

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

VOLUME II

**Continuation Trustee Council Meeting
December 2, 1994
Juneau, Alaska
8:30 a.m.**

TRUSTEE COUNCIL MEMBERS in attendance:

STATE OF ALASKA

MR. CRAIG TILLERY
Trustee Representative for
BRUCE BOTELHO, Attorney
General, Alaska Department of
Law

STATE OF ALASKA DEPARTMENT
OF ENVIRONMENTAL CONSERVATION

MR. JOHN SANDOR, Commissioner;
MR. MARK BRODERSON, Trustee
Representative

UNITED STATES DEPARTMENT
OF THE INTERIOR

MR. GEORGE FRAMPTON, Assistant
Secretary; **MS. DEBORAH
WILLIAMS**, Trustee
Representative

STATE OF ALASKA DEPARTMENT
OF FISH AND GAME

MR. CARL ROSIER,
Commissioner; **MR. MIKE DEAN**,
Trustee Representative

UNITED STATES DEPARTMENT OF
AGRICULTURE - FOREST SERVICE

MR. PHIL JANIK,
Regional Forester; **MR. JIM
WOLFE**, Trustee Representative

UNITED STATES DEPARTMENT OF
COMMERCE - NOAA

MR. STEVE PENNOYER
Director, Alaska Region,

National Marine Fisheries
Service

P R O C E E D I N G S

(On Record 8:50 a.m.)

BRIDGE OPERATOR: This is the bridge operator in Anchorage. We do have the Seward, Cordova LIO's on line. In addition we have the chairing site of the Trustee Council in Juneau, the Trustee Council office here in Anchorage and (indiscernible) in Seattle.

MR. PENNOYER: Good. Okay. Perhaps, we could go ahead and get started then. I think we're all here. I've had several requests that if possible we finish by early afternoon. Simply -- people had various -- at least, I know we have the North Pacific Council meeting next week and if Commissioner Rosier's staff is anything like mine, a lot of them are leaving this weekend. I haven't finished talking to them, so it would be nice to -- I'm to remind everybody to talk up -- I guess that was meant for me to start with. We'll go ahead and get started. We have everybody here from the Trustee Council and this is a continuation meeting from our last session, from November 3rd, and I have here today Phil Janik, Regional Forester for the Department of Agriculture; Craig Tillery, representing the Attorney General's office, State of Alaska; George Frampton, Jr., Assistant Secretary of the Fish and Wildlife and Parks -- Interior; Carl Rosier, Commissioner of the Alaska Department of Fish & Game; John Sandor, Commissioner of the Department of Environmental Conservation; and myself, I'm National Fisheries Service, Regional Director, National Oceanic and Atmospheric Administration -- National Marine Fisheries Services.

Since this is a continuation meeting -- I've been unanimously selected to chair this. Hopefully this will be -- we can terminate this meeting at the end of this day. We have an agenda before us.

We've been handed a revised agenda by the Executive Director. Jim I don't see -- the change -- real change is the -- perhaps the content on the executive session. We will be going through some Executive Director's report and some business here on certain actions. We will then adjourn to an executive session, which initially will be just the Trustee Council and the Executive Director on personnel issues, and then discuss habitat acquisition issues, then come back to public session and relate whatever -- and relate what happened in the executive session. At least, we'll sit down and talk about the issues and come to whatever decision is -- need to be made in the public session -- and at that point, we'll adjourn the meeting. So, generally is there anything else on this agenda that's different -- we need to approve? I guess not. Does anybody have any comments on the agenda?

MR. FRAMPTON: I guess I -- I move we adopt the revised agenda.

MR. PENNOYER: Do I have a second?

MR. ROSIER: Second.

MR. PENNOYER: Moved and seconded we adopt the revised agenda. By the way, the last meeting it was reflected -- the people who typed it up didn't know who did the seconding in a few cases, so I'm not sure they can recognize voices or not, so this is broadly seconded by Commissioner Rosier. So, the agenda's adopted.

We are going on then to the approval of the November 2, 1994 meeting notes, and I think they're in your -- your notebook, and except for the comment that in a few cases the second was unknown, so we -- do you need a designated second then to complete the notes. I need a second for the approved motion to adopt the Restoration Plan. The motion was by Rosier, the second was probably by Janik.

MR. JANIK: That's correct.

MR. PENNOYER: Second was unknown on the approved motion to authorize the lead agency negotiating team to make an offer to Koniag. Motion was by Frampton, the second had to be on the State's side, I presume. Mr. Tillery was the second. Is that right, Mr. Tillery? You seconded the motion on Koniag at the last meeting?

MR. TILLERY: Oh sure. Yeah ...

MR. PENNOYER: Mr. Tillery -- Mr. Tillery seconded the motion on Koniag. So, is there any other comments on the meeting notes from the November 2nd meeting, or do you need further time to look at them and -- for this afternoon.

MR. SANDOR: Move adoption.

MR. PENNOYER: Moved that we adopt the minutes from the November 2nd meeting, is there a second?

MR. JANIK: Second.

MR. PENNOYER: Mr. Janik seconded. Any objection to that? The minutes, therefore, from the November 2nd meeting are adopted. Next item is the Executive Director's report. Mr. Ayers.

MR. AYERS: Thank you, Mr. Chairman, Trustee Members, the -- the first item under the Executive Director's report is -- is the financial statement and report, which is found under that tab in your binder. There are a couple of things that I would like to note in the financial statement for this report. This report is as of October 31st, therefore, there are a couple of items that you have knowledge of and actions that you have taken that are not reflected in this report because it was subsequent to the quarterly report. The first of those is the fact that there was 11 million -- if you'll note the footnotes on Statement 1, the -- actually, we'll just walk through the footnotes, if -- you've probably taken a look at that the balance in the total estimated funds available does include the 12 million that was appropriated a year ago. Those are -- not been excluded at a subsequent report. Depending on your action today with regard to the reserve, the reserve will show as a separate item on your financial statement. The second item is, as you know, and is the action you took at our previous meeting, the Seal Bay payment of 3,111,204 has -- had not processed as of October 31st, and that's yet to be taken out of that line as well. And, the third note is simply to note that the \$11,859,691 for the Work Plan is depending court request and that has not been reflected. Those funds have not yet shown as a withdrawal as of October 31st. Those items would be deductions from the 604. The other item that I would note is on Statement 2, which is the next page in your -- under your financial tab -- under financial statements. This is the cash flow statement. The cash flow

statement also does not reflect those items which are subsequent to October 31st, therefore, the \$12 million -- or, if you take additional action today, it would be the \$24 million dollars -- would be -- would be shown at a later date as a withdrawal and deposit into the reserve account. It would still be reflected, but would show from the balance, as would the Seal Bay payment, as would the Work Plan, \$11,859,691. So, that's this -- those are just to say that the statement is of October 31st. The footnotes are important to note to bring you up to today's date. Let me mention one other thing with regard to the financial statements, we are working with accountant advice -- we'll be talking about that. We're trying to determine how best to have a firm advise us. There were funds both in the federal side of the budget and on the state side of the budget -- for an accountant and audit services, and we intend to proceed with that with an RFP. Traci's working with Bob Baldorf from the federal side, and the State Department of Administration from the state side, and it is -- certainly been my recommendation we get -- provide and approve the allocation of funds from the administrative budget, both on federal and state side, as I note, for that service. That we'll be moving forthwith on. My recommendation on what we are working on is bringing an accountant on to provide advice. We're working -- we're talking with both the federal and state administration advisors about whether it would be appropriate for them to also serve as an audit team then. If we're going to do that, then we will have to have an RFP. Perhaps we'd do one RFP to satisfy both the federal and state

regulations for request for proposals. With that said, let me say that the one piece of advice that we have had -- I had actually raised it, our pro bono basis with the accountant firm, and -- the financial statement begins to -- needs to begin to reflect -- any subsequent financial statement must reflect an accounts payable in order for you to begin to see exactly what is out there with regard to the payments that -- those payables that are accruing to us as we make acquisitions. So, there will be another addendum to the financial statement in the future that would reflect accounts payable. Actually, I've been advised that if it's less than five years, there will be an account payable -- there's some discrepancy about whether it's a long-term obligation or an accounts payable one. We don't need to get into that today. It's an obligation.

MR. PENNOYER: Questions on financial statement? Jim, for clarification then, this doesn't include any of the obligations we made by resolution last meeting on lands.

MR. AYERS: That's correct. And the -- that's correct.

MR. PENNOYER: Is there -- is there a sheet somewhere showing what those might be and how they fit into this in some type of (indiscernible)

MR. AYERS: Yes, there is, and we'll be talking about that at a later time. But, let me say that those items will not -- and that's the reason -- I'm suggesting that there will be a Statement 3 that will show accounts payable or long-term obligations. Currently, the way that the system has been set up,

and the way that the court reflects, and we have done this, so that we have -- we reflect here the court records on the joint trust, but let me say that the balance, for example, will not begin to reflect an obligation until the court actually has received an action request, which would be sometime subsequent to the purchase agreement, and a resolution. So, it would be quite some time before the action that you have taken, with regard to acquisition is reflected. Okay, so a few months until after you get to a purchase agreement on those items, and then there is actually court requests to withdraw the funds, but that's the reason I'm saying that we need another statement so that -- it's -- you have a good clear picture of what the obligations are, although they are not

MR. PENNOYER: Thank you. Any further questions on the financial project -- financial report? Thank you.

MR. AYERS: Okay, and by the way, I wanted to mention that I'm very pleased with Traci Cramer and her administrative officer's efforts. She's not here today. She is with the State Legislative Budget and Audit Committee, who under the statutes regarding the Exxon Valdez oil spill settlement, must approve of the receipt and expenditure of the state funds. So, she is in Anchorage with LB&A. God bless her. And it's possible that I might have to leave if they call. They may want to have a teleconference and chat about a couple of items -- is my understanding. That concludes the financial statement. I'll be glad to answer any other questions that there are.

The project status summaries are under that particular tab -- project status reports they are referred to. This continues to be a major effort of Sandra Schubert and others in -- at your direction, providing you a summary report of all of the efforts that we have initiated and what that current status is on each of those respective items. There are several of these that you will continue to note -- there are several of these that continue to have references to draft reports that have been returned to the PI for revision. That continues to be a matter of discussion. I think that the disputes -- dispute may be too strong of a word, but certainly there's a difference of opinion. I am continuing to support the Chief Scientist and peer review with regard to bringing those things to closure in what they perceive to be the appropriate and manner. However, I -- I think that in the future we are going to have to set up a -- a process for a PI to be able to bring an issue forward, if in fact they have a difference of opinion on how to have a final report completed. Certainly I have turned those back up to now I believe that it was inappropriate for me to get involved unless it was clear that an impasse had been reached. I raise this issue only to say that it's something you should be alerted to at this time. As you go through here, you will note that there's been considerable progress. I actually think that since you, I believe, Mr. Chairman, as well as the other Trustee Council members, that you had a fairly involved conversation about where are we on all of the projects that we've begun, and I think Sandra has done an excellent job of trying to go back and pick up

the status of these projects and, in a succinct manner, give you the -- try and reflect what the current status of each of them. I don't know if you want to talk about -- if you've had a chance to go through those -- any of them specifically, or the format in general. I guess, we would appreciate at this point -- this is the second thorough report, and if you have comments about the format, or if you would like to have it differently, or on a more regular basis, which would be difficult, but possible.

