and appraisal, a hazmat survey, the preliminary equipment
17 for title insurance. We have worked through that process.
18 We've worked with BIA to insure that their requirements are
19 fulfilled as well. BIA has approved the appraised value of
20 160,000 as have a review appraiser who has reviewed the
21 appraisal on behalf of the State.

22 At this time we're asking the Council for
23 authorization of funds in the amount of \$160,000 to allow
24 us to proceed with the purchase. As you can see from the
25 benefits report, the property has benefits for a variety of

1 injured resources and services, including bald eagles,
2 harlequin ducks, pink salmon, sockeye salmon, dolly varden,
3 herring, cormorants, pigeon guillemots, sport fishing,
4 hunting. It provides a valuable subsistence area for the
5 residents of Old Harbor and it has recreational benefits.

6 CHAIRMAN TILLERY: Questions?

7 MR. O'CONNOR: And we've done the
8 appraisal? I'm trying to fi.....

9 MS. FRIES: Yes.

10 MR. O'CONNOR: This is.....

11 MS. FRIES: We have completed the due
12 diligence activities and we've done the appraisal, we've
13 done the hazmat. We have reviewed.....

14 MR. O'CONNOR: Okay. I see that.

15 MS. FRIES:title.

16 CHAIRMAN TILLERY: Question?

17 MR. BROOKOVER: I see on the large map in
18 our packet that the two parcels, one to the east and one to
19 the west -- my understanding, the one on the west has
20 already been purchased then?

21 MS. FRIES: Correct. That's correct.
22 Right. We're neighbors to the.....

23 MR. BROOKOVER: And we're looking at the
24 one on the east right now?

25 MS. FRIES: Correct.

1 MR. BROOKOVER: Okay. And the land
2 surrounding those parcels have been acquired or are being
3 acquired by the State?

4 MS. FRIES: They were acquired by the State
5 as part of the Old Harbor exchange, which was a component
6 of the larger Old Harbor package that Fish and Wildlife
7 Service pursued and closed on, I believe, and designated
8 till late -- well, probably mid-nineties.

9 CHAIRMAN TILLERY: Okay. Thank you.

10 MS. FRIES: Uh-huh.

11 CHAIRMAN TILLERY: Other questions?

12 (No audible responses)

13 CHAIRMAN TILLERY: Ms. Fries, I'm just
14 trying to figure out the numbers here. You got -- in this
15 report, you got appraised value as 160,000 and 15,000 for
16 title, and you've got a total cost to EVOS of 185,000. And
17 then the resolution references 160,000.

18 MS. FRIES: Correct.

19 CHAIRMAN TILLERY: So.....

20 MS. FRIES: We've already received the
21 funds to cover the due diligence activities and to cover
22 title insurance and so on and so forth. That's just giving
23 you -- that's the benefit to record that was presented to
24 you last spring.

25 CHAIRMAN TILLERY: Okay.

1 MS. FRIES: It provided the basis of the
2 initial funding for due diligence requirements and to
3 provide an estimate of what we thought the parcel was going
4 to cost. So that's just kind of the total picture.

5 CHAIRMAN TILLERY: And at this point, the
6 only thing that's remaining is \$160,000?

7 MS. FRIES: Correct. We have sufficient
8 funds to cover escrow and title.

9 CHAIRMAN TILLERY: Okay. There are no
10 other comment or questions?

11 MR. O'CONNOR: I would move approval of the
12 resolution approving the acquisition of Chokwak.

13 CHAIRMAN TILLERY: Mr. O'Connor has moved
14 that we approve resolution for the Chokwak two small parcel
15 KAP 3001. Is there a second?

16 MR. HARTIG: Yeah, I'll second it.

17 CHAIRMAN TILLERY: It's been moved and
18 seconded. Is there discussion?

19 MS. FRIES: Can I just.....

20 CHAIRMAN TILLERY: Ms. Fries. You have
21 discussion?

22 MS. FRIES: Can I just make one point?
23 Just -- we touched on this briefly with Afognak, the
24 Afognak discussion, but in the draft resolution that is in
25 front of you, there is a conservation easement that will

1 need to be acquired at the same time. It will be held by
2 the Federal government. And typically that goes to DOI and
3 it's held by BLM. So I just wanted to make sure that
4 everyone understood that.

5 MR. O'CONNOR: We're going to give this to
6 DOI?

7 MS. FRIES: No, no, no.

8 MR. O'CONNOR: Oh, my.

9 MS. FRIES: The parcel.....

10 MR. O'CONNOR: Oh, my.

11 MS. FRIES: The parcel comes to the
12 State.....

13 MR. O'CONNOR: Oh, okay.

14 MS. FRIES:and DOI will hold a
15 conservation easement.

16 MR. O'CONNOR: Phew.

17 CHAIRMAN TILLERY: Calm down now.

18 MR. O'CONNOR: Okay.

19 (Laughter)

20 MS. FRIES: It's okay.

21 CHAIRMAN TILLERY: Okay. If there's.....

22 MR. O'CONNOR: Can we put wolves on it?

23 Not -- never mind.

24 MR. LUTHI: If there's elk, it can support
25 wolves.

1 CHAIRMAN TILLERY: If there are no other
2 comments, Mr. Baffrey can you.....

3 MR. BAFFREY: Steven?

4 MR. ZEMKE: Yes.

5 MR. BAFFREY: Tom?

6 MR. BROOKOVER: Yes.

7 MR. BAFFREY: Craig O'Connor?

8 MR. O'CONNOR: Yes.

9 MR. BAFFREY: Randall?

10 MR. LUTHI: Yes.

11 MR. BAFFREY: Larry?

12 MR. HARTIG: Yes.

13 MR. BAFFREY: Craig Tillery?

14 CHAIRMAN TILLERY: Yes. Okay. The motion
15 is carried, and again, this resolution could hopefully be
16 prepared for signature by the end of the meeting.

17 Ms. Fries, is there anything else?

18 MS. FRIES: No. That's plenty. Thank you
19 very much.

20 CHAIRMAN TILLERY: Thank you very much. We
21 appreciate the efforts that you put into this and keeping
22 the flame alive.

23 MS. FRIES: Thank you, Ron.

24 CHAIRMAN TILLERY: Okay. Then our next
25 item on the agenda is the Executive Director's report.

1 MR. BAFFREY: All right. The first item I
2 want to talk about is the herring restoration plan. It was
3 mentioned a couple of times in public comment. We -- the
4 Pacific herring is one of 26 injured resources and --
5 injured by the spill. Its current recovery status is not
6 recovering. In November of 2006, with the Council's
7 approval, I put together a large steering committee of
8 stakeholders to prepare a herring restoration plan that
9 would guide Trustee Council actions on -- specific to
10 herring into the future. That committee prepared a
11 preliminary draft and now I need to put and have put
12 together a smaller technical writing team to complete that.

13 The writing team, the schedule for the
14 writing team to complete it, is to have their draft done by
15 this December and the review in January and a final in
16 February. The larger steering committee will still be used
17 as the review body for the technical writing team. There
18 is no action required by the Trustee Council at this point.
19 I just wanted you to know what the schedule is and how
20 we're going to get the herring restoration plan needed.

21 CHAIRMAN TILLERY: Any questions?

22 MR. O'CONNOR: Who's on the writing team,
23 Michael?

24 MR. BAFFREY: The writing team for ADF&G is
25 Steve Moffitt. For NOAA is going to be Mark Carls. The --

1 Doug Hay, who put together the enhancement white paper for
2 the larger steering committee is going to be on that.
3 Brenda Norcross will add science, she's from UAA and UAF.
4 And Bob Spies will tie the introduction and the conclusion
5 sections together for us. So it's a five member writing
6 team.

7 And even with paying for their services, we
8 will still remain with the budget for herring that you
9 approved previously.

10 CHAIRMAN TILLERY: Other questions?

11 MR. BAFFREY: Questions?

12 (No audible responses)

13 MR. BAFFREY: Okay.

14 CHAIRMAN TILLERY: Okay.

15 MR. BAFFREY: All right.

16 MR. O'CONNOR: What is -- excuse me. If I
17 don't choke to death, I have one other question.

18 CHAIRMAN TILLERY: Okay.

19 MR. O'CONNOR: I know you'd like me to
20 choke to death and shut up. Who or what is the focus of
21 the work of the writing team?

22 MR. BAFFREY: Of the what?

23 MR. O'CONNOR: The writing team.

24 MR. BAFFREY: The writing team. Initially
25 it was planned that there would -- the restoration plan was

1 going to be a pretty simple, bare bones, this is what we
2 know and this is where we want to go. So the writing team
3 is going to put together three sections. There's going to
4 be a scientific section, they will be a management section,
5 and an enhancement section. And the structure that's
6 proposed right now, that that document will be no more than
7 20 pages, potentially up to another hundred pages of
8 appendices attached to that. But that's -- that's the
9 structure that goes with that, and that's what their
10 direction is -- has been. Did that answer your question?

11 MR. O'CONNOR: Yeah, they're more than a
12 writing team. They're sort of the technical heart.....

13 MR. BAFFREY: Right.

14 MR. O'CONNOR:of this undertaking.

15 MR. BAFFREY: They are the managers. They
16 are the scientists.

17 MR. O'CONNOR: Yeah. Okay.

18 MR. BAFFREY: And Doug Hay knows the
19 enhancement.....

20 MR. O'CONNOR: Yeah.

21 MR. BAFFREY:dimension.

22 MR. O'CONNOR: Okay. Got it. Okay.

23 MR. BAFFREY: Thank you.

24 CHAIRMAN TILLERY: Other questions?

25 (No audible responses)

1 CHAIRMAN TILLERY: This February, one of
2 the things that I think the Public Advisory Committee had
3 brought up that has been brought up in the past is the
4 concept of the Council funding sort of a like an
5 overarching expert for herring. Is that something that's
6 being considered?

7 MR. BAFFREY: Not right now.

8 CHAIRMAN TILLERY: Okay.

9 MR. BAFFREY: The quote/unquote herring
10 czar and where it would housed, who it would be. There was
11 talk about having somebody with ADF&G serve that function.
12 There was talk about hiring staff to do that function. But
13 we have not carried it past the thought processes.

14 CHAIRMAN TILLERY: Okay.

15 MR. ZEMKE: This plan probably wouldn't
16 help us with whether to go forward with some of the FY-07
17 herring projects that are -- kind of were funded for the
18 one year and looked at.....

19 MR. BAFFREY: No, but we can ask.....

20 MR. ZEMKE:future funding.

21 MR. BAFFREY:the steering committee
22 to make an evaluation on those projects.

23 And that's a great segue into the next item
24 I'd like to talk about, which is the '07 projects that had
25 proposed multi-year funding but they were only funded for

1 the '07 portion. Are we ready to move on to that?