MR. PENNOYER: Questions on the project status summaries?

Jim, previously the Trustee Council, of course over a period of time, we've discussed this lots in regards particularly to funding of new work plans. I mean a lot of discussions about whether in fact we're basing our funding requests on observations on completed, summarized, agreed upon results or not. That led us to a lot of discussions about why some projects were clearly ahead, and some were way behind in terms of reporting. Doing it by year here, we start at the '92 Work Plan, so our assumption is that any report that isn't -- sort of done by now -- is a problem, but there's no highlighting of whether you consider any of these are problem areas or not. Are there judgments like that being made by the Chief Scientist or your staff as to whether certain projects have reached a point that we should consider it a problem. We discussed -- sort of draconian measures to the point of not funding projects, for example, if project reports weren't brought up to snuff by a certain period of time, and I'm not suggesting that we do that in any of these items, we've haven't had time to review

them all, but this deals with each year individually, are you going to present us with any area where there may -- a problem may exist?

Heaven forbid it's not a NOAA project -- a problem may exist that you're going to track between years, where we are and why there is a problem, and whether we should actually be looking in more detail at something?

MS. McCAMMON: Mr. Chairman, in your -- your August 23rd meeting packet, there was an additional project status report, quarterly report at that time, and there was included with it an analysis of the '92 projects that were still outstanding and giving the reasons for -- why some of those still had not been completed -- an analysis of that. A lot of the issues with the '92 projects have been resolved. We intend to have an analysis -- a further analysis of those and the '93 projects at the next quarterly report.

MR. PENNOYER: So, you'll highlight any problem areas to us then?

MS. McCAMMON: In August we did highlight the issues regarding the '92 projects. At the next quarterly report we plan to report to you on how those have been resolved and then also do a further analysis on the '92.

MR. PENNOYER: I guess what I would say, we just approved '95 budget, and so you need some sort of '92, '93, '94 track on some of these projects and whether that's a problem. I think -- completed '92, and approving the '95 budget doesn't necessarily make me feel good about it.

MS. McCAMMON: Right, and the '92, '93 projects are ones that are significantly behind us. The '94 projects are actually in the process now of having the draft reports peer reviewed, so by January, February we should have a good idea of how those are progressing.

MR. PENNOYER: Thank you.

MR. AYERS: Let me add to that, Mr. Chairman, that during the review process, the way that we have evolved, our adaptive management process, that we have now a fairly involved review of proposed projects. As you know, we categorize those, so that the public had a general understanding of what we were thinking. We provided some background material for the public. We then worked with the PAG, as did the Chief Scientist and the peer review group, and then the Chief Scientist, with the peer review group and the work force met with me and we discussed many of these very items. Some projects for '95 have a condition that certain things be done. In some instances, we said that they needed to develop a more thorough work plan, or that they needed to, as you might recall, the harlequin duck projects we said that they had -- they needed to go back, complete and summarize their data, and develop a proposal for their -- for their future methodology. So, the adaptive management process is the place where actually there should be enforcement, so to speak, that I think you're referring to, and bring the pressure to bear and the comments of the scientists about a project, and whether or not it has satisfied professional standards with regard to its reporting of the data and

research that it is doing before they get additional funds. And, I think that it is true that there is additional discipline that ought to be invoked, but I think we've made tremendous strides this year. Matter of fact, there were several where they thought that it was perhaps too much discipline. But, that is the place where we need to invoke the discipline is at the review of proposals, and certainly in the -- in the recommendations with regard to projects, it's my view that that's where the appropriate reference to how they're doing on their related prior year reports, ought to be dealt with. As you say, you get to -- I think your word was "draconian threshold" when you make the statement you're going to cease funding the research -- a long-term research project until they complete the previous (indiscernible) status. And, of course, that's where you get into this other issue that I raise. There may be a difference of opinion among the scientists, not surprisingly, that the report is -- it satisfies the need for research status report and that then causes the conflict, and that's where we'll have to have a judgment by the Executive Director, and ultimately probably by the Trustee Council, should a project be stopped, if not -- satisfy the reporting requirements of their research. And, there are a few of those that will be coming out.

MR. PENNOYER: Further questions on project status?

MR. AYERS: Let me say one other thing, that I do believe that -- I think this is the appropriate place to say this.

I think that we have a broad reach, we have a very broad expansive work plan, far more than probably is sustainable, and I think in

the beginning years that's been a good healthy thing because we've been very expansive, we've explored a variety of avenues, but I think that it must have additional discipline based on the expectations of the public and the comprehensive Restoration Plan that you've adopted. Certainly, there is not enough resources (aside -- thank you) to continue such an elaborate investment in general research, and it will take discipline, and this certainly should be one of the criteria. You cannot sustain the level of -- you cannot sustain the level of funding -- the broad, general research that we're conducting today, and we need to get a focus on what we have done to date, and bring the scientists together in order to bring some discipline into that. This is -- this is what this document, this research ought to be used for.

MR. PENNOYER: That there's a lot just in putting together this summary. There's a lot of work involved here, and I think you've done a good job in trying alert us to the status. I was just wondering if highlighting certain things, and ask them for clear clarification on how it's going to be perceived. I think you've done a lot of work involved here.

MR. AYERS: Well, I think to Molly and Sandra's credit, and I believe Veronica was also involved in some degree. I think the next order of business is exactly that. Probably we should sit down and actually have a review with the Chief Scientist and reminding you that we also are searching for a science coordinator among our core reviewers. That's one of the reasons we want to get somebody on location to actually provide that kind of

ongoing consultation with -- with Molly and Sandra as they go through these. So, probably there would be another column or a more elaborate discussion under results and references where issues would be highlighted, particularly those that are questionable report.

The development of a science policy outline is in your packet, we have it as a memo. I -- I guess I left the draft stamp off of this, and -- had my hand on it -- the computers have now taken care of my fixation on draft -- I think -- what we wanted to do is have you take a look at this as what we believe are the questions and the beginning of the outline of a policy program, and see if this meets the intent of the Council. There's been a lot of discussion about some semantics. We've had hours of discussions about plans versus policy versus approaches. So, if we can stay away from that discussion for a moment, and see if this is the kind of approach that you're expecting. What information do we want? Establishing to what we're expecting is a long-term view of research and monitoring and general restoration, and again, discipline that would require people to talk about the long-term view in terms of their objectives and establish how they're going to report their accomplishments, what are their milestones. Then, for each resource and service, at the bottom of that discussion you see that the information would have specific requirements, including what have we learned and accomplished in the previous year. And, without that, we would begin, I guess draconian probably is the word. We've got to find a way to -- focus, I guess

is the right word, focus the investment and research in our science. We have worked with Dr. Spies and the peer reviewers in putting this document together. What we hope is this is what you were looking for, but we need additional feedback before we begin to expand this into actually a policy program.

MR. PENNOYER: Are you looking for that feedback here, or are you looking to each of us to submit ideas in a subsequent -- to follow up on.

MR. AYERS: I think what we would appreciate, I -- you all have very experienced, educated professional staff, I know and we have involved them in the discussions of this to some degree. Dr. Spies has additional views, but I think if you would -- and I know that you all have your -- your expectations, and I think what we'd like to have you do is take a look at this and give us some written comments about is this the format you're looking for and would this satisfy your expectations, as we'd be able to expand this.

MR. JANIK: Mr. Chairman. This is about the level of detail that at least I was expecting with regard to -- we've decided November 2nd, and I do think it is best for us now to bounce our expectations on it. I think it's a good start.

MR. PENNOYER: Further comments?

MR. SANDOR: Would it be desirable to have a target date for written comments.

MR. AYERS: Yes, it would. I assume that we will need to have a January meeting, and so prior to the January meeting, it

would be very helpful, and as a matter of fact, we have our work session scheduled for ...

MS. McCAMMON: January 17th.

MR. AYERS: January 17th, so probably by the 5th of January, so that we have a couple of weeks to get that information in, so that the work session people could actually take a look at your comments, because one of the things we're going to have discussions about during the work session in January. So, if we could have them in by January 5th, that would be very helpful.

MR. FRAMPTON: Mr. Chairman.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: I think this is a very attractive format or outline. The question you raise in the memo is what is the product going to look like. In general, I'm against separate reports and documents, and therefore to embody this type of framework into the annual report and into the work plan proposal for next year is attractive. However, what we really want, it seems to me, is to have people when they submit their projects for next year, do it against this framework. And, there are only two ways to do that, one is to ask -- require that everybody who submits a project for consideration for the '96 Work Plan provide this information -- proposed information in connection with the project request. The -- but then you've got a hundred different people trying to estimate what the science plan is. The other possibility is to have this laid out to them, and then require them to aim at it, and it seems to me that if we really want a logical

process for the '96 Work Plan, that probably the only way to do that is to produce sometime by mid-spring this, an outline like the one you laid out here, which is the template against which you will ask people to submit -- the agencies, individuals, or the staff -- to submit and evaluate every project for next year. That means a separate report or a separate outline. It doesn't necessarily have to be a hundred pages, but it will be a development of this kind of outline for each major resource that we're considering continuing to work on by, you know, maybe March or April, certainly probably by the beginning of May. And -- that -- the question that you asked is -- this is a good outline, what do we do with it. Do we try to put it together now, now being the next four or five months in a plan, or do we build it into some other document. It seems to me that is the issue that we all ought to address ourselves to in our comments in responding to this.

MR. AYERS: Molly has been working on the Chief Scientist's contract with the Department of Natural Resources, and also, to some degree, working on the habitat protection at your direction on how to deal with the small parcel process. So, while she makes the presentation, I'm going to excuse myself for two minutes.

MR. PENNOYER: Thank you.

MS. McCAMMON: Mr. Chairman, I'd like to give you an update on the contract with the Chief Scientist. At the October 5th meeting, the Trustees directed the Executive Director to negotiate a contract with Alaska Marine Sciences to provide

scientific support services based on a cost and services reports described in the document that we presented at that time. A contract has been negotiated and was effective as of November 30th.

We just wanted to report back to you on that status. In addition, as Jim mentioned earlier, we are still working with the group of core reviewers, looking to examine the possibilities of enticing one of them to work as a scientific liaison within the restoration office in Anchorage, and there is still some possibilities though that we're exploring, and we'll be reporting back to you on that at a later date. Are there any questions on that?

MR. PENNOYER: Any questions?

MS. McCAMMON: At the -- at the last meeting, the Trustees requested that the Executive Director develop a process outside of the public solicitation process for small parcels that occurred last summer, or bringing forth parcels -- small parcels that may have come to the attention of the agencies, and getting them into the process to be evaluated, and then come forward for consideration. The recommendation for the Trustees to consider at this date, is to require that nominations from either the public or an agency must come from a sponsoring agency. The sponsoring agency then must develop the application, provide all the information necessary, and be willing to accept the management responsibility of the parcel that is being considered. The nomination would receive a multi-agency review and evaluation of its restoration benefits. The Executive Director would then develop a recommendation based on the evaluation and provide this

information to the Trustee Council for its consideration. Appropriate public comment would take place in the form of, through the standard process that we have at public comment periods at meetings, and providing to all of you all of the comments that we have received between meetings. There was concern expressed about how to do this kind of additional process, given the fact that there was a two month open solicitation during the summer. Since that time, several willing sellers have approached Trustee staff and have been told that process was closed, and that there was no actual forum. So, to respond to that, what we would suggest is advertising in the Trustee Council newsletter. It would be more of a notification, instead of a come-one-come-all-type advertisement, and we'd probably put some notices in several newspapers within the spill area. The existing projects, 110 close-out and 126, do have sufficient funds for the Habitat Work Group to complete the current large parcel and small parcel process. I -- it is anticipated that the Habitat Work Group would be basically dissolved at the end of January. There would be an additional two months of funding for each of the participating agencies to provide the kind of as-needed evaluation and service that might come before them between now and the end of the fiscal year. And, this is a very limited scope process. It is not being recommended at this time to do another full-blown public solicitation, unless the Trustees are really interested in getting several hundred nominations at this time. So, this was intended as a way of addressing some of the concerns that were brought forth about having some additional parcels that

have come to the agency's attention and how to bring them into the system, and still be fair and responsive to the public.

MR. PENNOYER: Any questions? Mr. Frampton.

MR. FRAMPTON: If -- if we did a broad public solicitation, do you think we would get several hundred more small parcel proposals? Do you have any sense about that?

MS. McCAMMON: Mr. Chairman, it's my understanding that -- that may be the case, that there have been, in particular, out at the Kenai River, that there have been some proposed zoning changes that are affecting private land owners on the Kenai, and in particular that that would be the major area of interest.

MR. FRAMPTON: I can -- second question -- I can understand why you basically saying, let's have an agency sponsorship process and put the burden on -- one of the six agencies or another agency to adopt a proposal for a small parcel acquisition, but isn't there a risk that that sort of gets back into the -- you have to shop your parcel to an agency and a certain amount of horse-trading about, well, what agency wants this and the other agency wants that, and these will get considered more on the basis of what an agency wants than what is best for the program. I mean, what are the risks there compared to the benefits of streamlining this process in the way that you're suggesting.

MS. McCAMMON: Mr. Chairman, one of the threshold criteria that the small parcel process used this summer was that in order for it to go to the next level, the nomination had to have an agency willing to accept the parcel as part of its management

responsibility, and I believe almost every parcel -- there were very few parcels that did not meet that criteria. So, I'm not sure that -- I'm not sure that this kind of process would actually exclude parcels.

MR. FRAMPTON: Worthwhile parcels.

MS. McCAMMON: Worthwhile parcels.

MR. FRAMPTON: Thank you.

DR. GIBBONS: Mr. Chairman.

MR. PENNOYER: Yes.

DR. GIBBONS: Just a point of clarification, says the sponsoring agency must develop -- I would assume that's a Trustee Council agency.

MS. McCAMMON: That's correct.

DR. GIBBONS: To develop -- yeah, it just -- it doesn't state in here, I just -- clarification.

MR. PENNOYER: Other questions?

MR. TILLERY: Mr. Chairman.

MR. PENNOYER: Mr. Tillery.

MR. TILLERY: Just to clarify that. For the State, at least, it will probably come from the Department of Natural Resources or Fish & Game, but DNR is not necessarily a Trustee agency, but I would view that as a potential sponsoring agency.

MR. FRAMPTON: Perhaps listing the agencies that are -- that would be sponsoring might be -- might be appropriate.

MR. TILLERY: Might help to guide the public in finding the right door.

MR. FRAMPTON: Finding the right door.

MR. PENNOYER: The last time we discussed this, the -- there were a couple of concerns, one was that everybody sort of got their fair shake, not just those who might know who to talk to, and secondly, that the evaluations be done in some consistent fashion. Habitat Working Group is really concerned that this type of independent agency evaluation and preparation might not be the type of what they consider a consistent approach to evaluating these parcels that were undertaken in the first public notice. I think the Habitat Working Group had recommended at one point, perhaps an extension if we wanted to do this, that could then go to an agency or the Trustee Council, but ultimately would go to the Habitat Work Group, of the small parcel process for an additional thirty days or something, and then annually perhaps sponsoring the same type of thing that we did this, so people would know that each year -- it -- this just isn't open all year, that each year it's open for some period of time, so you could always come back if you wanted to. And, I'm not clear how that comports for -- why what you propose is superior to that. I understand the idea we don't want to get a flood, but on the other hand if there are a flood out there, why should you necessarily take the few that might make it through a limited public notification, who might understand through other channels that this is available to them. I'm not -- I don't understand why this process that you've proposed, except maybe for cutting down the number, is superior in terms of either public process or an evaluation of the parcels.

MS. McCAMMON: Mr. Chairman, it was my understanding that the request we were responding to was to develop a process to meet some immediate needs, that there were some parcels that were coming to the agencies' attention, that they wished to get into the evaluation process, and this does not address the longer term issue of whether you want to have on an annual basis that kind of a solicitation and evaluation process. We -- this -- this recommendation does not address that. This basically is a short-term, as-needed, through the end of this fiscal year. Now, if it is the desire of the Trustees to establish an annual solicitation process, we can (indiscernible - simultaneous talking).

MR. PENNOYER: Even for short-term, this then is an agency screening process. So, if somebody has got to get an agency to sponsor it, and the rest of the Trustee Council doesn't necessarily know that he is there unless an agency decides that they're going to go along with whatever that applicant wants to do.

MS. McCAMMON: What the agency -- the sponsoring agency would do is develop the backup information, and then give it to a multi-agency review team that would be located within the agency.

MR. PENNOYER: But, the first level of decision then is the agency. If they decide they are not going forward it, that's the end of it.

MS. McCAMMON: That's correct.

MR. PENNOYER: Thus, the Habitat Work Group just don't see whether this is necessarily a valuable piece of property or not, or -- I'm not ...

MS. McCAMMON: No, the parcels that have come through the process, the agencies have not rejected, it's my understanding, any of that. So, I don't know whether that's really a good (indiscernible - simultaneous talking).

MR. TILLERY: Mr. Chairman, I would have no objection to have an agency be required to bring anything yet (indiscernible) Also the persons who wants the property (indiscernible) can go to any agency they want if they're getting no satisfaction with one, they can shop around and go to another and bring in, or -- my concern is that absent a procedure like this, we're going to be either a supporting an analysis team that's not going to be very busy, or we're going to only have this, as you suggest, open periodically, but land doesn't open like at the end of the year. There may be a deal -- beautiful piece of habitat that comes open in March and there is a thirty day window for us to do something, and I think we have to have a process that's ongoing, not something rigid. I think we're beyond rigidity -- formal process. We've done that, we've got all those, now we're just saying we're not going to close out something that benefits restoration, and here is how we're going to do it. And I think what's outlined here by you is a pretty good way to do it.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: Mr. Chairman, I think the question that I asked really had two concerns, and I think they both have been answered, but I want to make sure. The first concern was are we eliminating some parcels by making everybody go get an agency

sponsor, and I think what you've said is, number one as a practical matter we do that today, anyway, and number two, if they can't find some agency to sponsor it, probably not going to -- it's not going (indiscernible) it's probably not a worthwhile parcel. The second concern is that it doesn't just get to be an agency, by agency putting things in the pot for the Executive Director's staff, that there is some kind of multi-agency look, so that we get a consistent prioritization, and I think what you contemplate here is that would in fact happen in this process. You make the agencies do the homework, put the proposal forward, do the background, but then there is an inter-agency -- there's an informal HPWG, or have -- review -- multi-agency review before it rises to the level of something that might actual come here. Am I right about the second?

MS. McCAMMON: Right.

MR. FRAMPTON: Well, with that I'm -- I think my concerns are satisfied.

MR. AYERS: Mr. Chairman, I -- I think -- be a little more candid even than that. I think that what we're providing is the opportunity for continuation of the Council to look at parcels that may be important for habitat -- for restoration -- habitat parcels that important to restoration. If there is, then the way that it's done today is professionals, either from the state or the federal government would have to be able to establish what the basis of that finding is of habitat protection. So, that's how we do it today. I mean, if you can't find a habitat protection

explanation between -- among the state or federal resource agencies, you've got a fairly serious problem to begin with. Once you get through that, and the agency says, yeah, this is an important habitat area, then they would put together a parcel description, etcetera, and they would then circulate it, or they would -- you know, there's one of two ways. They could have a meeting or they could circulate it for the discussion of that parcel. Now, the significant difference there is, you don't have a group of people sitting around waiting for something to come in, which we don't need anymore. We've been through the thoughtful, two year process of developing (indiscernible) and processes, and a thoughtful review approach. We don't need to have them sitting -- we don't have to have a group of people sitting. They've done an outstanding job, probably one of the best jobs of habitat reviewing, and we've had other -- other states and other agencies even contact us about the approach to this, but now we've reached a point where, if there is a parcel out there that hasn't been recognized, it can still come in, and we -- this is the process to allow that to happen, on an as-needed basis.

MR. JANIK: Just for clarification ...

MR. AYERS: Yes.

MR. JANIK: The multi-agency review, how is that orchestrated? Or, how do we anticipate that happening? How would that structure be? You know, if a parcel comes in as a potential ...