2 CHAIRMAN TILLERY: Uh-huh.

3 MR. BAFFREY: All right. In FY-07, the
4 Council funded 36 projects. Many of these projects
5 received multi-year funding approval by the Council but
6 five projects, was the multi-year project funding, only
7 received FY07 funding. The intent of the Council was to
8 assess how this field season progressed and to reassess
9 whether or not funding was going to be approved. We have
10 gone -- we have both formally notified these five PI's --
11 these are all herring projects -- these PI's to submit
12 information that will allow this office, the PAC, the
13 science panel, the herring steering committee, and you
14 assess whether or not we should award future funding for
15 the out years of their proposals.

16 Again, there's no action required at this
17 time. I just wanted you to know that there's a process in
18 play that will give you the information that you need to
19 make that decision, probably in August or in early
20 September. Questions?

21 MR. ZEMKE: There was actually six of the
22 '07, but I guess one of them is done, is that the --
23 looking -- I was looking at one of your slides you had.
24 Bishop, Kuletz.

25 MR. BAFFREY: Catherine, do you have an

1 answer to that question?

2 MS. BOERNER: There are five projects that
3 officially requested multi-year. The other projects that
4 were only funded for FY-07 had only asked for FY-07.....

5 MR. ZEMKE: Okay.

6 MS. BOERNER:funding. So it's
7 Bishop, Gay, Kline, Linley, and Rice.

8 MR. BAFFREY: Any more questions?

9 (No audible responses)

10 MR. BAFFREY: Cordova Center. Back in
11 February, as I said earlier, at the Trustee Council
12 meetings, we deferred consideration -- the Cordova Center
13 proposal was in response to the FY-07 invitation. We
14 received a proposal from the City of Cordova to help with
15 the design and construction of -- for approximately 45
16 percent of a City Hall, which they had said was applicable
17 to -- they had a nexus to the restoration program. The
18 amount that they had requested was a little over 9.5
19 million dollars. At that meeting, the Council deferred
20 action and further consideration of the proposal until two
21 meetings from that time, which is now. So my
22 recommendation would -- and the purpose for deferring it
23 was that you thought in the interim you would have an
24 understanding of where you were going to be going with the
25 restoration program. And my recommendation is that while

1 that process is still ongoing, that you continue tabling
2 discussion on this proposal. You will need to make -- this
3 will be an action item you will have to make.

4 CHAIRMAN TILLERY: Any questions or
5 comments?

6 MR. O'CONNOR: We had actually scheduled or
7 directed that this be an agenda item today at this meeting
8 for an up or down vote?

9 MR. BAFFREY: No. Discussions would
10 continue at this meeting.

11 MR. O'CONNOR: So all we have said to the
12 public that we were going to do was continue to talk about
13 it.

14 MR. BAFFREY: Right.

15 CHAIRMAN TILLERY: Other comments or
16 questions? I -- you know, I have a comment, which is I'm a
17 little bit torn here because I do feel there is a need to
18 bring some closure to this, to move along with it. It's
19 been, you know, floating around now for well over a year.
20 But on the other hand, it is entirely logical that we
21 should wait until we get a sense of the direction the
22 Council is going to go before we take it up. So I guess
23 I'd have to say it is with -- you know, my inclination is
24 to say let's get this done, let's, you know, direct that
25 you move this forward and that we bring it up at our next

1 session, but I think logic dictates against this. So I
2 support your suggestion that we wait but it worries me or
3 bothers me that this thing languishes.

4 Okay. The next -- is that -- are you
5 through with the Executive Director's report?

6 MR. BAFFREY: Yes.

7 CHAIRMAN TILLERY: Okay. And we'll wait on
8 executive session and lunch until 12:00, so go ahead and
9 move on to the restoration program.

10 MR. BAFFREY: I'm ready to do that.

11 MR. O'CONNOR: Were we supposed to do
12 something?

13 MR. BAFFREY: Oh, you need to vote on
14 continuing to table that.

15 CHAIRMAN TILLERY: I don't -- do we need to
16 vote on that? I don't think we do.

17 MR. O'CONNOR: No.

18 MR. BAFFREY: I mean, I'm fine with you
19 not, as long as everybody is understanding and City of
20 Cordova understands that.

21 CHAIRMAN TILLERY: Well, I think that's
22 correct and I think Nancy Bird made the point that they
23 were expecting that this would in essence not really
24 receive any resolution or much discussion here today. I
25 think the point is we need to know that -- it needs to be a

1 part of our future discussions and, you know, as soon as we
2 do get a sense of where the -- this council is headed, it
3 needs to be brought to some conclusion.

4 MR. BAFFREY: Ready to go?

5 MR. HARTIG: Well, I might add one thing to
6 that, if I may. Yeah, I share Craig's thoughts on it, but
7 -- Tillery's thoughts about not wanting to delay this but
8 logic dictates that we do until we have a better sense of
9 what -- where we are with the restoration plan and what
10 that might cost. But certainly I would think that if the
11 Cordova Center sees that there's an opportunity, you know,
12 that presents itself for a limited period of time where
13 they could come up with some matching money and something
14 has changed, where they need a decision from us right away,
15 they can bring it up and let us know that there's some
16 expediency here. But otherwise, we'll just assume they can
17 wait. We'll put the -- well, we'll determine that here a
18 year, maybe two years, I don't know, before getting an
19 answer.

20 MR. BAFFREY: Why don't I convey that
21 message to Mayor Tim Joyce?

22 CHAIRMAN TILLERY: I think that would be
23 appropriate.

24 MR. BAFFREY: Okay. I would welcome that.
25 All right. The public. Let's talk about the restoration

1 plan and the future thereof. The public members of the
2 Trustee Council, staff, your liaisons, the Public Advisory
3 Committee, the Science Panel, the herring steering about --
4 the herring restoration plan steering committee, want
5 restoration completed and have expressed concerns that the
6 current way we're doing business is not getting us there.

7 I'll propose a process that I believe will get us
8 there. Actually, what I'll do is propose a process that
9 has been available to you ever since 1994.

10 So before I do that, I want to draw your
11 attention to three briefing documents in your binders.
12 Please don't go thumbing through it now. That's not the
13 purpose of drawing your attention to that. The first
14 document is the briefing paper on updating the injured
15 resources and services list. That document will actually
16 be the backbone of this presentation.

17 The second briefing paper is an
18 informational memorandum listing potential restoration
19 activities suggested by the PAC and science.....

20 (Telephonic interruption)

21 CHAIRMAN TILLERY: Well, they're going to
22 hear our meeting, I think.

23 MR. BAFFREY: Sounds good.

24 CHAIRMAN TILLERY: Go ahead.

25 MR. BAFFREY: I'd like to hear it, so, all

1 right. The second paper is an informational memorandum.

2 As I said, lists the.....

3 (Telephonic interruption)

4 MR. BAFFREY: This has got to be the
5 last time.

6 CHAIRMAN TILLERY: Hopefully. Okay.

7 MR. BAFFREY: All right. Thanks. All
8 right. Welcome to the Trustee Council meeting.

9 (Laughter)

10 MR. BAFFREY: The second briefing paper is
11 a list of activities proposed by the PAC; the Science
12 Panel; a group of restoration experts, Integral Consulting;
13 that was believed to help you as you move forward towards
14 restoration. The third paper is another informational
15 memorandum on the status of current projects. In that
16 document there is a matrix that looks something like this,
17 which shows that we have 36 projects ongoing, some with
18 multi-year funding through FY-10. And we're on the Federal
19 for -- for pawing around -- and we're on the Federal fiscal
20 year. Through 2010, and the -- with final deliverables not
21 due until April of 2011. And this paper shows the
22 challenge for you in completing restoration when
23 information critical to decisions is not going to be
24 available until sometime in the future.

25 The next few slides are background, more

1 for Tom and Randall's benefit. I do recommend that both of
2 you take Craig Tillery's standing room only presentation on
3 the legal and policy history of the restoration program.
4 It's absolutely riveting.

5 CHAIRMAN TILLERY: It may be riveting but I
6 will note that Randall was present at the creation, so I
7 think he lived that history.

8 MR. BAFFREY: Well, then you know how great
9 it is.

10 MR. LUTHI: Yes.

11 MR. BAFFREY: But it's not.....

12 MR. LUTHI: Well, if Connor (ph) did it,
13 it's got to be good.

14 MR. BAFFREY: But by the end of the field
15 season in 1991, most of the damage assessment studies had
16 been completed in October of 1991. The US District Court
17 approved a civil settlement that resolved a claim to United
18 States and the State of Alaska against Exxon for recovery
19 of the natural resources injured by the spill. The use of
20 the monies provided by the civil settlement is governed by
21 two documents, the consent decree between the three parties
22 and a memorandum of agreement between the State of Alaska
23 and United States. These documents set the terms of how
24 the monies would be used for the purposes of restoration.
25 And as it states here, that is to restore, replace,

1 enhance, rehabilitate, or acquire the equivalent of natural
2 resources injured by the spill.

3 In September, October, and November of
4 1994, the final environmental impact statement for the
5 restoration plan and the Record of Decision and restoration
6 plan were respectively released, signed, and adopted.
7 There was -- in addition to the no action alternative,
8 there was four action alternatives. Alternative five was
9 picked. That alternative established the restoration plan,
10 considered all resources and services -- considered all
11 injured resources and services, emphasized not recovered
12 injured resources and services, and gave priority to the
13 resources and services impacting people in the spill area.
14 It also said that the projects should be undertaken in the
15 spill area but could be undertaken in other areas of
16 Alaska. It also said that the project would benefit the
17 same injured user groups.

18 (Telephonic interruption)

19 MR. BAFFREY: The Record of Decision was a
20 decision document. The restor.....

21 (Telephonic interruption)

22 MR. BAFFREY: Are any of those options
23 available to you right now?

24 CHAIRMAN TILLERY: I don't know.

25 (Telephonic interruption)

1 MR. BAFFREY: Is anybody online?

2 CHAIRMAN TILLERY: I have no idea.

3 MR. BAFFREY: Ask.

4 CHAIRMAN TILLERY: Who else is on the --
5 who else is still on the line?

6 MR. MULLINS: Ross Mullins is still on the
7 line.

8 (Telephonic interruption)

9 CHAIRMAN TILLERY: Oh, that worked. Okay.
10 Never mind. But thanks, Ross.

11 MR. BAFFREY: So where was I? The Record
12 of Decision is a decision, the restoration implemented that
13 decision. The main focus of the restoration plan was to
14 lay out, define, and determine how the Council was going to
15 effect restoration for those resources and services injured
16 by the spill.

17 Chapter 1 addresses implementing the
18 restoration plan through the annual invitation for proposal
19 work plan process based on the adaptive management cycle
20 and an ecosystem approach.

21 Chapter 2 defined the missions and
22 policies. As it states here, the mission is basically to
23 restore the health of the ecosystem that sustains resources
24 useable to the public.

25 Chapter 3 defines restoration actions.

1 Those are research, research and monitoring, general
2 restoration, and habitat acquisition.

3 Chapter 4 provides a list of injured
4 resources and services and how using the adaptive
5 management approach, this list can update -- amended when
6 new information becomes available.

7 Chapter 5 then lays out the recovery
8 objectives and the strategies for all but two of the
9 injured resources and services.

10 The goal of restoration, as stated in the
11 restoration plan, is recovery of all injured resources and
12 services. Recovery is to be sustained by healthy,
13 productive ecosystems that maintain naturally occurring
14 biodiversity. All restoration actions must be directed
15 towards this goal.

16 The restoration objectives are measurable
17 conditions that signal recovery. There are challenges in
18 defining objectives. Primarily the lack of pre-spill data,
19 exposure to hydrocarbons, population dynamics at the time
20 of the spill, and stressor other than oil.

21 The restoration plan also states the
22 resources and services will have recovered when they return
23 to conditions that would have existed had the spill not
24 occurred.

25 The injured resources and services list

1 include these four categories. The obvious question is,
2 are they adequate? Should others be added? We have heard
3 proposed in the past, nearly recovered would be a potential
4 -- another category. Dividing the unknown category into
5 unknown but knowable and unknowable.

6 This is a correct status of the 26
7 resources and four services that are currently listed as
8 injured.

9 MR. HARTIG: See, Michael, can I interrupt
10 and ask one question on that slide?

11 MR. BAFFREY: This one?

12 MR. HARTIG: Yeah. Where would you put a
13 species that may possibly have recovered but now something
14 else has come into play unrelated to the oil spill that may
15 be preventing them or delaying them from recovering?

16 MR. BAFFREY: Not related to oil.

17 MR. HARTIG: Right.

18 MR. BAFFREY: That's a great question.

19 MR. O'CONNOR: What was the first part of
20 it, Larry?

21 MR. HARTIG: If had a species that could
22 have recovered but hasn't due to some reason other than the
23 spill, where would it go?

24 MR. BAFFREY: Regime shifts, you know, and
25 the other stressors.....

1 MR. HARTIG: Right.

2 MR. BAFFREY:that we're talking
3 about.

4 CHAIRMAN TILLERY: I think the answer is
5 that the actual recovery objective moves because the
6 recovery objective should be -- work out essentially
7 to.....

8 MR. HARTIG: But for the spill.

9 CHAIRMAN TILLERY:where they would be
10 but for the spill. If there was some other climate change
11 or something that was going to change them anyway, the
12 recovery objective wouldn't be pre-spill conditions
13 necessarily, it might be a lower amount of animals in tune,
14 you know, the rest of the environment. So.....

15 MR. HARTIG: Yeah, and I'm not saying it's
16 necessarily the case, but say for instance herring, if
17 everything has been done that can be done, you know, to
18 mitigate the consequences of the spill, then I guess you
19 would have to look at it and say well, what's preventing
20 recovery. Is it that -- are there other factors that have
21 come into play. In that case your goal would shift. But
22 then say, you know, the determination is, is now it's --
23 there's -- they still haven't recovered due to impacts from
24 the spill, but nothing else can be done. And then you
25 wouldn't shift the goal, but they would just go into that

1 not recovered status and stay there.

2 CHAIRMAN TILLERY: And what can you do.

3 But I think the problem with herring, of course, is that we
4 can't positively identify the spill as the cause of their
5 decline. It certainly.....

6 MR. HARTIG: Right.

7 CHAIRMAN TILLERY:on a temporal
8 basis.....

9 MR. HARTIG: That's why I said -- I did put
10 in assumption there.

11 CHAIRMAN TILLERY: Right. Yeah. But I
12 think that's -- yeah, I think your two alternatives are
13 correct. Eventually we'll have some species that may be
14 not recovered, never will. Or won't as far as we know.

15 MR. HARTIG: Okay. Thank you.

16 MR. BAFFREY: But -- can we continue this
17 discussion just a bit further?

18 CHAIRMAN TILLERY: Sure.

19 MR. BAFFREY: Because there's four species,
20 harbor seals, the Kittlitz's and the marbled murrelets, and
21 the pigeon guillemots that were in decline before the
22 spill. You know, setting the recovery objective aside, if
23 they recovered from the spill and you know that, you know,
24 it's the other factors that are continuing the decline.
25 And, you know, that kind of speaks to what you were talking

1 about as well. And that's why I think we need to go back
2 and look at the recovery objectives today, knowing what we
3 know 18 years after the spill.

4 MR. O'CONNOR: What we have is -- we did
5 not have a good inventory of the baseline condition
6 immediately preceding.....

7 MR. BAFFREY: Right.

8 MR. O'CONNOR:the spill. So we
9 didn't know where we were.....

10 CHAIRMAN TILLERY: Not for most species.

11 MR. O'CONNOR:when we began this.

12 And we are only responsible for restoring the resources to
13 the condition that they would have been in but for the
14 spill as reflective of the change in reality, to your
15 issue, Larry. If the carrying capacity of the ecosystem,
16 for whatever reason, isn't -- we can't bring it back, we
17 can nonetheless declare victory because we are working
18 within the context that we find ourselves in today. We
19 brought it back as far as we possibly could.

20 Climatic conditions might be influencing
21 it. Redistribution of food supply, impact of herring as an
22 example, something like that. We've done the best we could
23 possibly do given the context within which we're operating
24 today, and that's a very legitimate determination. That's
25 the best we're going to do because of factors beyond our

1 control.

2 MR. BAFFREY: You don't see. All right.
3 It has been recommended from several sources that we need
4 to take a fresh look at the recovery objectives, the
5 recovery status categories, our research, monitoring, and
6 general restoration actions in light of what we know today,
7 you know, 18 years after the spill. If it's stated in the
8 last bullet in this slide, the adaptive management approach
9 and the restoration plan allows us to do this. In fairness
10 to the four previous updates to the injured resources and
11 services list, some of the recovery objectives have been
12 changed but none were changed substantially.

13 Here's a slide that makes every PowerPoint
14 instructor gasp. So this is why you have a larger version
15 of this and the audience also. So the top series of steps
16 of this final slide shows the time line to get to a plan to
17 keep restoration. Using the adaptive management approach,
18 the 2008 update to the injured resources and services list
19 will be this plan. Based on dialogue with the PAC, the
20 Science Panel, legal counsel, the agency liaisons, the
21 herring restoration plan steering committee, and the
22 public, a preliminary draft in file will be presented to
23 you that as modified recommended changes to the recovery
24 objectives, the recovery status categories, and proposed
25 research monitoring and general restoration actions.

1 An appendix, you know, when that is
2 approved, an appendix will be prepared for the restoration
3 plan that explains your changes and the future direction
4 that the Trustee Council has taken to achieve recovery.
5 The middle section is the process for developing and
6 implementing the FY-09 invitation for proposals and work
7 plan.

8 The bottom series is the completion of the
9 herring restoration plan that I talked about a bit earlier.
10 So before I open it up for questions, let me say a couple
11 of more things, and that's that we need to complete the
12 restoration program by restoring as many of the injured
13 resources and services as we can and leave a plan in place
14 for Federal and State resource managers to continue that
15 effort. We need to leave a legacy of the state of the art
16 science and restoration efforts that have been funded by
17 the Trustee Council. The current restoration plan lists
18 recovery objectives and recovery status categories that may
19 no longer be viable, either in a scientific or restoration
20 sense. Obtaining both based upon current science and local
21 knowledge will give us a truer picture of the work that's
22 left to be done.

23 Lingering oil is a real issue that we
24 cannot ignore. We need to explore all potential options
25 for cleanup, and that includes doing nothing. At the very

1 least, we need to leave a -- we need to complete a lessons
2 learned report that would deal with the work done by the
3 Council and its successes and failures. It would be a
4 tremendous waste to not to provide this information to
5 ongoing ecosystem efforts worldwide.

6 And with that, I welcome your questions.

7 CHAIRMAN TILLERY: Questions? Mr. Hartig.

8 MR. HARTIG: First question, on the NEPA
9 analysis that was done on the original plan, are we going
10 to have to -- I don't mean to sound negative here, but are
11 -- is the plan to run this through NEPA, at least do an
12 analysis whether there's -- you now, do a finding of no
13 significant impact. We don't need to do any IS or.....

14 MR. BAFFREY: Well, I've got great backup
15 on that question. But I think the plan -- the adaptive
16 measurement approach is spelled out right in the
17 restoration plan. It gives you every option to use the
18 restoration plan to do this without having to go back to
19 NEPA. So I would welcome others addressing that, including
20 yourself, because I know you have a NEPA background.

21 MR. HARTIG: Well, yeah, and I just don't
22 know why we -- why it was done 18 years ago. I mean, you
23 know, why it went to NEPA the first time. There was
24 obviously a Federal action and somebody thought it had
25 significant impact on the human environment but here I

1 think -- and I guess it would still arguably be a Federal
2 action and it's a revision to a plan, but whether it'd have
3 a significant impact, I would somewhat be skeptical. But
4 some -- you don't just do that -- we don't decide that as
5 trustees. You know, we -- somebody else would have to make
6 that determination into the NEPA process.

7 MR. BAFFREY: When I read the information,
8 the historic information on this, it was the trustees who
9 decided to do the NEPA document. So -- and I don't think
10 that -- I don't know what the analysis was that went into
11 that decision but it was at a council meeting that they
12 decided that it was going to be.....

13 MR. HARTIG: Uh-huh.

14 MR. BAFFREY:a major Federal action,
15 I think, upon legal advice.

16 MR. HARTIG: Yeah.

17 CHAIRMAN TILLERY: It was upon advice of
18 Federal legal counsel.

19 MR. BAFFREY: Well, there you go. I'm
20 noticing it's pretty silent record.

21 CHAIRMAN TILLERY: And, you know, to me it
22 seems that it -- I mean, I don't know what sort of changes
23 or any kind of new direction might be approved, but it
24 seems to me that this isn't really a change to the original
25 restoration plan but what we're talking about is simply the

1 implementation of that plan.....