MR. AYERS: There is money available -- there is money

in there for some support of staff. Let's say that -- that there is a staff person and that -- in your staff that has that capability. There would be some money to defray the cost, the personnel cost, to that person, so that we're paying some partial cost just in case this parcel -- a parcel comes in. That person would then be available to take a look at that. Certainly if there was flood and they were all great ones -- you know, which, if there is then that means we've over looked something somewhere, but that does not appear to be the case to date. That -- there's a partial salary for that person, if it comes it, they review it and make their comments, and it's brought to closure by the lead or proposing agency. We could design a box structure if you'd like to see it, but that's what we have in mind. You'd have -- you'd have person at the resource agency, we're paying a portion of that salary, but they're doing something else. A parcel comes in, they'd be asked to look at it and provide their comments with regard to the value. If it was such a complicated issue that it needed a deliberative session, they could certainly either teleconference or, God forbid, fly some place to get together.

MR. WOLFE: Mr. Chairman.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: Would there actually be a small work group -- habitat approach to pull together formally to do a review of parcels as they come in, or would it just be parcelled out to the agencies to get their review and get back to somebody. And, what I was thinking is, rather than -- maybe Phil was getting at this

point also -- is rather than giving the money to the staff or to the agencies, maybe money should be held by the Executive Director, and if there is a need to convene a small work group, then the Executive Director would work with the agencies to get the necessary skills available and then funding to cover their salaries for the work, then could be pulled out of that account.

MR. AYERS: Yeah, you could have a quarterly review, or every six months, depending on the need on that -- on an as-needed basis -- that would be the other option. There would money set -- there is money from 126 to pull people together for (indiscernible - coughing), but to compensate the agency for that person, for the staff's time, if necessary.

MR. PENNOYER: Mr. (indiscernible), I understand the concept of not having a standing group that sits around waiting for something to come in. I think we all agree with that, so we need to find a mechanism that can -- so this review can be accomplished in a consistent measure, however, outside of that requirement of having people sitting around waiting for things to come in that might not come in. And, I wasn't suggesting necessarily all that, you know, available at one particular time of year, it is more the notification so people would know that, in fact, we are interested, and that if there is a real need that's probably out there, they know that it -- this process is available to them. And, I wasn't sure about this concept of sort of sending out in the newsletter that people might or might not get versus advertising. So, for this year we have advertised, fine, I don't disagree with that.

For next year, maybe we want to go back out or at sometime, periodically, take another shot and rattle the bush a little, and see whether there is anything out there that people just don't know about, and we're not going to merely think there's a neat thing to have to be signed up. So, if we do it this way, this isn't, I think, saying that for all time we don't go out -- ever put another notice out, then, by the way, we're interested. If that's acceptable then I would (indiscernible - simultaneous talking).

MR. TILLERY: Certainly, it's fine by me. I have no intention of shutting of advertisement or trying discourage anybody. My own view is -- is the recognition that we've done the formal process that -- and I guess I was concerned last time because it appeared like we'd cut off. But I -- and I see no reason to ever cut off a good idea, and that's what I think has been -- that this process would accomplish.

MR. PENNOYER: Okay, so with the proviso that we could next year, if we wanted to, go back out and re-advertise to see if people have lost track of what we're doing (indiscernible).

MR. TILLERY: Certainly.

MR. FRAMPTON: Mr. Chair, I think -- do we need a motion to adopt this, some sort of action?

MR. AYERS: When you get down to item 95126, that will be the action item.

MR. PENNOYER: Where do we get down ...

MR. AYERS: It's lower, under the work plan under action items.

MR. PENNOYER: Oh, okay. So this is just the background, and then when we get to the actual work plan, which is what -- next on the agenda anyway.

MR. AYERS: Yes, Mr. Chairman.

MR. PENNOYER: Then, why don't we get to item -- the items that give us an action item.

MR. TILLERY: Mr. Chairman, before we leave the small parcel process, could we -- is it possible -- could we have a brief report on where we are in the time line for us actually seeing some group of small parcels analyzed. The first group, so to speak, or whatever.

MR. PENNOYER: The results?

MR. TILLERY: Yes.

MS. McCAMMON: Mr. Chairman, the Habitat Work Group have been evaluating the nominations. There were approximately 240 nominations received. They're expecting to have those reviewed and analyzed in a report by mid to late December. What I would anticipate we would do is get that report to you in a draft form for your review and then pick it up at the next meeting in January.

MR. PENNOYER: So, the action time will be in January. Mr. Tillery, any further questions?

MR. TILLERY: No.

MR. PENNOYER: Any further questions on this item? Shall we move onto the action items. Go on to the item three, the action items, '95 Work Plan, I believe is next.

MR. AYERS: Thank you, Mr. Chairman. Molly is

certainly more knowledgeable about each of these and the details, so I'm just going to have Molly go through these.

MR. PENNOYER: Thank you, Ms. McCammon.

MS. McCAMMON: Mr. Chairman, you have in your packet a spreadsheet that details the number of projects that were deferred from the last meeting, and we can go through those one by one, and -- 95058 the landowner assistance program was deferred due to concern over the demands for the possible services and the proper role of the Trustee Council in settling any possible disputes between agencies and private landowners. What you have in your packet under 95058 is a revised project description and budget for this project, which emphasizes the development of a pilot effort within the Forest Service, Department of Natural Resources, and Fish and Game to provide restoration assistance to private landowners on an as-needed basis. Agencies will work with willing landowners only, and restoration recommendations will be advisory only. The total cost of this project is \$115.8 thousand. As part of this project, there is a report due to the Executive Director, if this were to go forward, by the beginning of the summer to report back to the Executive Director on the extent of interest developed in this project, to see what kinds of assistance private landowners are requesting. The results of the outreach efforts that would constitute the first part of the project, and we would bring that information back to the Trustee Council, so you would get an idea of what -- of how this project was going and what kind of interest it was generating.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: My understanding is, from discussions that some of us had yesterday that, about 25.8 million of this is to do the informational, or some smaller part of that, to circulate information to see if there is landowner interest, and then the other 90 million -- I'm sorry -- (Laughter) -- other 90,000 to sort of set aside to actually provide the assistance, and I'd like to raise the question of whether we could just authorize the 25.8 to do the brochures and so forth, and communicate to people that were interested in -- they're interested, and then wait and see if there is any interest, and if there's a useful way to spend that \$90,000, which if there really is interest, would be pretty easy to approve in a subsequent meeting before the summer. Am I right in thinking about the budget for that?

MR. PENNOYER: Mr. Janik.

MR. JANIK: I think Dave has the specific ...

DR. GIBBONS: Yeah, as far as I understand, that's correct. There's about 30,000 for the three agencies set aside, and the remaining is without the brochure and the information packets for the people. I think you are correct.

MR. JANIK: If I also remember correctly, the strategy that was initially being considered, currently being considered, was also that any money held in reserve, regardless of where, if not used would be returned to the -- to the fund.

DR. GIBBONS: Right.

MR. JANIK: So, whether it's held and maintained with

the Executive Director's staff, or whether it goes out to the agencies, I guess we could go either way, and the option you're suggesting, George, is certainly agreeable.

MR. PENNOYER: For example, if you got two people, maybe the money you've got there would cover whatever work you wanted to do. If ten apply, somebody would have to make a choice as to which ones we were going to do. So, other than provide the functional (indiscernible) you see what kind of spread you're going to get on the project. Maybe the best thing to do would be to do research, advertising what might be available and then decide which you are going to fund. Maybe it's not. Mr. Sandor.

MR. SANDOR: Is there any indication of -- of interest in this?

DR. GIBBONS: Yeah, we've been contacted by a landowner that looking for this kind of assistance.

MR. SANDOR: Singularly or are there ...

DR. GIBBONS: Well, right now they -- they approached us. We haven't gone out at all, but they approached us and said we would be interested in this kind of assistance.

MR. PENNOYER: Do you have a motion?

MR. FRAMPTON: Yeah, I guess I will move to approve this project, but with the understanding that before the 90,000 gets spent on actual assistance, that there be a report back to the Council about what's going to be done.

MR. PENNOYER: The moneys have the option (indiscernible - simultaneous talking).

MR. FRAMPTON: It says here, four or five people came in and we decided to spend 60,000 doing this or approximately -- some kind of report back to us if there is interest. If it turns out there's only one, it may be that -- you know, that really very little funds will need to spent, if any.

MR. SANDOR: Second.

MR. PENNOYER: It's been moved and seconded that we approve the project, the -- the information gathering stage, before we decide to approve any implementation funds.

MR. FRAMPTON: I -- I guess I'm really proposing that we go ahead and approve it with the understanding there would be a report back, before the ...

MR. PENNOYER: You want to approve the total amount?

MR. FRAMPTON: Yes, before the 90 -- but I don't know ...

MS. McCAMMON: I would anticipate we could do the report back to you by March at the latest.

MR. PENNOYER: I'm not sure how you decide whether 90 is enough or whether there would be 300 or 50, because if we're not going to spend it, I guess it doesn't make any difference. You've heard the motion, it's been seconded, is there any objections to the motion?

RECORDER: Who was the second, please.

MR. ROSIER: Yes, John Sandor.

MR. PENNOYER: The second was Mr. -- Commissioner Sandor (indiscernible). Is there any further discussion? Are there any objections? The motion passes.

MR. PENNOYER: Mr. Janik.

MR. JANIK: Just for emphasis again on this project because there has been some misunderstanding. The project is intended to assist willing landowners who would simply be voluntarily coming forward, and saying we would like some assistance with perhaps doing some restoration work on our properties. There is no intent to dictate or manipulate or whatever else was happening on private land. That is not the intent.

MR. PENNOYER: I guess the further question that was brought up though, was how you make that decision once you decide to fund that assistance. What do you do to monitor whether it really takes place or the money is spent adequately. How do enforce it, etcetera, I mean there are a lot of other ancillary questions that would have to be part of the proposal before you'd actually want to fund it a particular item. I think part of that's embodied in the motion is the valuations. Any further discussion on that item. Okay, Molly, I guess you're doing the next one too.

MS. McCAMMON: Okay, Mr. Chairman, 95080, Fleming Spit recreation area enhancements. The decision on this project was deferred due to concerns raised by the Department of Justice. We're recommending actually that a decision on this project be deferred even further, until the project and its relationship with the City of Cordova can be further developed. There are a number of other processes that are going on at this time regarding recreation projects through the state restitution funds, there are

several proposals that the City of Cordova has put forth, there is some controversy, and perhaps even confusion over to what aspects are in which proposal, and this project needs further work.

MR. PENNOYER: Further discussion or questions? I don't think we need a motion. Any objections to the passing on then? If not, thank you. Next.