2 MR. HARTIG: Right.

3 CHAIRMAN TILLERY:which contemplated
4 that there would be changes in direction.

5 MR. BAFFREY: Exactly.

6 MR. HARTIG: Right.

7 CHAIRMAN TILLERY: So I don't.....

8 MR. HARTIG: Yeah, I mean that may be.....

9 CHAIRMAN TILLERY: My own expectation.....

10 MR. HARTIG:the answer.

11 CHAIRMAN TILLERY:is we won't need a
12 NEPA action but.....

13 MR. HARTIG: That makes sense to me. I
14 guess the other question I have then is, it's important to
15 DEC and to others that we make a decision on the lingering
16 oil at some point. From DEC's perspective, you know, we
17 have to decide and then EPA will have to decide whether to
18 put it on the impaired water body list. And right now it's
19 certainly a strong candidate for that, those beaches where
20 there's still lingering oil that don't meet state water
21 quality criteria. And if that happens, then we have to
22 have a recovery plan and how we're going to ultimately
23 comply with state water quality criteria on those beaches.
24 And one might be, you know, just let nature take its course
25 and through attenuation and breakdown of the hydrocarbons,

1 et cetera, that it will get there someday. But that
2 probably won't be too acceptable unless we've looked at
3 other alternatives.

4 And so the way I'm looking at this here is
5 that we work through this update of the plan and then early
6 '09, as part of the decisions on the restoration plan,
7 changes to the restoration plan, with the intent at that
8 point to be able to say on the lingering oil that, you
9 know, what we're going to do or not do on those beaches
10 that are still oiled.

11 MR. BAFFREY: That's the reason I
12 referenced you to those three briefing papers in the very
13 beginning.

14 MR. HARTIG: Uh-huh.

15 MR. BAFFREY: Because we're not going to
16 get information from Boufadel until.....

17 MR. HARTIG: Right.

18 MR. BAFFREY: And we're not going to get
19 information from the Michel report to do analysis.....

20 MR. HARTIG: Right.

21 MR. BAFFREY:and visit the study
22 until '09. So I don't see how you can make those decisions
23 until you know what factors are limiting degradation. Like
24 who much oil there is there. Until some.....

25 MR. HARTIG: Yeah, that was my

1 understanding too. So it's -- probably we're not going to
2 have an answer until either far into '09 or 2010.

3 MR. BAFFREY: Correct.

4 MR. HARTIG: I'd have to -- and we don't --
5 that's prejudging against the results of those two studies
6 too and their adequacy but it wouldn't be before then.

7 MR. BAFFREY: Correct.

8 MR. HARTIG: Okay.

9 CHAIRMAN TILLERY: Other.....

10 MR. O'CONNOR: Michael.....

11 CHAIRMAN TILLERY:questions?

12 MR. O'CONNOR:what do you think
13 adaptive management means in the restoration plan? What
14 does that mean?

15 MR. BAFFREY: It means you go back and look
16 at what you've learned and you apply it.

17 MR. O'CONNOR: Does that mean if we've
18 learned something that says our restoration plan didn't
19 make sense that we could just go and change it.....

20 MR. BAFFREY: Not the restoration.....

21 MR. O'CONNOR:without.....

22 MR. BAFFREY:plan, but if the
23 recovery objective did not make sense or if there's a new
24 recovery status category that needs to be added or if we're
25 not directing the research in the direction that it needs

1 to go to get the restoration, that's -- you know, use the
2 information that you've learned to take a fresh look at
3 performance.

4 MR. O'CONNOR: So if we were to decide that
5 the principal goal of the Council today is to restore human
6 services through activities directed specifically at
7 humans, for instance, building a Cordova Center.

8 MR. BAFFREY: Right.

9 MR. O'CONNOR: We're going to go out and
10 focus on that, breaking from the historical approach of
11 concluding that restoration will be accomplished through
12 the restoration of natural resources. So we're going to
13 make that change and we're going to go say -- we're going
14 to go fix human service losses by other tools. Do you
15 think that's adequately contemplated in the existing
16 restoration plan that we could do that without having to
17 re-engage in a NEPA process because we're changing our
18 approach?

19 MR. BAFFREY: I can't answer that. You
20 know, I mean, that's -- is that a departure? Are you
21 talking about, you know, a Cordova City Hall? You know,
22 one would have to draw the nexus to the restoration to
23 this. Drawn to the restoration of the injured resources,
24 because theoretically once they're recovered, then the
25 human services you're talking about would then follow suit

1 with recovery. You know, I think if you draw that nexus
2 then I think it's a viable cause then, you know.

3 MR. O'CONNOR: There's a difference between
4 nexus and the philosophical approach, the policy approach
5 that was articulated by the Council in '94. So if we're
6 going to begin our focus to be on human services directly,
7 restoring those services, do you think that's a significant
8 departure from what was contemplated in '94 when we
9 approved the plan?

10 MR. BAFFREY: Yeah, I would defer --
11 frankly I would defer to both of you guys because you were
12 here then. What were you contemplating back then?

13 (Laughter)

14 CHAIRMAN TILLERY: I don't view that as a
15 departure. That was part of the original idea. It wasn't
16 the main focus at the time but it was certainly one of the
17 focuses and we did a number of human services projects. We
18 did some legal opinions, one where we actually came up with
19 the idea that there had to be a significant nexus to the
20 natural resources and so forth, so.....

21 MR. O'CONNOR: Well, nexus is a matter law.
22 NEPA is a matter of process. And the adequacy of our
23 process with regard to environmental decisions. They're --
24 I think they're distinguishing. Obviously we can't spend
25 money if there isn't a restoration nexus, that's

1 constrained by the settlement agree, consent decree, or
2 MOA, and so on. If we were to go -- and this is where I
3 began to get uncomfortable on the -- if we go into the
4 business of sewage treatment facilities, which is a -- in
5 my opinion at least, a fairly significant departure. Or if
6 we go into the business of trying to restore passive use
7 losses in some direct way, whatever that might be, then I
8 think we are making -- potentially making a significant
9 departure from the fundamentals of the '94 restoration
10 plan, and that would engage the Federal responsibility. We
11 also have a Federal.....

12 MR. BAFFREY: Federal responsibility
13 meaning.....

14 MR. O'CONNOR: NEPA.

15 MR. BAFFREY:NEPA review?

16 MR. O'CONNOR: NEPA. Now I don't know why
17 -- my opinion is we need to do a NEPA review, so that will
18 be where I am on this. But I don't find that to be a
19 difficult thing to do. It can blend very nicely into what
20 Michael is proposing for our next steps and it's not a
21 difficult thing.

22 I believe also that we said that our plan
23 in the ROD was a plan that carried us through 2002.

24 MR. BAFFREY: The ROD didn't say that.

25 MR. O'CONNOR: What did it say?

1 MR. BAFFREY: It didn't say that. It was
2 mentioned in the executive summary but it was not mentioned
3 in the Record of Decision.

4 MR. O'CONNOR: So it's -- was considered in
5 '94 in the ROD to be a document that exists in perpetuity?

6 MR. BAFFREY: Well, as -- in accord to the
7 Record of Decision.

8 MR. O'CONNOR: There is an obligation that
9 the Federal entities have under the guidance from CEQ that
10 particularly programmatic environment impact statements be
11 reviewed routinely, and that is a five year exercise.
12 Every five years is sort of the rough guidelines to do
13 that. Have we conducted such a review based upon your
14 evalua.....

15 MR. BAFFREY: To the restoration plan, no,
16 but we do do a NEPA review on each one of the projects that
17 we fund.

18 MR. O'CONNOR: But we do an EA on the
19 projects.

20 MR. BAFFREY: But we could, you know -- I'm
21 sure we could look at that in some of saying that we were
22 doing that on an ongoing basis, on an annual basis.

23 MR. O'CONNOR: All right. I commend you
24 for your proposal.....

25 MR. BAFFREY: Well.....

1 MR. O'CONNOR:and your approach.

2 MR. BAFFREY:thank you. I do -- you
3 know, I do want to appreciate -- state my appreciation for
4 Edie and Carol and for Catherine and Mandy, by the way.
5 This is Mandy Migura, who is our -- not so new now but new
6 to you -- environmental program specialist. She stepped
7 into Catherine's role and she has stepped into Kim's role
8 on an interim basis.

9 CHAIRMAN TILLERY: It seems to me
10 ultimately whether we actually have to do a NEPA review is
11 going to be something that we'll -- we will end up
12 deferring to the Federal legal counsel who have expertise.
13 It's their law. They know whether we need to do this.

14 Just a matter of historical record, I would
15 point out that projects to deal with human waste is not
16 actually a departure or anything new. We have not only
17 considered them but we have funded them in the past. And
18 so it may be to some extent a difference in scale, but not
19 even all that dramatic. But we have done -- we have dealt
20 with solid waste, we've dealt with hazardous waste, we've
21 dealt with oily wastes in the past. And this is not
22 fundamentally different in concept, a sewage treatment --
23 and I'm not commenting on whether or not I would even agree
24 that's a good idea, but just saying it's not new.

25 MR. O'CONNOR: Well, we've also built

1 facilities for archeological sea artifacts on Kodiak
2 Island.

3 CHAIRMAN TILLERY: Okay. Mr. Baffrey.

4 MR. ZEMKE: We have built some expectations
5 in the public that there might be a NEPA review and in the
6 future, so as Craig was saying, programmatically I think
7 the Federal government looks at things after 10 or 15 years
8 as growing stale and might provide an avenue for somebody
9 if they wanted to bring that up, a legal course of action,
10 that could happen. And so by having a NEPA review, it
11 would help kind of codify the current direction that we're
12 here, make us more defensible if that's the case. And one
13 of the things we could do is probably put in notice of
14 intent in the Code of Federal Registration to be able to
15 say that we're looking at it. If you put in an intent it
16 doesn't mean that you're going to do it building it's that
17 you may -- you are looking at examining that process and
18 that if indeed we wanted to do that, we could kind of front
19 load it that way by -- and still meet the March 24th, '09
20 date. But if we don't do that, you know, if we push it off
21 and then decide, yeah, we need to go ahead with a NEPA
22 review, then we may be pushing up on time lines or need to
23 do public involvement and how long it has to see in the
24 Code of Regulations.

25 MR. BAFFREY: The March 24th date is

1 unofficial. We just like to have a plan in place.....

2 MR. ZEMKE: Sure.

3 MR. BAFFREY:of where we want to go
4 in the future by the 20th anniversary of the spill. And my
5 argument all along would be had we been following the
6 adaptive management approach in the restoration plan was --
7 most of it looked better, but this one doesn't -- we would
8 not be having this conversation today.

9 MR. ZEMKE: Sure.

10 MR. BAFFREY: So -- and I don't -- and I
11 would -- when I see a notice of intent to prepare an
12 environmental impact statement, even though that can be
13 withdrawn at a later date, that to me does set a public
14 intent that you're going to prepare an environmental impact
15 statement. You know, I would rather see a decision made,
16 even if it requires a legal review, I'm very comfortable
17 with that, whether or not NEPA does apply to quantifying
18 recovery objectives, the status categories, the way we do
19 our research monitoring and general restoration.

20 CHAIRMAN TILLERY: Mr. Hartig.

21 MR. HARTIG: I mean, I do appreciate this
22 effort in help starting put some structure to it. What I
23 was hoping that we would ultimately get out of this is an
24 idea of what in the future we may need to spend the trust
25 money on and how much and how to prioritize those. So that

1 if we wanted to consider whether they be new ideas or old
2 ideas, you know, brick and mortar type projects, you know,
3 waste treatment type projects, that sort of thing, that we
4 would say, okay, well we feel comfortable maybe spending up
5 to this amount, but we want to keep this much for
6 monitoring. We want to keep this much for further
7 research. This much for, you know, active restoration, if
8 that's going to be pursued. And admittedly, you know,
9 these were going to have to be guesses, you know, how much
10 to put in each of these boxes, but at least it would be
11 informed guesses. And then people would see what direction
12 we're taking.

13 So it isn't just writing an update to the
14 restoration plan, it has other consequences. And so if one
15 was going to write this up, which I think maybe -- I can't
16 help thinking we should, you know, what our total objective
17 here is, is not just, you know, to update the restoration
18 plan but to give us a foundation, you know, maybe for
19 looking at expenditures in the future and how to judge
20 those. Then it might be easier for the attorneys to look
21 at it and say, okay, well, does there need to be a NEPA
22 analysis here. But I think we do have to have kind of a
23 clear statement of what we're really pursuing here and its
24 consequences. Certainly do that before -- have all of us
25 agree on that before be send off -- the attorneys off to

1 bless it.

2 And I think that the NEPA -- we need to get
3 -- I agree, we need to make a decision on that fairly soon
4 or have somebody make that decision for us so we can figure
5 that into the schedule here too and whether there's some
6 interim steps that need to be dovetailed with this process.

7 CHAIRMAN TILLERY: Mr. Baffrey, I have a
8 question on this -- your top line here or thing -- the 2000
9 Update of the Injured Resources and Services List. It
10 looks to me like there's sort of -- there's two things
11 you're doing here. One of them is pretty clear, modify
12 recovery objectives, status categories, deal with the
13 current list, et cetera. The second one is proposed
14 research, monitoring, and general restoration activities.
15 It goes on to draft research, monitoring and general
16 restoration activities proposed. And then ultimately you
17 end up with future direction of restoration program. To me
18 that seems a little outside of a simple update to the
19 injured resources and services list. What is contemplated
20 there?

21 MR. BAFFREY: Why is that outside -- I
22 mean, I don't understand why you would consider that
23 outside the update. You mean the actual proposing of the
24 activities?

25 CHAIRMAN TILLERY: Yes.

1 MR. BAFFREY: Oh.

2 CHAIRMAN TILLERY: That seems more like a
3 -- either a work plan or a more -- a different document to
4 me.

5 MR. BAFFREY: I mean, this will feed into
6 the work plan process. And you're right, that is a work
7 plan process. But I do think that when it comes to
8 projects that you want to do, that if you want to start
9 doing brick and mortar projects, then that falls into upper
10 level. Somewhere there's going to be a decision on that.
11 And granted, the cleanest way would have left those
12 completely out of it, but they're talked about in the
13 restoration plan, of, you know, the researching that we do
14 in the general restoration analysis. And I was looking in
15 page 19 of the restoration plan and the general
16 restoration, it talks reducing marine pollution.

17 MR. HARTIG: And what I kind of envisioned
18 too on the restoration plan -- and this is just speculating
19 at this point -- but you could have something come back and
20 say, you know, we really don't have a plan at this place --
21 at this point, other than to continue to monitor it and
22 then monitor activities and whoever the land manager is out
23 there, have them manage other activities there so they
24 don't adversely impact, you know, the resource. And then
25 it might be that part of our plan is that, you know, the

1 trustees come up with some pot of money to continue that
2 monitoring and do whatever research we need to do that, for
3 that agency to do their act -- their management. So I
4 mean, I see -- I could see where there would be a dovetail
5 there.

6 MR. BAFFREY: On the.....

7 CHAIRMAN TILLERY: Okay.

8 MR. BAFFREY: I'll actually defer that
9 answer.

10 CHAIRMAN TILLERY: Well, I don't have an
11 objection to the activity, I simply -- it is not my concept
12 when we've ever done any previous update to the services
13 list that it has involved actual proposed research,
14 activities, et cetera, and I just was sort of questioning
15 why it's here instead of almost its own category. It sort
16 of.....

17 MR. BAFFREY: But it talks about that in
18 the restoration plan.

19 CHAIRMAN TILLERY: In the restoration plan
20 but does it do so in the injured service list?

21 MR. BAFFREY: Okay.

22 CHAIRMAN TILLERY: The little supplemental
23 thing we publish. I don't think it's in there, but I could
24 be wrong.

25 MR. BAFFREY: It's a fine line that I

1 wasn't dividing when I went through this process.

2 CHAIRMAN TILLERY: Anyway, I don't think
3 it's -- I don't object to the activity, so I don't have a
4 problem with it.

5 MR. O'CONNOR: Didn't we sort have that out
6 at the Integral report? I can't recall, but I thought they
7 had suggestions as to areas that needed to be explored.

8 MR. BAFFREY: Yeah, they did. They did but
9 it was not the focus.

10 MR. O'CONNOR: Yeah.

11 MR. BAFFREY: They did provide some. And
12 in the -- you know, in your second briefing paper, on the
13 -- actually, your first briefing paper, the one on the
14 update, has a chart in there that actually lists the
15 recommended changes.

16 CHAIRMAN TILLERY: All right. Anything
17 else on this item on the agenda?

18 MR. BAFFREY: No, I just wanted you to give
19 me the green light. We got a lot of work to do.....

20 MR. O'CONNOR: I have a question.

21 MR. BAFFREY:and I want to -- we got
22 a long ways to go.

23 MR. O'CONNOR: Are we going to hire a
24 contractor on this or are you guys going to do it all in-
25 house?

1 MR. BAFFREY: Well, it -- look under input,
2 yeah. You know, I mean, the PAC decides.....

3 MR. O'CONNOR: By in-house, I mean we're
4 not going to hire an outside consultant.

5 MR. BAFFREY: That's true.

6 MR. O'CONNOR: That was such a wonderful
7 experience last time that I just -- I'm going to be
8 disappointed if we don't.

9 MR. BAFFREY: No, that's not my plan. I
10 think we have the expertise to coordinate the effort right.

11 MR. O'CONNOR: Okay.

12 CHAIRMAN TILLERY: Okay. I don't see this
13 as an action item. I guess I do see it as an opportunity
14 for any Council members to indicate if they have any
15 concerns with this direction and I haven't heard any, so I
16 think you don't have any -- I don't see any stop signs.

17 MR. BAFFREY: Thank you.

18 CHAIRMAN TILLERY: Okay.

19 MR. O'CONNOR: Thank you. It sounds like
20 you got a plan.

21 CHAIRMAN TILLERY: Yes. Okay. I think
22 we're now -- it's 12:15. I think it would be appropriate
23 to do -- to go to lunch and an executive session. I
24 wouldn't -- Mr. O'Connor, you asked the executive session.

25 MR. O'CONNOR: Yes.

1 CHAIRMAN TILLERY: Would you anticipate
2 this one actually would be relatively short, as opposed to
3 we often think they're going to be short or they're not?

4 MR. O'CONNOR: Well, if you'd just shut up
5 and let me talk, everything will be fine.

6 CHAIRMAN TILLERY: Okay. Given that, do
7 you think we could reliably plan to be back here at say
8 1:00?

9 MR. O'CONNOR: Yeah.

10 CHAIRMAN TILLERY: Is that okay with other
11 Council members, to plan on that? So if you would --
12 someone needs to make a motion to go into executive session
13 that explains the reason or that states the reason.

14 MR. O'CONNOR: I move we go into executive
15 session for purposes of discussing personnel matters.

16 CHAIRMAN TILLERY: Is there a second?

17 MR. LUTHI: Yeah, second.

18 CHAIRMAN TILLERY: It's been moved and
19 seconded. Is there any discussion?

20 (No audible responses)

21 CHAIRMAN TILLERY: Is there any objection?

22 (No audible responses)

23 CHAIRMAN TILLERY: Okay. Hearing none, we
24 will be in executive session. We will plan to be back here
25 and start back again at 1:00 o'clock.

1 (Off record - 12:15 p.m.)

2 (On record - 1:06 p.m.)

3 CHAIRMAN TILLERY: We can bring the Trustee
4 Council meeting back to order. We just broke for lunch.
5 We had an executive session. During that executive
6 session, we discussed matters to personnel.

7 When we left off we had finished with item
8 number 7, restoration program, and I believe the next item
9 is the FY-08 invitation to submit proposals. Mr. Baffrey.

10 MR. BAFFREY: Yes, sir. The PAC, the
11 Science Panel, the former Science Director, your liaisons,
12 and I recommend that the FY -- recommend deferring the FY-
13 08 invitation. Again, we're on the fiscal for Tom and
14 Randall. We normally -- historically we've tried to issue
15 an invitation for proposals in February and run that
16 process through where the Trustee Council makes a decision
17 for the next fiscal year in August/September of the current
18 fiscal year. We are now the latter part of June, issuing
19 an invitation right now. You know, it could be done. If
20 you use the -- if you defer it, we could still do it. You
21 know, if in fact there's a need to solicit some type of
22 research this fiscal year. But we're all recommending
23 that, you know, we look at the overall process, we wait for
24 some findings from the proposals that we have currently
25 funded, and we're also waiting -- suggest waiting until we

1 get the herring restoration plan to a point that they can
2 actually help guide future herring activities.

3 So our recommendation is that you defer it
4 and that will take, I'm assuming, Council action.

5 CHAIRMAN TILLERY: Questions?

6 MR. ZEMKE: How would like the continuation
7 of the FY-07, such as the herring projects, if indeed we
8 were going to fund those, normally we'd deal with those
9 kind of FY-08 invitation but I guess we'd just basically
10 have a special action on those specific.....

11 MR. BAFFREY: Right.

12 MR. ZEMKE:projects.

13 MR. BAFFREY: The process that I was
14 relating earlier for those projects is that we've asked
15 them to give us information that would help us evaluate --
16 help the PAC, the Science Panel, the herring restoration
17 steering committee, and staff, and liaisons make that
18 determination. And then we'd present that to -- for those
19 five, we'd present that to the Trustee Council
20 August/September.

21 MR. ZEMKE: Do you know of any other
22 specific research or monitoring that we feel is needed in
23 the FY-08 period that might be -- come up again before us
24 this -- though?