MS. McCAMMON: 95126, at the August 23rd meeting, the Trustees approved \$626.2 thousand for this project in interim funding. This is the project that provides all of the support for protection and acquisition activities. What we are proposing here is to fund an additional 485.6 in new funds and to approve the carry forward of the remaining appraisal funds that were authorized last summer, but were not in FY '94. That total is 328.7. This brings the total amount of funds in project 95126 to approximately 1.5 million to complete all of the activities anticipated within this federal fiscal year. This is a lot of money. It is based on the information that the agencies have provided to us as to their best guess of their needs to complete these activities. As part of the recommendation, it's a recommendation that these needs be reevaluated after the current appraisal process is complete, particularly for the large parcels. This does include \$80,000 as a placeholder for appraisals for any small parcels that may -- the Trustees may want to go forward with. As part of the recommendation, includes funding for the Habitat Work Group through January 1st, 1995. At that -- I'm sorry -- through January 31st, 1995. So it would be to the end of January. Following that date,

any other small parcels that would come forward would be evaluated on an as-needed basis through a multi-agency review group, as described in the memo under small parcels.

MR. PENNOYER: Thank you. Are there questions?
Commissioner Sandor.

MR. SANDOR: I move approval of this project.

MR. PENNOYER: Moved, do we have a second?

MR. JANIK: Second.

MR. PENNOYER: It's been seconded by Mr. Janik. Any further discussion on this item? Is there any objection to it?
(No objection) The motion is adopted for 95126 and 126A. Next.

MS. McCAMMON: 95141, Afognak Island State Park. You'll notice this now has a new title -- regeneration survey. This project has gone through a number of transformations, and I believe Veronica Gilbert with the Department of Natural Resources is on line in Anchorage, and I would ask Veronica to describe the proposal that's before you today for 32.1. Veronica are you there?

MS. GILBERT: Yes, I am. Mr. Chairman, if I may address 95141. This is a proposal that came before you at your November 2nd and 3rd meeting, in the amount of 309,000, that included moving overburden back onto the road to accelerate reforestation, and also 25,000 for the interim operating support for the state parks. Your action at the November -- actually on November 3rd was to vote down any support for interim operating funds, but you directed us to take another look at the process for moving overburden back onto logging roads, which we did. And, we discovered that there

actually -- there are many different opinions as to whether moving overburden back onto the logging roads would in fact have the desired effect, which would be to restore the disturbed habitat in the area. And, there were legitimate differences of opinion. Consequently, it seemed premature to even propose an expenditure of that kind of money. Rather, we felt that we did need some advice to look at not just the roads, but also the logged areas on Afognak Island. As you know, this is an unusual situation where the area that was purchased was in fact -- had in fact been logged, there are about 1,200 acres that have been logged within the park, and about 12 miles of logging roads, and the recommendation that's before you now is a request for a \$30,000 dollar contract to be issued to a forestry consultant to, in fact, do a regeneration survey of the logged areas, these areas -- most of them were logged in 1992. The purpose of doing the regeneration survey, which is not required of the seller, is -- is not to assure reforestation as a commercial timber forest, but rather to make sure that the regeneration that is occurring and our long-term plans for those logged areas, as well as the road, is to restore habitat, preferably back to the old growth structure. So, there is a different purpose in doing this regeneration survey, than there would be for those that are typically done on logged areas. If you have any questions, I would be happy to answer them.

MR. PENNOYER: Does the Council discuss -- Mr. Frampton.

MR. FRAMPTON: It may well be that this kind of study needs to be done, but it seems to me this project is now in its

third completely different reincarnation, and it doesn't look like the second project which didn't look like the first project, and unfortunately maybe suffers from -- you know, the same sort of fatal flaw of the earlier two, which is it may well be a good thing to do, but it's fundamentally agency management, number one; and number two, if it's a scientific study that's going to be useful, or pilot project that's going to be useful to look at regeneration issues, you know, throughout the ecosystem, then that ought to be something that's filtered through our science program filter in and decided upon in a way that we -- that this is a priority piece of work that we need to do across the system. And, I -- you know, it may well be something that's needed, but I question whether we can really approve it as a matter of possibly authority, but certainly policy in this context.

MR. PENNOYER: Any other comments?

MR. TILLERY: Mr. Chairman.

MR. PENNOYER: Mr. Tillery.

MR. TILLERY: I don't believe that it's -- it's an evolving program. I don't believe this is a completely different from -- from the other one. I have a hard time seeing a tremendous difference between trying to buy these of growth forests to save its habitat characteristics from clear-cut logging, or spending money to take an area that has, unfortunately, been clear-cut logged, and see if we can do something about bringing it back, say, in half the time to an old growth type of status, which, again, we've had some conversations, certainly Mr. Janik knows more about

this than I do. I think that what we are doing here is a -- what we would do here is a valid exercise of what the Trustee Council is supposed to do. I believe that looking and asking the scientists or some expert to tell us what the answer is, is a good one. If the concern is that perhaps we should have the Chief Scientist look at the -- through a science aspect on it first, then that certainly is something that we can do. But I think that this type of activity is something that we could do on this piece of property, if it's prudent to do so, and I don't think it's going to necessarily stop here. There is some other acquisitions out there that will involve potentially logged over areas. This could indeed be seen as a pilot project for them, and I think that when we get those areas, if we find that there are ways that we can accelerate the return of the kind of habitat that is used by the species that were injured in the oil spill, that we should do so.

MR. FRAMPTON: Can I ask a question?

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: Has the -- I guess this is to the Executive Director -- has the Chief Scientist taken a look at this as a study or pilot project?

MR. AYERS: We were just talking about that -- not that I know of, nor do I think that we've actually sat down with the foresters and talked about this, either at DNR -- I think DNR's foresters -- Veronica if you're on line ...

MS. GILBERT: Yes, I am.

MR. AYERS: Did the DNR forester take a look at this

and have ...

MS. GILBERT: The people who have been involved have -- and who have looked at this and with whom I have discussed it were the -- Wayne Warrenbrock (ph) with the State Division of Forestry, who is a forest practices forester out of Soldotna. They're familiar with Afognak Island. Also with Alaska State Parks District ranger out of Kodiak. So I have sense of the view of the land manager and how it fits into their protection -- their plans and concerns. And, I also did have the proposal reviewed by the Habitat Working Group because as been said several times here, the purpose is to restore the habitat, and Ken Holbrook, who is on the Habitat Working Group, did a very thorough review and offered a great deal of information, that is reflected in the proposal.

MR. AYERS: Okay, thanks Veronica.

MS. GILBERT: You're welcome.

MR. PENNOYER: Mr. Janik.

MR. JANIK: I would not argue at all with the merit of the work that's described. I would, however, share the concern expressed by Mr. Frampton about setting a precedent here in terms of agency management responsibilities, and I think, Mr. Tillery, that the very point you brought up is that we very likely will have other examples of this kind coming on, and I would just hate to see us set that precedent. I do think that it would open up a whole new arena of -- of funding potential I think rightfully belongs more so to the agency responsibility.

MR. PENNOYER: I think we better think about where we

draw that line, and maybe come back and consider this in terms of not, you know, necessarily this project which may or may not require more scientific review. We have had proposals in the past to control predators on federal land, which is management of federal business; built fish ladders on federal land already managed by the federal government, and intertidal marsh areas on federal land already managed by the federal government. So, it's not quite so clear to me that it's one or the other, but I still have some of the questions as to what the value of this particular restoration technique is wherever we do it, and I'd be more comfortable if the Chief Scientist and the appropriate people had looked at it and made a recommendation to us. At the same time we consider this dividing line between what is agency management and what is restoration appropriate for the Trustee Council can do. So I -- I would not be favor of passing this at this time without considering whether that precedent -- how we deal with that precedent versus lands we already have in federal or state ownership. So, I guess perhaps, I don't know if there is a motion needed here or what, but perhaps we would take this up at the January -- February meeting with -- scientists, or -- I don't know.

MR. FRAMPTON: Mr. Chairman. I would feel more comfortable to have the Chief Scientist to look at this, but also look at the question of whether the regeneration study or survey and study is something more broadly that we ought to do if we're going to be buying some more areas that include cut-over lands, and if so whether this particular project can be a piece of that study,

or whether this is of the appropriate design is a piece of such broader look at that issue. I mean, I find it fairly convincing that this is something that we probably ought to be looking at. But, I'd feel more comfortable if the Chief Scientist looked at that from a more systemic point of view of how we want to spend our money. It may well be that this project is one of three or four we ought to do in the different parts of the Sound, you know, or maybe this is the appropriate pilot study, but I'd like to have somebody take a look at that.

MR. PENNOYER: Ms. Williams

MS. WILLIAMS: Thank you, Mr. Chairman. I certainly concur that the Chief Scientist should look at this, but one question that both he and the Trustee Council might want to ask is whether this qualifies as in the category of general restoration, and whether that then separates it a little bit from the land management issue. This may ...

MR. PENNOYER: That's -- that's what I was sort of getting at, perhaps we could do that as well before the next meeting. If there's no objection, I'll just defer this with those provisos and request further information until the next Trustee Council meeting. Mr. Tillery, is that all right?

MR. TILLERY: That is fine by me.

(Laughter)

MR. PENNOYER: And last, our favor topic of restoration reserve.

MR. AYERS: Mr. Chairman.

MR. PENNOYER: Mr. Ayers.

MR. AYERS: This is a proposed motion. The Council has taken action in the past to set aside \$12 million. You've also taken action to provide the direction or the investment in the court registry based on the State's Chief Investment Officer, Robert Storer, and what this motion does is actually take the action to place 24 million of Trustee Council funds into restoration reserve funds. There some discussion about whether restoration reserve fund or restoration reserve account, but it's a matter of semantics. It is not intended, the court registry is quite comfortable, that they understand we're not going to move the money outside of their jurisdiction, but that we needed a separate account within the Court Registry Investment System, investment funds in strip treasury securities with laddered securities as recommended by the Alaska Department of Revenue, which is the action that you took specifically at the last meeting with regard to how you would authorize investment funds. This motion simply takes \$24 million of the \$124 million current balance minus those things we talked about earlier. It takes \$24 million and places it in this investment category.

MR. PENNOYER: Questions by Trustee Council members?
Commissioner Sandor.

MR. SANDOR: Could you repeat again what you said about the court.

MR. AYERS: I was just pointing out, Mr. Chairman, Commissioner Sandor, what I was pointing out was that these funds

are going to remain with the Court Registry Investment System. The court is not going to allow us to take it out and create a separate fund. Now, they will probably refer to this as a separate account of the joint trustee fund -- joint trust fund. And so I just noted that semantic issue.

MR. SANDOR: I move adoption of this resolution.

MR. FRAMPTON: Second.

MR. PENNOYER: It been adopted, and seconded by Mr. Frampton, that we adopt the motion as presented to us by the Executive Director on the restoration reserve. Any objection to that motion? It is so moved. Do you have further business before we adjourn to executive session.

MR. FRAMPTON: Mr. Chairman.

MR. PENNOYER: Yes, Mr. Frampton.

MR. FRAMPTON: If it's appropriate, I think since we discussed the small parcel process, I think I would move we adopt the proposed nomination process put forward by the Executive Director for fiscal '95, with the understanding that there will be an inter-agency review of nominated parcels, whether that's periodic or ad hoc, as a part of the process before they would come up individually before the Council.

MR. PENNOYER: I have a motion, is there a second?

MR. ROSIER: Second.

MR. PENNOYER: Seconded by Mr. Rosier, and made by Mr. Frampton. Any discussion? Is there any objection to the motion. (No objection) Thank you. You have further business before we go

into executive session?

MR. AYERS: We were just discussing where we were going into executive session.

MR. PENNOYER: I presume we would do it here. It's going to be a two-phased process. The first phase of the executive session will be on personnel matters, with only the principals and the Executive Director, and after that it will be executive session with staff support. We'll then take a -- about a ten minute break and come back in the executive session. Mr. Tillery.

MR. TILLERY: If I can move that we go into executive session to discuss personnel issues and habitat acquisition.

MR. PENNOYER: Do I have a second to that?

MR. JANIK: Second.

MR. PENNOYER: Seconded by Mr. Janik. Thank you. Is there any objection. We'll adjourn for ten minutes and then come back to executive session.

(Off Record 10:10 a.m.)

(On Record 2:55 p.m.)

MR. PENNOYER: Are you going to tell me who is on line, or is that appropriate.

STAFF: Ask the bridge operator.

MR. PENNOYER: Bridge operator, who is on line.

BRIDGE OPERATOR: Yes, we do have Valdez, Seward, Kodiak, Cordova and the Trustee Council here Anchorage. Tami is manning that station.

MR. PENNOYER: Okay. We're reconvening the public

session from the executive session, which we had previously, and for those who weren't here at the start, we do have present all six Trustee Council members, and I think we'll now proceed with discussion of the items that were taken up confidentially in executive session. I think the first item I got on my agenda is personnel. Mr. Ayers, I've been hearing some announcements on the radio, do you wish to make a statement of some kind?

MR. AYERS: Mr. Chairman, I would be the last person to attest the validity of the story released by the press.

MR. PENNOYER: Okay (indiscernible)

MR. AYERS: On the other hand, Mr. Chairman, it is true that I have given the opportunity to become Governor-elect Tony Knowles' chief of staff, and I have accepted that opportunity, and intend to tender my resignation effective at the close of business today. With that, let me say that the clock saves me and you from a long, extensive, emotional, well-developed, eloquent speech. So, I resign with considerable reluctance, but with a pledge to you that I do so only because I think that I can serve the state and the people in a different way at the request of the governor-elect. I also believe that I've learned a great deal from you, and I appreciate the opportunity that you have given me as well as the education that you've given me. I think the experience will serve me in good stead. Also, I think that you have made tremendous progress over the last year and a great deal of that is attributal to the loyalty and the diligence of the staff that has worked with me, and that includes your staff, but in particular I

think that this -- the job offer and the new job that I'm going into is a tribute to the people who have worked for me and with me over this past year, as well as in a couple of previous years. And a great deal of the success that we've had, and my success, is due to Molly McCammon. So, with my resignation, I urge you, for the sake of the Council and those that depend on the Council consideration, to consider Molly as my replacement, and with that, I want to thank you and bid you farewell until I see you again soon.

MR. PENNOYER: You are staying until the end of the meeting?

(Laughter)

MR. AYERS: If there's a public comment period, Mr. Chairman.

MR. PENNOYER: Mr. Ayers, I am sure you will recognize the lateness of the hour prevents us from making any speeches on our own, and the suddenness of the announcement prevented the gold watch. I don't have one with me. But speaking for the whole Trustee Council, I think we made the right choice and I think a lot of the steering us through a rather turbulent period over the past year or so, and it seemed like we had a hard time getting on track, at times prior to that, testifies to the fact that we are very grateful for the job you've done too. So, I think we call the Trustee Council members to have any further -- we don't even have the resolution drafted. If you'll wait a half an hour I think we can try and quip something out. Do any Trustee Council members

care to make a statement or comment, or opportunity (indiscernible). Well, Jim, in the spirit of your recommendation, and from my long -- personal long knowledge of her performance in the association we've had, and in particularly to the performance that she's exhibited over the past period of time that you've been Executive Director, and in fact, I think we rely on her as heavy anyways as we do you right now. I'd like to offer a motion that Molly McCammon be appointed the Executive Director position.

MR. ROSIER: Second.

MR. PENNOYER: You made the points of continuity. I think we're engaged in a lot of activities that are still not quite come to fruition and still, while they're well up on the track, need to be tipped over the top. There's a lot of projects in the mill and a lot of processes that are in the mill, the least of which is the science plan and other things we're working on, but pick any gap in our abilities to carry those forward of even months, would be very difficult, and I don't see any reason why we would have to have that. So, those are my reasons for it. It's been moved and seconded, is there further discussion? Is there any objections to the motion? (No objection) I think then it carries.

I think there's some details to work out, the personnel details. The last time, as I recall, Commissioner Rosier and I at the behest of the Trustee Council carried forward the discussions on dealing with how much leave you've got this summer, but besides that a few other items that we have to work out. Jim.

MR. AYERS: Well, first the summer notwithstanding, we

thought that I would have a problem because the appraisals would all get completed while I was on vacation. (Laughter) Turned out ...

MR. SANDOR: We saved them for you.

MR. AYERS: Turned out not to be problem, sort of a vacation. I would mention that the MOA between the Trustees and the Governor of the State of Alaska provide for the terms and management of the Executive Director, and it is within the terms of that agreement that the supervision Executive Director is outlined, which does have a specific point regarding a state Trustee and a federal Trustee, which is consistent with your remarks, Mr. Chairman. And so, all that you have said about how you intend to deal with that is appropriate, and I just want to mention that.

MR. PENNOYER: Trustees, have any further comment on it? Commissioner Rosier and I will be here, both of us are leaving Tuesday night for a meeting in Anchorage, but we'll be here Monday and Tuesday, and I think would attempt during those two days to work out whatever needs to be worked out with Ms. McCammon on (indiscernible). Unless you care to give us further guidance we would attempt to do and then get back to you.

MR. FRAMPTON: Mr. Chairman.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: I think it was pointed out earlier that the Trustee Council really has sort of looked at this issue and expressed its confidence in Molly on at least two occasions before this, that there was serious consideration at the time that we were

hiring an Executive Director, Council, I believe, encouraged the new Executive Director to look very closely at a deputy type of slot and then we specifically review the recommendation that Molly McCammon be offered the position of Operational Director, staff be structured that way, and of course, we've seen the quality of the work that both of you have turned out in the last year and the staff that you've directed, that's really made it possible for us to maintain this stride, so I think that we're building on a background here, this is not something that's just come to us in the last 24 hours, and the benefits of that experience as well as the importance of continuity make this, I think, something that we all feel pretty confident on.

MR. PENNOYER: So, then Commissioner Rosier and I will proceed next Monday and Tuesday to work out the fee agreement, and we'll contact Mr. Tillery to talk about certain (indiscernible) look like and how that bears on this and proceed in that fashion? Anything else we need to -- I went back to the agreements and how the (indiscernible) say exactly what we need to look at, but that's it.

Okay, well, the other item that we discussed in executive session was habitat acquisition. I think now we need to proceed with that list of specific items under habitat acquisition. I suggest that perhaps we start with Koniag, and have a presentation of where we are on the Koniag land acquisition. Could we do that?

MR. ELISON: Mr. Chairman.

MR. AYERS: Mr. Chairman, before you start, Mr.

Elison, I want to note that -- I want to make sure that the presentations on each of these are near a speaker and that we're actually picking it up so that we have a clear record of the discussion regarding, not only the proposal if there is one, so maybe we should set up the end of the table here so that we have a clean, crisp record of the discussion. Thank you. Sorry.

MR. ELISON: Based on that guidance, Mr. Ayers, I won't wonder far from the microphone. I'd like to direct the attention of the Trustees to the map, the fourth from the right, and also the fourth from the left. Two renditions of the Koniag holding, western Kodiak Island, these lands represent approximately 116,000 acres which were evaluated by Habitat Protection Work Group, and to six parcels. They include approximately 52,000 acres of high ranked habitats, and an additional 63,000 acres of moderate ranked habitat. The resource values for these lands are extremely high and extremely broad. Of the 19 EVOS injured species and services, 17 of those species and services, find high value habitats within the Koniag holdings. The exceptions being cutthroat trout, which don't occur anywhere on Kodiak, and common murrelets which find moderate value habitat throughout the Koniag holdings. On November 2nd we discussed these resource values at some length. I'd like to hit the high points for you and then we have a habitat benefits summary which we'll submit for the record. The resource values in the area have historically been a tremendous significance to the people of Kodiak, in fact, for centuries, and to this day they provide multi-million dollar commercial values as well as

significant subsistence and recreation values. Sockeye salmon, for instance, occur particularly in the Karluk systems where up to 1.8 million fish originating from that system have been harvested annually, their value of approximately \$15 million. Pink salmon are similarly valuable with 14 documented spawning streams throughout the Koniag holdings. At their peak they produce approximately two million fish worth about \$1.1 million dollars. Pacific herring spawn broadly along the coastal areas of the Koniag lands. In 1992, for instance, approximately 104 tons worth -- \$98,000 -- were harvested in the commercial fishery. Bald eagles, there are 116 known nesting sites scattered throughout the area. There are nine known harbor seal haul-outs along the Koniag lands. The intertidal zone is rich, mussel and eelgrass beds are widespread. Uyak Bay, Orson Bay and Stewart's Lagoon all have extensive eelgrass. Recreation and tourism in and around the Koniag lands is a very significant economic boom for Kodiak Island and the State of Alaska. The use of Kodiak in general, and these lands in particular, is growing and expected to continue to grow. Subsistence occurs broadly throughout the area, particularly for fish, deer, waterfowl, and clams and crab. There are, I think, significant benefits that will accrue to the general public besides protection of the 19 injured species and restoration of the injured resources. The public will gain significant access to very valuable lands for recreation, and management agencies, including the Fish & Wildlife Service and Fish & Game, will have considerable ability to improve the cohesiveness and integrate their management

efforts throughout western Kodiak. Other species that occur on these lands that are significant, worth mentioning here, are the presence of extensive runs of king salmon and steelhead trout in the Karluk drainage, two species of particular import that's to recreational fisheries. I believe I'm going to stop at that point.

That hits the high points of the -- the restoration benefits. As I said, we will submit for the record a more extensive summary of those benefits. I'm going to turn this discussion over to Barry Roth to explain further the details of our discussions with Koniag and their contents. Barry.