25 MR. BAFFREY: Yeah. We put together a

1 matrix of FY-07 funded projects that we do not know -- and
2 we've had this conver -- we've had a sidebar conversation
3 on this. There's several projects -- one, two, three,
4 four, five, six, seven, eight, nine, ten, eleven -- it
5 looks like 13 projects that may fall into that category. I
6 don't have a process for that yet. I know that some of the
7 PI's thought they were only supposed to be going for one
8 year funding back in FY-07. They didn't read the
9 invitation. I cannot see where that's something that we
10 should go back and say, oh, okay. You know, come in with a
11 proposal.

12 I want to find out, especially from a legal
13 perspective, if we open it up to those FY-07 funded only
14 projects that weren't requesting multi-year funding, if
15 that exposes us to a need to go out to a general invitation
16 at that point. So there's questions I have to have
17 answered before I can actually answer your question.

18 MR. ZEMKE: We should have those.....

19 MR. O'CONNOR: It requires a deeper review
20 though.

21 MR. ZEMKE: We'll have those answers by the
22 August meeting then.

23 MR. BAFFREY: Yes.

24 MR. ZEMKE: Okay.

25 MR. BAFFREY: Yes, yes.

1 CHAIRMAN TILLERY: Can you -- wouldn't the
2 critical inquiry be whether there are either programs
3 ongoing or actually even maybe if there's not a study
4 ongoing but where there were be information irretrievably
5 lost. You know, somebody has a study going on and if they
6 don't get it funded for this next year then, we'll have
7 wasted this information? I mean, isn't that kind of the
8 critical inquiry?

9 MR. BAFFREY: Well, I'm kind of going back
10 to the conversations we had on the oceanographic studies
11 over the past year or so.

12 CHAIRMAN TILLERY: Right. That's kind of
13 what I'm thinking as -- too.

14 MR. BAFFREY: You know, that's kind of
15 where I was coming from also. If there is information
16 there, it's a matter of being able to justify that and then
17 asking you to -- but those would be extensions of projects.
18 That would be coming into an ongoing project and actually
19 extending that to -- for another year and then they would
20 be back into the FY-09 invitation like everybody else at
21 that point. If in fact there was something were time
22 series data was critical and we did want to continue onto
23 next year. So we have to look at these and make that
24 decision.

25 CHAIRMAN TILLERY: And I guess.....

1 MR. O'CONNOR: So you're just suggesting we
2 not have a formal proposal process, but that we be staged
3 to do appropriate studies or extend appropriate studies and
4 so on until we got oursel.....

5 MR. BAFFREY: On the five. The five
6 herring proposals that were requesting multi-year funding.
7 You know, that is -- that -- we do have a process in place
8 for that.

9 MR. O'CONNOR: Right.

10 MR. BAFFREY: These others that Steven is
11 talking about, we don't have a process yet for that, how we
12 want to deal with that. And using what Craig Tillery is
13 suggesting, is that seeing which ones of those are critical
14 to continue on, the data input that we would get that we
15 would lose if in fact we didn't fund them in FY-08. And
16 I'll have to get back to you on that.

17 CHAIRMAN TILLERY: The other issue, and Ms.
18 Belt might be able to say if this is an issue, is I thought
19 there were a couple of projects related to lingering oil
20 that we had decided we weren't going to fund this past year
21 but we wanted to fund the next cycle. Am I.....

22 MS. BELT: (Indiscernible - away from
23 microphone)

24 CHAIRMAN TILLERY: For example, the outside
25 of the Gulf of Alaska study, Gail's study. Gail Irvine.

1 MR. BAFFREY: So those.....

2 CHAIRMAN TILLERY: And then there was.....

3 MS. BELT: (Indiscernible) you're talking
4 about '08 (indiscernible).

5 CHAIRMAN TILLERY: Well, I guess I would
6 just note that, Michael, you ought to talk because there
7 may be some lingering oil related studies that it's
8 important to have done.

9 MR. BAFFREY: That may not have even been
10 funded in FY-07.

11 CHAIRMAN TILLERY: That may not have been
12 funded.....

13 MR. BAFFREY: Okay.

14 CHAIRMAN TILLERY:previously. So,
15 anyway, just.....

16 MR. BAFFREY: Because there is one, the
17 hydrocarbon database that's on here, that was funded in
18 '07. So -- and we have to go back and look.

19 CHAIRMAN TILLERY: Okay. Yeah.

20 MR. BAFFREY: But I think an issue for me
21 is how do you want to -- how do you want us to address that
22 to body here?

23 CHAIRMAN TILLERY: Council members or.....

24 MR. ZEMKE: I guess my question is, is
25 there a process that you think you have in place that can

1 address those without having to go through an FY-08
2 invitation? And if it is yes, and I guess the Council can
3 agree to do anything as long as they have a resolution that
4 meets the consent decree, but at the same time we want all
5 of our operating procedures if at all possible.

6 MR. BAFFREY: Yes.

7 MR. ZEMKE: Especially since we have newly
8 admitted ones.

9 MR. BAFFREY: Well, and another option is,
10 assuming that you do defer the FY-08 invitation, you can
11 still issue one this fiscal year. So you're just deferring
12 it for now. It doesn't mean it doesn't -- it does not mean
13 it's not going to happen. So let us figure out what the
14 process is and we'll, you know, get back with you, what we
15 can and cannot do, or should not do.

16 MR. O'CONNOR: Okay. Well, I could vote
17 for that.

18 (Laughter)

19 CHAIRMAN TILLERY: So as I understand it,
20 you're recommending that we defer the FY-08 invitation and
21 that you will come back to us with a plan for dealing with
22 projects that actually need to be done next year?

23 MR. BAFFREY: If that -- if there are some.

24 CHAIRMAN TILLERY: If they exist.

25 MR. BAFFREY: If they exist, correct.

1 MR. HARTIG: And it seems like there's
2 three categories of those. There's the herring studies,
3 that are multi-year projects which you already have a.....

4 MR. BAFFREY: Right. A process for those.

5 MR. HARTIG:process in place. Then
6 there's lingering oil studies that we sort of had pushed
7 back a year in our consideration. And then I guess any
8 others -- and those any others I think either ones where
9 we're -- there was data gathered in the past and to have a
10 complete data set, we should continue to gather it for that
11 season. And then I guess others where there's some open
12 questions out there where we really do want some
13 information or research.

14 CHAIRMAN TILLERY: Okay. And if you could
15 -- certainly would be consulting with legal counsel to make
16 sure there isn't any kind of procedures or something
17 that.....

18 MR. HARTIG: Right.

19 CHAIRMAN TILLERY:need to be
20 followed.

21 MR. HARTIG: Do we follow standard Federal
22 procurement on.....

23 CHAIRMAN TILLERY: It depends on the
24 procurement because the projects are basically assigned to
25 an agency that then procures them. It's the procurement

1 law.....

2 MR. HARTIG: Of that agency.

3 CHAIRMAN TILLERY:of that particular
4 agency.

5 MR. HARTIG: I see.

6 CHAIRMAN TILLERY: But as far as the
7 general idea of an invitation, I mean that's kind of fuzzy.
8 I don't think we've ever actually had any procedures.

9 MR. O'CONNOR: I thought it was whichever
10 law suited our fancy. There's actually some motivat --
11 some focus to this decision process.

12 CHAIRMAN TILLERY: That's correct.

13 MR. O'CONNOR: It's amazing what you learn.

14 CHAIRMAN TILLERY: Okay. Is there other --
15 further discussion on this point?

16 MR. ZEMKE: So I guess a motion is in order
17 now. So I move that we defer the FY-08 invitation until
18 Michael comes in with further information about the
19 continuation of the projects.

20 MR. LUTHI: I'll second.

21 CHAIRMAN TILLERY: Okay. Is there any
22 discussion on the motion?

23 (No audible responses)

24 CHAIRMAN TILLERY: All in favor, say aye.

25 IN UNISON: Aye.

1 CHAIRMAN TILLERY: Opposed?

2 (No audible responses)

3 CHAIRMAN TILLERY: Okay. Motion carries.

4 Michael, the next item is EVOS policies and procedures, and
5 I believe that's Barbara Hanna and Carrie Holba.

6 MR. BAFFREY: You know what, let me just
7 bring my backup up here. Come on. Let's get another
8 chair. Well, it seems like I've kind of wiped my feet on
9 the appropriate process here, so let me try to get my --
10 get us back on track. What I have done in the past is that
11 over the past year I have suggested revisions to some of
12 the operating procedure, general operating procedures, the
13 financial procedures, and the reporting procedures, to make
14 this office more efficient.

15 And what I have had done was that --
16 Randall and Tom, what I -- you may have received these, I
17 don't know if you're on the list yet -- but I send out
18 weekly reports of the summaries. And what I had done in
19 the transmittals on those and I had specified what these
20 policies were and why they should be changed and then
21 proposed the language on how they should be changed. I had
22 also gave, by default, you the option of commenting on
23 those. And not hearing any, I implemented those
24 procedures.

25 So what I have found out recently is that I

1 need to get your concurrence in a public forum to actually,
2 technically implement those policies. And that's why I'm
3 here today, is to correct that process and I am -- I am
4 sorry that I've done that in the past. I just thought I
5 was being efficient with everybody's time. I wasn't aware
6 that I was, you know, walking across the policy.

7 Craig O'Connor, were you about to say
8 something?

9 MR. O'CONNOR: No, I -- no.

10 MR. BAFFREY: So let me summarize the
11 policies that I have changed and I'm going to seek your
12 approval on officially implementing them. One of the
13 policies under general operating procedures was getting you
14 the packet of information you need for the trustee --
15 upcoming Trustee Council meetings 10 days in advance.
16 Another one clarifying -- editing and clarifying our
17 confidentiality and non-disclosure statements. Another
18 operating -- general operating procedure or policy was all
19 reference to the science and technical advisory committee,
20 the STAC of old, which was replaced by the science panel,
21 is going through the operating procedures and making that
22 terminology consistent with what the group would prefer
23 they have in place.

24 Under financial reporting, we had -- we
25 usually requested a quarterly report, which at the

1 recommendation of the liaisons, was not a functioning
2 report and we agreed and that has been eliminated. We
3 still get an annual report which services all our financial
4 needs.

5 Under reporting, reporting procedures, the
6 peer review and final report editing process was edited and
7 improved. The reported consistency, which was, I believe,
8 make consistency between the notary reports, the GEM
9 reports, and our current Trustee Council reports, to make
10 those reports consistent and easier to read was added, plus
11 copyright issues were clarified.

12 That is the summary of the -- did I miss
13 anything?

14 MS. HOLBA: I don't think so.

15 MR. BAFFREY: Okay. That's the summary of
16 the policies that have actually implemented and would now
17 like your permission to officially implement them.