MR. ROTH: Thank you, Glenn. Since the Council meeting on November 2nd, and in accordance with a motion passed at that meeting, at which you approved a framework for negotiations with Koniag Corporation, we have met and dealt with Koniag, and incorporated a -- in a resolution for you, that approach. At the same time, when we last met, a number of the Trustee Council members expressed to us their desire that we pursue efforts to acquire the entire of this property and fee in perpetuity. So, I -- we have two alternatives included in this resolution. I will briefly explain them to you. The first alternative is that which you saw on November 2nd, that is, namely, that Koniag will sell in fee some 59,691 acres approximately of lands within the refuge that are marked in yellow on the map on the wall there. In addition, on the balance of their lands, some 56,048, which appear in the light brown, I believe it is, those lands will be subject to a seven year non-development conservation easement. The purpose of this

easement, I might add is to maintain the status quo with respect to the property, such that while we attempt to pursue a method for fairly evaluating the market value of those lands to pursue further discussions with Koniag Corporation. The -- during -- for example under the conservation easement, there will be no -- no physical or new structures built, except those identified as existing structures in the purchase agreement. Furthermore, the conservation easement would provide access to the Department of Interior and Alaska Department of Fish & Game personnel to conduct population surveys and research on fish and wildlife resources and document salmon escapement and the like. Those details are in the draft conservation easement, that is a draft, it is still being worked out to the satisfaction of Koniag and the two governments, and then those -- that document will be further subject to make sure it's satisfactory, by the Executive Director, under this resolution. It has been a concern of both governments, as well as Koniag to make sure there is a process, a workable process or access to their lands during this time. They're in easement status, but recognizing at the same time they are private lands still. The -- that deal provides for a total consideration of \$28.5 million, two million dollars of which is deemed to be for the conservation easement, and that would be, as I've said, it's for a seven year period, that would be amortized on the basis of \$5.80 per acre per year. Thus, if and when we acquire any of the remaining easement lands in fee, that any unamortized portion of that easement would be credited against the purchase price. We

would be paying Koniag a total of ten million dollars down at closing, seven of which would come from federal criminal restitution funds, three million dollars would come from the civil funds. Now, in addition, because -- again, as I indicated, your interest in pursuing a broader deal, we made this additional offer to Koniag, which is reflected here and for the Council to reaffirm its support for that approach should Koniag wish to pursue it instead of alternative one. In this case, all the lands that were subject to the earlier description -- I think right now it's totaling 115,739 acres -- they would be sold in fee. We offered to have them sold to us in fee for the grand total of 51.75 million. This is an increase of funding from the over the balance of the payments of \$4.75 million -- \$4.75 million joint funds and \$2,000,000 of federal appropriated funds. Koniag has indicated what -- it did not accept the offer. It has indicated its intention to pursue option -- alternative one -- at this point. Based on our discussions with Council members though, we understand you desire to keep this offer on the table for a reasonable period of time, should they elect to choose it, but that alternative one remains available to them at all times. One last -- in addition to the conservation easement, one last issue was raised during the further negotiations, which we think has been dealt satisfactorily with both parties. That is that there are certain lands along Uyak Bay held by individual shareholders, or originally held by individual shareholders of Larson Bay Corporation. Those are subject to a reverter clause, which would operate in the event that

the Koniag merger were subsequently set aside. Rather than include it in the agreement per se, after consultations with counsel for Koniag, we and Koniag will jointly develop a process to adequately address how to deal with that reverter clause and those lands in the way that protects the resources within the refuge. That is separate from this agreement, but, again, is something that we will be achieving and successfully prior to closing taking place. Briefly, that is what we have done here. I would be pleased describe any details that you might wish.

UNKNOWN: I'm afraid there is another, Mr. Chairman
...

MR. PENNOYER: Mr. Frampton, would you care to
(indiscernible).

MR. FRAMPTON: I ... (Aside instructions by court reporter.) I have a written resolution to move, which, as Barry said, incorporates the offer along the lines that the Council approved it to be made a month ago at our meeting at the beginning of November, as alternative one, but officially records our willingness to offer in the alternative the acquisition of all of the lands, including those that, in our original offer were to be subjected to a seven year easement, all of the lands, a total of 115,700 acres for a total price in fee -- for a total price of \$51.75 million. We realize in connection with this written motion that Koniag has expressed a preference for going forward with alternative one, but in light of the interest on the part of Council members, Trustee Council members, in seeing whether we

could strike an agreement that would protect all of these lands, and in furtherance of the ecosystem protection approach that we have tried to follow in Kodiak Island, and I think it will become more apparent as we go through some of the few -- other discussions this afternoon, we wanted to make it clear to Koniag that the alternative larger comprehensive deal is officially and formally on the table. Also, want to make it clear that the intent of the easement that we have been negotiating for the seven year protection period for half of these lands under alternative one is designed to protect the status quo and protect the habitat values, but to allow Koniag to continue with current activities. It is not an attempt to cut down significantly on existing uses, but rather to protect habitat values and the status quo on those lands. So, I move this resolution, which I think has been circulated and people have had a chance to review.

MR. PENNOYER: Do I have a second, and then we can have discussion?

MR. SANDOR: Second.

MR. PENNOYER: It's been seconded by Commissioner Sandor and ...

MR. ROSIER: Mr. Chairman, yes. Mr. Chairman, at this time I think it would be appropriate, because of my personal relations with Koniag, that I conflict myself out of the debate and discussion of this particular item. Mr. Mike Dean will be my representative during the course of the discussion on this particular proposal.

MR. PENNOYER: Mr. Dean, you want to come up to the table, thank you. (Mr. Mike Dean is seated at Council table in place of Commissioner Rosier.) Are there questions regarding the resolution? I had one, on page nine, I guess it may be clear, Koniag would be paid the sum of \$12 million at closing both joint federal funds. In here there's this pretty stiff -- you have had this discussion before, at which point, which comes from which source? Barry, maybe you know that?

MR. ROTH: Well, the answer is of that \$12 million -- this is alternative two -- \$3,000,000 would come from the joint funds, \$7,000,000 comes from the federal criminal restitution monies, and \$2,000,000 would come from land and water conservation fund money appropriated by the Department of Interior.

MR. PENNOYER: In these alternatives on the back page spell when the funding is (indiscernible).

MR. ROTH: Those are all from joint funds. The monies which are available to the Department of Interior at this time. (Indiscernible) Department of Interior are available now for ...

MR. PENNOYER: So, I guess, excuse me, in terms of the resolution, if you add these numbers up they would come out that amount less than the offer.

MR. ROTH: Yes, sir.

(Commissioner Rosier retakes his seat at Council table.)

MR. PENNOYER: Are there further questions on the -- on the resolution of Koniag? Is there further discussion? Do I hear

any objection to the adoption of the resolution? Hearing none, the resolution regarding the Koniag land acquisition is adopted.

MR. ROTH: Thank you, Mr. Chairman.

MR. PENNOYER: I think the next item we're going to go to is a report on Kenai Fiords. Glenn are you going to give that?

MR. ELISON: Mr. Frampton.

MR. FRAMPTON: I will do that.

MR. PENNOYER: Okay.

MR. FRAMPTON: I have a report to make on the progress of negotiations with English Bay, with respect to parcels on the Kenai Peninsula, and then I will offer a -- a verbal motion with respect to that. Pursuant to the overall program of pursuing high value parcels, a negotiating team that consisted of both the Executive Director and Interior Department, National Park Service employees had been having discussions with English Bay Corporation concerning our interest in acquiring a high, medium, and in a package it would be high, medium and low rated parcels in Kenai Fiords National Park, and an offer was made to acquire the parcels in the park for the government approved appraisal value, slightly more than four million dollars. That -- that offer was not accepted. English Bay made a counter-offer, which included not only the parcels in the park at a substantial amount of additional acreage in Port Chatham area, including some high value parcel, or a high-moderate value parcel that had been -- had been evaluated as part of the Habitat Working Group's work, but involving a conservation easement proposal on those parcels outside of the park. It is not clear to

us at this point, that offer having been made very recently, whether that larger framework is -- might be or might not be an acceptable framework for an ultimate acquisition, in part because there is strong interest on the part of the State if that land is to be managed by the State, in having some significant fee interest rather than simply conservation easement. But, we want to go ahead and pursue that possibility as well as to pursue negotiations on our original high priority, which was to acquire in fee the parcels in Kenai Fiords National Park from English Bay, both for ecosystem reasons and park protection reasons, as well as habitat reasons. In order to pursue the ecosystem interests of the park and the peninsula, however, we also have an interest in looking at the potential for negotiations with Port Graham Corporation, which holds other high value parcels within the park. For all of these reasons, what we are seeking is basically the support and approval of the Trustee Council to go forward and continue negotiations both on -- with English Bay on the park parcels and potentially, at least, to explore the possibility of a larger deal with English Bay, and finally to see whether there is a way to become actively involved in looking at parcels within the park that Port Graham as well as English Bay have on the ecosystem basis. Right now, in addition to not being certain what an appropriate or available framework for an acquisition may be, we are fairly far apart on price in these negotiations, and that also may pose a very considerable stumbling block. So, with that report, I guess I -- what I'm going to do is move that the Trustee Council support

continued negotiations with English Bay for the acquisition of parcels in Kenai Fiords National Park, and possibly elsewhere on the peninsula, and that the Trustee Council also support and initiating negotiations with Port Graham to the extent it is interested in selling certain parcels within the park, in light of the fact that both corporations own land containing or selections containing resources and services that would make a very significant contribution to restoration.

MR. ROSIER: Seconded.

MR. PENNOYER: Moved and seconded. Mr. Frampton, how does that differ from what we've done in the past? We authorized negotiations in both of these situations, I'm not sure how your language implies the Trustee Council's authorizing something different than you already have authorized, I think. It's -- I don't know if a motions (indiscernible) or not, but I thought we already had authorized negotiations, but probably not the authorization of the fact that we had (indiscernible).

MR. FRAMPTON: I think we're asking for your advice and hopefully support, basically to pursue a sort of two or potentially three specific, very specific frameworks for agreements that -- you know, if we're able to conclude, we would hope to bring back in final form here, so it's -- it's a sense that we're going in the right direction and we're zeroing in on one or two potential frameworks for -- for a deal.

MR. TILLERY: Mr. Chairman, along those lines, I think my recollection is that in the past we've authorized negotiations

in the Kenai Fiords area. I think one of the things we're doing now is suggesting those negotiations extend beyond to the Port Chatham parcels, which have -- as have been mentioned is a -- almost a high value parcels. It's a moderate, but it's right up there on the borderline of high. The State does have an interest in the Department of Interior pursuing negotiations on that parcel, and I think that one of the things this motion does is to move us beyond just Kenai Fiords and look at Port Chatham.