18 CHAIRMAN TILLERY: Comments?

19 (No audible responses)

20 CHAIRMAN TILLERY: You know, I appreciate
21 mea culpa but I'm actually not sure you're that much culpa
22 here. For example, with this 10 days in advance, that was
23 a clear Trustee Council direction to you to do that. I
24 don't know it necessarily actually has to be in the
25 operating procedures. It's very much appreciated and it's

1 very appropriate. I do worry a little bit about -- and
2 maybe Gina or Rita can speak to his -- but if it's in the
3 operating procedures and it says you shall do that, what if
4 you don't? And it often happens that we don't because you
5 get the stuff but there's always supplements and so forth
6 and so on. Is there -- could somebody challenge a Council
7 action because stuff wasn't prepared in advance? Is there
8 any risk there? I mean, should this be in the operating
9 procedures?

10 MS. BELT: It's been argued to us by an
11 outside entity.

12 CHAIRMAN TILLERY: You need to, I think,
13 speak into the.....

14 MS. BELT: Oh, sorry. It has been argued
15 to us by an outside entity that you are bound by your
16 internal procedures under federal laws. I'm not going to
17 opine whether I would agree with that.

18 CHAIRMAN TILLERY: Well, would it make more
19 sense, instead of saying something like shall be there at
20 least 10 days in advance to say that they shall provide the
21 agenda and appropriate briefing materials to Trustee
22 Council and make every effort to have them 10 days in
23 advance or something like that? Is that a better.....

24 MS. BELT: More flexible language I think
25 would be to everyone's advantage.

1 MR. BAFFREY: You're not getting an
2 argument from me, so.....

3 CHAIRMAN TILLERY: No, because I think it's
4 a very good policy, I appreciate that you've been doing it,
5 but I do worry about making things mandatory that I'm
6 pretty confident we can't adhere to.

7 MR. BAFFREY: Okay.

8 MR. O'CONNOR: How about if we just have
9 the words to the maximum instead of practical. The
10 Executive Director shall provide the agenda, so.....

11 MR. BAFFREY: Okay. I do want you to
12 notice that you did not receive any supplements between the
13 packet's this time and today.

14 CHAIRMAN TILLERY: That's also appreciated.

15 MR. BAFFREY: I know.

16 CHAIRMAN TILLERY: So I think that that is
17 good language. I don't have any actual problems with
18 making it mandatory you get the stuff, but the fact of the
19 10 days in advance -- but I think to the maximum extent
20 practical would work for me. Is that.....

21 MR. BAFFREY: In regards to the report
22 procedures that -- when we started in this task a little
23 over a year ago, there were 77 delinquent reports. We've
24 zeroed that out. It's working. The procedures that we've
25 implemented are working.

1 MR. O'CONNOR: Well, then we'd better
2 change them quick, huh?

3 MR. BAFFREY: Yeah.

4 CHAIRMAN TILLERY: Okay. So as suggested
5 here, the first things would say the Executive Director
6 shall, to the maximum extent practicable, provide a
7 proposed agenda and appropriate briefing materials and so
8 on and so forth as written. Okay.

9 And the next one you have is the
10 confidentiality statement.

11 MR. BAFFREY: And non-distribution.

12 CHAIRMAN TILLERY: Non-distribution. And I
13 think that certainly reflects the views of the Department
14 of Law as to what is permissible. I will assume the
15 Department of Justice has looked at this.....

16 MR. BAFFREY: Yes, they have.

17 CHAIRMAN TILLERY:and also approves
18 of it. And I certainly think it's necessary and helpful to
19 have that in the procedures. Does anybody have any
20 questions or comments about that one?

21 (No audible responses)

22 CHAIRMAN TILLERY: No. I did have one
23 comment on this non-distribution. At the end of A, you
24 talk about the purpose of the non-distribution agreement is
25 to protect the intellectual property rights of the

1 proposal's author without debating the extent or validity
2 of those rights. I'm not sure it's necessary to put a
3 purpose in here. If you do, I think that may be too
4 narrow. I think from a State law perspective, intellectual
5 property rights, you might also want to include the phrase
6 and other privacy rights because the ques -- the link
7 between intellectual property, business secret, and the
8 general notion of privacy in the Alaska Constitution, I
9 mean, they're not necessarily intellectual, you know,
10 property rights is a distant thing. I guess I would
11 question whether it's necessary to even have a purpose
12 section in here. If we litigate on this, and that's a
13 distinct possibility, I would hate to be limited to a
14 single purpose when in fact there actually are other
15 purposes.

16 MR. BAFFREY: Okay. So is your suggestion
17 to add other purposes or to eliminate that phrase?

18 CHAIRMAN TILLERY: My suggestion is to
19 eliminate the purpose, that sentence.

20 MR. BAFFREY: Okay. Done.

21 MS. HOLBA: Yeah.

22 MR. BAFFREY: Yeah. Okay.

23 CHAIRMAN TILLERY: Okay. Any other
24 questions?

25 (No audible responses)

1 CHAIRMAN TILLERY: And then the next one
2 you had proposed was the excerpt from the financial -- was
3 it the financial procedures? And that's eliminating the
4 quarterly report?

5 MR. BAFFREY: Correct.

6 CHAIRMAN TILLERY: Does anybody have any
7 questions or comments on that one?

8 MR. O'CONNOR: And that was in fact
9 recommended by the financial advisory, right? By the
10 people who do this?

11 CHAIRMAN TILLERY: I'm not -- yes, they are
12 auditors. That's correct.

13 UNIDENTIFIED SPEAKER: That's right.

14 MR. O'CONNOR: Yeah. Yeah.

15 CHAIRMAN TILLERY: And is there any -- was
16 that it?

17 MR. BAFFREY: Uh-huh. For financial.

18 CHAIRMAN TILLERY: Okay. And what -- and
19 the next one was the report?

20 MR. BAFFREY: The reporting procedures.

21 CHAIRMAN TILLERY: And I think I have a
22 copy of the -- of that. What exactly will that one do?

23 MR. BAFFREY: Carrie?

24 MS. HOLBA: Okay. Well, I'm just going to
25 read these really quickly. The primary changes in the

1 update, the reporting procedures. Apply consistency to
2 final report procedures for all projects funded by the
3 Council. Provide detail on the peer review process. Note
4 the relationship between reporting obligations and future
5 funding. Address copyright issues and clarify the PI's
6 responsibility when using published material in a final
7 report. To provide the Trustee Council office with a copy
8 of the publisher's permission to duplicate and post the
9 article as part of the report. Explain project numbers and
10 series titles and include a statement about quarterly
11 reporting obligations.

12 And then specific revisions include the
13 following: With the exception of the section on project
14 numbers, references to NRDA studies were removed as these
15 have been completed. The same review procedures apply to
16 both restoration and GEM reports and could apply to any
17 other report series the Council may establish in the
18 future. The language from the 1998 procedures which was
19 deleted in a 2002 report was put back in, the section on
20 the use of manuscripts for final report writing, and they
21 stress that the use of manuscripts to satisfy report
22 requirements requires the approval of the Science Director
23 on a project by project basis and it is preferred that
24 manuscripts be in draft form before journal submission to
25 allow reproduction without violation of copyright or

1 publication rights.

2 Also in the section on the use of
3 manuscripts, the word expects was changed to encourages to
4 reflect the Council's stand on publication and peer review
5 journals. In addition to that, we inserted a couple of
6 deadlines. A deadline for filing for an extension on
7 report writing. That must be submitted in writing to the
8 science director at least 15 days prior to the report due
9 date. And that's subject to the approval of the Executive
10 Director. Final reports shall be revised by the principal
11 investigators to address peer review comments within 30
12 days of receiving the reviewer's comments and the reports
13 shall be resubmitted for final acceptance.

14 And then to avoid a protracted format
15 review process, the principal investigator shall provide
16 format revisions to ARLIS within 30 days of the initial
17 format review by ARLIS.

18 CHAIRMAN TILLERY: Okay. Are there
19 questions from the -- or comments from Council members on
20 these?

21 MR. ZEMKE: I guess on the GEM reports, is
22 there -- there's specific GEM reporting requirements
23 but.....

24 MS. HOLBA: They were in the previous.....

25 MR. ZEMKE: Are there any of those still

1 out that we have to deal with?

2 MS. HOLBA: If there are, they would be
3 dealt with in the same manner as the rest of the reports.

4 MR. BAFFREY: The whole purpose was to make
5 it consistent.

6 MR. ZEMKE: Okay.

7 MS. HOLBA: It was primarily the peer
8 review process. There was a different peer review process
9 for the GEM than there was for the restoration and that's
10 all been consolidated into one process.

11 MR. ZEMKE: And I know there was some
12 question about this 30 days after the peer review was done.
13 Say a peer review was done in July and then the
14 investigator is out in the field on a new project, whether
15 they could meet that period. So is -- what happens if they
16 can't meet that period? They would ask for an extension?

17 MR. BAFFREY: I assume so. We do that on a
18 case by case basis.

19 CHAIRMAN TILLERY: Further questions or
20 comments? I would suggest we might address this with a
21 single motion to approve the changes as amended here today.
22 Is there a motion?

23 MR. O'CONNOR: So moved.

24 CHAIRMAN TILLERY: Second?

25 MR. HARTIG: Second.

1 CHAIRMAN TILLERY: It's been moved and
2 seconded. Are there any discussion?
3 (No audible responses)
4 CHAIRMAN TILLERY: All in.....
5 MR. O'CONNOR: Call for the question.
6 CHAIRMAN TILLERY: All in favor, signify by
7 saying aye.
8 IN UNISON: Aye.
9 CHAIRMAN TILLERY: Opposed?
10 (No audible responses)
11 CHAIRMAN TILLERY: The changes as amended
12 are approved. Thank you very much. Appreciate this.
13 Those were very thoughtful changes. The next item on the
14 agenda is the appreciation award plan.
15 MR. BAFFREY: Okay. It's my understanding
16 that the State of Alaska requires an agency at the division
17 level to seek the approval of an appreciation award plan
18 from the Department of Administration, Human Resources, in
19 order to give -- what's the terminology?
20 MS. HANNAH: Non-monetary.
21 MR. BAFFREY: Non-monetary awards. And
22 these are -- and examples of these are plaques or, you
23 know, framing some type of a printed, program related
24 article to an employee for meritorious service,
25 professional achievement, or public stewardship. We don't

1 have one in place. We want to have that plan in place.
2 This is not monetary. This is not a monetary award for
3 staff or somebody who works for or a volunteer who works
4 for us. It's strictly the ability to expend monies to give
5 something like a plaque to an employee deserves it. On the
6 Feds side, we can get monetary awards. The State has seen
7 not to do that, for reasons beyond me. But -- so all we're
8 doing is asking for you to concur with us sending our plan
9 on to the Department of Administration so that we can in
10 fact have an appreciation awards plan in place. Please.

11 MR. ZEMKE: I move that we authorize the
12 EVOS appreciation award plan as presented in the package.

13 CHAIRMAN TILLERY: Did I hear a second, Mr.
14 O'Connor?

15 MR. O'CONNOR: Oh, absolutely.

16 CHAIRMAN TILLERY: Is there discussion? I
17 would note that I find these kinds of awards actually very
18 useful. It's something we have found helpful in the
19 Department of Law. And actually I would be shocked and
20 saddened at the fact that you didn't already have a written
21 plan.....

22 MR. BAFFREY: Me too.

23 CHAIRMAN TILLERY:had I not asked our
24 people at the Department of Law for a copy of our written
25 plan and been met with blank stares. I think we are now

1 working on one. So actually I appreciate you bringing that
2 to my attention.

3 MR. BAFFREY: Well.....

4 CHAIRMAN TILLERY: So.....

5 MR. BAFFREY:that's why they call it
6 an appreciation award.

7 CHAIRMAN TILLERY: Okay.

8 MR. BAFFREY: Look what just happened.

9 CHAIRMAN TILLERY: All in favor, signify by
10 saying aye.

11 IN UNISON: Aye.

12 CHAIRMAN TILLERY: Opposed?

13 (No audible responses)

14 CHAIRMAN TILLERY: The motion carries.

15 MR. O'CONNOR: Before we go to the next
16 subject, whatever that is, could the Trustee Council
17 authorize the transfer of money to a Federal agency to
18 provide compensation, including an award, to a Federal
19 employee who served on the staff of the Council and ask
20 that to be considered part of the compensation that was
21 paid by the agency for the performance of that? For
22 instance, in the form of a special act award. Could we
23 fund that?

24 MR. BAFFREY: The way that's normally done
25 in the past, depending on how that person was -- if the

1 person were staff here, I don't know. But I'm assuming
2 when you say to another Federal agency to do that, that
3 assumes that person was detailed here from another Federal
4 agency.

5 MR. O'CONNOR: That's what I'm assuming.
6 Yeah.

7 MR. BAFFREY: If that were the case, it
8 would depend on how that detail policy was structured. I
9 know in the case of the former Science Director, that that
10 was done on an IPA. That is not allowed under an IPA to
11 transfer those funds. Although, we would pay for an award
12 to be given to that person by that agency which serves the
13 same function, and the fact is, in that case, we did that
14 twice in the year that that individual was here.

15 MR. O'CONNOR: So there are ways to get
16 around it at least with regard to Federal employees?

17 MR. BAFFREY: Right. State employees --
18 first of all, a State employee would not be IPA'd to this
19 office because this is a State office.

20 CHAIRMAN TILLERY: And it certainly would
21 raise the additional concerns of whether it is a valid
22 restoration expense. I mean, I know that we have dealt
23 with that on an internal State matter with respect to
24 bonuses and have determined that they are not a
25 restoration, a valid restoration expense. And of course

1 there is of course the fundamental fairness of having some
2 employees.....

3 MR. O'CONNOR: Yeah.

4 CHAIRMAN TILLERY:being eligible and
5 others not.

6 MR. BAFFREY: Right.

7 CHAIRMAN TILLERY: But I appreciate your
8 concerns.

9 MR. BAFFREY: Yeah, theoretically -- well,
10 I guess I won't, you know, care to make further comment on
11 that.

12 CHAIRMAN TILLERY: Any further?

13 MR. O'CONNOR: Now do we vote on something?

14 CHAIRMAN TILLERY: No, just you had.....

15 MR. O'CONNOR: Oh, okay.

16 CHAIRMAN TILLERY:raised this.

17 MR. O'CONNOR: All right. I dozed off
18 there for a moment during my discourse.

19 CHAIRMAN TILLERY: The.....

20 MR. LUTHI: So did we.

21 (Laughter)

22 CHAIRMAN TILLERY: The final item on the
23 agenda is the University of Alaska MOU with respect to
24 indirect fees. And if -- I guess, Barbara, are you going
25 to address this?

1 MS. HANNAH: I can. Uh-huh.

2 CHAIRMAN TILLERY: And to be perfectly
3 honest, in doing this, if you could answer the question of
4 is this going to cost us money or save us money, that would
5 be very helpful.

6 MS. HANNAH: It's supposed to save us
7 money. We're not going to have to pay facilities and
8 administration costs to the university for equipment that
9 they purchased that they code under equipment, under the
10 equipment category. And we don't have to pay for the --
11 that same F&A fee for contracts over \$25,000. Right now we
12 do. We pay a smaller percentage than the 25 percent but we
13 do pay a percent. And that's basically what this does, is
14 to create consistency statewide with the university, the
15 way they deal with State agencies. And applying F&A makes
16 it easier from them, plus it saves us money.

17 CHAIRMAN TILLERY: And I guess for the
18 benefit of the Council, you probably ought to just explain
19 exactly how -- where we are now and how we got there.

20 MS. HANNAH: Where are right now, because
21 equipment is considered EVOS property, then if EVOS is --
22 it's not equipment that the university and it's their
23 equipment, but it's purchased with EVOS dollars and it's
24 EVOS's property, then they can charge us 25 percent on the
25 cost of that equipment that they purchased because it's our

1 property for them to use and purchase and there are
2 administrative costs on it. So that's where we are now.

3 But this year, there wasn't very many of
4 the projects that we had that had that. Only one of the
5 projects had an F&A cost on equipment. There weren't any
6 subcontracts over \$25,000 this year either. But should in
7 the future you fund a larger project, that could be quite a
8 savings.

9 CHAIRMAN TILLERY: So would this change the
10 fact that we own the equipment?

11 MS. HANNAH: No.

12 CHAIRMAN TILLERY: We would still, at the
13 end of the project, own the equipment.

14 MS. HANNAH: Uh-huh.

15 MR. O'CONNOR: What was that money being
16 spent on? Like.....

17 MS. HANNAH: The F&A cost you mean?

18 MR. O'CONNOR: Yeah.

19 MS. HANNAH: That's their administrative
20 costs, like the agencies get G&A. It's their
21 administrative costs.

22 MR. O'CONNOR: We gave 25 percent to store
23 our equipment?

24 MS. HANNAH: No, they get 25 percent on --
25 you know, like project costs.

1 MR. O'CONNOR: Yeah.

2 MS. HANNAH: The total cost of their
3 project, they get to add -- of their direct cost, they get
4 to add 25 percent to it for their administrative costs.
5 And then trustee agencies add another nine percent on the
6 total of the direct and indirect. Well, that 25 percent
7 that they get is their indirect allowance.

8 MR. O'CONNOR: Could we just do a quick
9 motion before I lose -- before I get.....

10 (Laughter)

11 MR. O'CONNOR: I -- not a reflection on
12 you, I just hate this stuff because it just -- I move we
13 approve whatever she said. I think it's a great idea.

14 CHAIRMAN TILLERY: What is exactly the
15 motion then?

16 MS. HANNAH: The motion is to let.....

17 MR. BAFFREY: Here's the motion.

18 MS. HANNAH:Michael sign the letter
19 that -- there's a copy of a letter in here that.....

20 MR. BAFFREY: There's a motion in your
21 packet.

22 MS. HANNAH:the university presented
23 and the university finance person signed it and they're
24 just asking for Michael's signature on behalf of the
25 Trustee Council to accept the amendment.

1 CHAIRMAN TILLERY: Okay. So the motion is
2 to approve -- is to authorize the Executive Director to
3 sign the memorandum of understanding that's in our packet
4 and was signed by them on May 31st. Okay. It's been moved
5 that we do that. Is there a second?

6 MR. LUTHI: Second.

7 CHAIRMAN TILLERY: Okay. It's been moved
8 and seconded. Council discussion, questions, comments?

9 MR. HARTIG: We have one like this with U
10 of A, so I'm familiar with it.

11 CHAIRMAN TILLERY: Okay. And this is the
12 stan -- and my understanding is this is the standard --
13 what this does is bring us in line with the rest of the
14 State of Alaska.

15 MS. HANNAH: Yes. Exactly. And they
16 just.....

17 CHAIRMAN TILLERY: At the risk of being
18 overly cynical, why is the university agreeing to do this?

19 MS. HANNAH: They wanted a consistency in
20 the treatment. It became an issue when we funded the '07
21 projects, when one PI wrote up their -- when I was doing
22 the reimbursable service agreements with the university and
23 one PI had charged a different rate than another PI and
24 their finance person got upset about it, called me and told
25 me about the mistake, and they were making them take the

1 shortage that they didn't charge for the equipment out of
2 their personnel costs to cover it because they had told
3 them before that they were supposed to charge that rate.
4 So we discussed why -- we're a State agency, why do we have
5 a different agreement. And then it went all the way to the
6 University of Alaska's headquarters for their -- them to
7 review it and to look at it and they decided that
8 consistent treatment was good.....

9 CHAIRMAN TILLERY: So.....

10 MS. HANNAH:since we're under Fish
11 and Game.

12 CHAIRMAN TILLERY: So their purpose is
13 consistency. They're willing to give up a little bit of
14 money in order to achieve.....

15 MS. HANNAH: Administrative consistency.

16 CHAIRMAN TILLERY:consistency. Okay.
17 Are there additional, further questions or comments from
18 Council members.

19 MR. BROOKOVER: I don't see a downside. I
20 think it's good.

21 CHAIRMAN TILLERY: All in favor, say aye.

22 IN UNISON: Aye.

23 CHAIRMAN TILLERY: Opposed?

24 CHAIRMAN TILLERY: The motion carries.

25 That, I believe, Mr. Baffrey, brings us to item number 12,

1 adjournment.

2 MR. BAFFREY: Good for me. Yes.

3 CHAIRMAN TILLERY: Okay.

4 MR. O'CONNOR: I move we adjourn.

5 CHAIRMAN TILLERY: Is there a second?

6 MR. ZEMKE: Second.

7 CHAIRMAN TILLERY: It has been moved and
8 seconded that we adjourn. All in favor say aye.

9 IN UNISON: Aye.

10 CHAIRMAN TILLERY: Opposed?

11 (No audible responses)

12 CHAIRMAN TILLERY: We are adjourned. Thank
13 you very much to the people online.

14 (Off record - 1:43 p.m.)

15 (END OF PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
) ss.
STATE OF ALASKA)

I, Joseph P. Kolasinski, Notary Public in and for the state of Alaska and reporter for Computer Matrix Court Reporters, LLC, do hereby certify:

THAT the foregoing pages numbered 4 through 111 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Meeting recorded electronically by Computer Matrix Court Reporters on the 27th day of June 2007, commencing at the hour of 10:30 a.m. and thereafter transcribed under my direction and reduced to print:

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DATED at Anchorage, Alaska this 8th day of July 2007.

SIGNED AND CERTIFIED TO BY:

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/08