MR. PENNOYER: Any further discussion of the motion? Is there any objection to the motion? (No objection) That motion is passed. (Indiscernible - not speaking into microphone). I believe the next item is Chenega. Anybody ready to do Chenega?

MR. HARMONY: The Chenega lands are in the southwest side of Prince William Sound and composes of about 75,000 acres, all of this area you see on the map in yellow. The proposal for ...

MS. McCAMMON: Excuse me, Mr. Chairman -- John, you need to speak to the microphone, so we can get all of this on the record -- and have a long finger.

MR. PENNOYER: If you can identify by number, we can read the numbers here. If you say southwest corner of Chenega five, we'll know where you are.

MR. HARMONY: The interest to be acquired are CHE01 and 02 which is the Eshamy and Jackpot Bay, some 19,500 acres of fee title. This area has very large -- the largest sockeye runs in Prince William Sound. They have large runs of pink salmon. It's

the furthestest riparian for the water chain that goes up through there. Has the straightest and largest -- further northern most run of cutthroat trout and of steelhead. The lake chain up through there has wintering for some dolly varden, which they say is very significant. It's habitat for harlequin duck, for black oystercatcher, for eagles. The two areas rated out high in habitat acquisition, comprehensive acquisition plan, and includes everything in the high value that was -- Chenega had accepted as -- small parcel down on the lower left hand corner. The remaining land composes of about 45,000 acres of which it is proposed to acquire a conservation easement or the equivalent of a conservation easement, which is all of the timber rights, public access on major portions of the area, and development rights yet to be completed, completed in terms of negotiating out what areas there might be limiting as to what areas Chenega wishes to keep. Chenega has indicated that for the -- proposal is that Chenega would like to keep certain lands on Evans Island and on the south tip of Chenega Island closed to public access, and the rest of the remaining lands, that all the timber rights that are proposed for acquiring on, are in the low and moderate value. To date, what we have proposed through negotiations is a proposal for fair market value plus 20 percent, not to exceed \$48,000,000, and we feel that it will be somewhere real close to this. The appraisal -- they've been working on the appraisal for approximately one year, and it's planned that we will probably have a completed project sometime in the next week or so. Let's see -- are there any questions on any

of it?

MR. PENNOYER: Would you -- I -- we have a draft resolution, would you elaborate on the \$48,000,000 method of payment, particularly the 20 percent and the interest relationships and all that type of stuff, on the record.

MR. HARMONY: The federal government cannot pay interest, and due to the amount of money and the way that it's available from the courts, it means that Chenega would be paid over a period of seven years, and since there is no way to pay interest rates, we figured out what the interest up-front cost would be if you were to pay five and a half percent on the basis of paying on the schedule as proposed in the resolution which is, I believe is 20 percent down and five percent the second year and 15 percent the year after that until full payment. And, it came out to be 20 percent. So, the proposal was fair market value plus 20 percent which is to recognize the fact that they are taking the payments over a period of seven years without any interest rate.

MR. PENNOYER: Are there other questions on the presentation, the values or the details? Does -- would you have a draft resolution in front of us?

MR. HARMONY: Yes.

MR. PENNOYER: Does somebody want to discuss the detail of that, or more specifically the parts that are still somewhat in conjecture? What is the purpose? The purpose is to do something with this resolution here, either come back to us because of the fact that some item such as the exact exemptions for development

are still unclear, or did you have proposal ...?

MR. HARMONY: Those are corrected. If you look in, I believe it's K on the resolution.

MR. PENNOYER: Look at what?

MR. HARMONY: K.

MR. FRAMPTON: What is K, John?

MR. HARMONY: On page six (aside discussion).

MR. PENNOYER: Okay, so that part would come back to the Trustee Council for approval. There is no final sign-off on that until it's brought back.

MR. FRAMPTON: Mr. Chairman.

MR. PENNOYER: Yes, Mr. Frampton.

MR. FRAMPTON: My understanding is that you are proposing a resolution which would make a very detailed offer. The offer would have a cap of \$48 million, total.

MR. HARMONY: That's correct.

MR. FRAMPTON: Thirty-eight of which we are -- we would authorize to be taken out of joint funds and up to ten million, if necessary to reach the cap, from other sources.

MR. HARMONY: That is correct.

MR. FRAMPTON: And, that the framework for the conservation easement development rights, which is attached to this resolution, that part of it would come back to the Trustee Council upon final details being worked out for our final approval.

MR. HARMONY: That is correct. In our negotiations with Chenega to date, the actual defining of the area is that they wish

to try to not make available -- or wish not to make available for public access in some areas that they wish to retain for development rights, have not been negotiated out. It has been our position in negotiations that all of the lands for which the timber rights were acquired that we were, and would require the access -- public access to it, as well as most of the development rights.

MR. PENNOYER: Are there further questions? Are there further questions on this draft resolution? Are we prepared to move it?

MR. JANIK: So moved.

MR. SANDOR: Second.

MR. ROSIER: Second.

MR. PENNOYER: It's been moved and seconded by Mr. Sandor and Commissioner Rosier. Is there further discussion on this? Again, you do highlight the fact that in terms of both the access and the non-development provisions, the conservation easement covers most of this land.

MR. HARMONY: That is the intent and that is the where we have been directing all of negotiations to. I might mention on other thing about the Chenega lands. The preferred alternative under ANILCA for wilderness area completely surrounds the Chenega area, and all of the lands that you see proposed for fee acquisition is contiguous to that land, and it has high recreation value, as well as some very high habitat value.

MR. PENNOYER: Thank you. We have a motion in front of us to adopt this resolution regarding Chenega lands. Any

opposition? Any objection? Hearing no objection, we have adopted the resolution relative to the Chenega lands. That's great. Next item I have on my list is Eyak. Somebody want to do Eyak? Ready for that?

MR. WALT SHERIDAN: We do not have a resolution prepared yet, about another half an hour.

MR. PENNOYER: That's fine you can make a presentation and when you have the resolution prepared, we'll consider it at that time. You need to be by a microphone.

(Aside comments)

MR. SHERIDAN: Eyak lands are located in eastern Prince William Sound and consist of approximately 70,000 acres. This area right here. The area is a high ecological forest, has a number of species that have documented injuries from the oil spill. There are over 30 anadromous streams in the region, there is nesting for marbled murrelets and documented areas for molting and whatnot of harlequin ducks, also, a high likelihood of nesting for harlequin on the anadromous streams. The area is pretty highly scenic, and due to its close proximity to Cordova, it is very important from the standpoint of community recreation and also tourism-based recreation. The imminent threat to the area is in the form of potential large scale logging, in the form of clear cutting, some of which has already taken place in the area, and it was just that kind of threat that in May of last year resulted in the Trustee Council taking action to protect the area right in here, which is a subparcel of the Orca Narrows area, which was scheduled for

harvest during this season. That action resulted in the Council obtaining commercial timber harvest rights to approximately 2,000 acres in that area. After -- and in taking that action, the Council also invited Eyak to submit a more comprehensive proposal for protection of habitat in the general region, and Eyak responded to that request or to that invitation with a -- with a comprehensive proposal dated May 24th of last year, which the Council and staff have looked at and responded with that there were some difficulties with some of the provisions, particularly with development rights in the Sheep Bay area, and also with the proposal as to how public access was to be handled. Subsequent to that, the Council asked Executive Director Ayers to write to the Eyak and Sherestone Corporation and suggested narrowing the focus somewhat to the area right around Cordova which is termed the core tract and to areas -- the rest of the Orca Narrows and adjacent areas. As a result of that, Eyak now has submitted a new proposal, dated today, which addresses many of the concerns. That proposal, I'll just briefly kind of go through it for you, offers the core areas, the core tracts in fee simple, same as earlier proposals, and with respect to the what now is called the Orca Narrows Revised -- Orca Narrows revised in terms of the various parcels that were analyzed for their habitat contributions include the old Orca Narrows, plus the Rude River parcel, plus Simpson Bay, minus that part of Orca that was already -- has already received protection as a part of the earlier action in May. The offer on the Orca Narrows Revised is for commercial timber rights only, with Eyak retaining

the development rights. It also includes a revised proposal on public access. Okay, now, and that the price for those, you're looking at fair market value is what is being requested on the core parcel, plus the going rate -- at the going rate of interest because of extended payment schedule. On the Orca Revised, in order to accommodate the corporation's desire to retain development rights on that area, the corporation is offering a reduction in the fair market value price of that area of ten percent. In addition, the corporation is offering at no cost the five year moratorium on commercial timber harvesting on the remainder of the land, and the purpose of that would be, one, it would provide some protection for the five year period, and two, it would provide the Trustee Council with the opportunity to continue discussions with the corporation for possible additional protection of those areas. The -- do you want me to go on into what the resolution is going to contain, or do want to wait on that, or?

MR. PENNOYER: Oh, sure, kind of give us the proposal, it's better when it get here.

MR. SHERIDAN: Okay, very good. The resolution which will be before you, as soon as it gets -- the ink dries on it, it would conditionally accept the corporations offer as to the core lands, and then it would also provide for the core land, and that would establish a cap on that of \$21,000,000. As to the Orca Revised, it would propose an alternative, which would include core lands and the Orca Revised at a cap of \$50,000,000, and would condition that alternative to, including conservation easement and

language similar to that (K), I think it was that John just had you read from that other resolution, that would be included as a condition to this -- to this offer, and would require some additional discussion. Any questions?

MR. PENNOYER: Yes, go ahead.

MR. JANIK: Mr. Chairman. There have been some question about public access regarding negotiations, could you clarify that?

MR. SHERIDAN: The public access offer includes non-consumptive, non-motorized public access on the Orca Revised parcel, that would be subject to a permitting system that Eyak would administer and is being offered for an amount of \$500,000, which would cover their administrative costs, and costs of indemnifying themselves against personal liability problems as a result of public access.

MR. TILLERY: What is, I think, proposed resolution, how would that deal with that.

MR. SHERIDAN: The proposed resolution does not deal with that specifically.

MR. PENNOYER: So the reference to item K in Chenega and it does deal with it. This item K, I think proposes non-develop and public access, does it not?

MR. SHERIDAN: But adds to the cost, if any, for that public access, I don't think that resolution deals with that.

MR. PENNOYER: Did you mention what the total dollar figure was here?

MR. SHERIDAN: The total cap for -- if both options were accepted would be -- the cap would be \$50 million.

MR. PENNOYER: And, their offer was -- for their package was how much?

MR. SHERIDAN: Their offer didn't have a number. Their offer was based on fair market value with appropriate interest.

MR. FRAMPTON: My understanding is that we're going to have before us a resolution which basically conditionally accepts their offer, larger offer, which includes fee on the core, timber rights on Orca Revised, and a five year hold standstill on other areas, certain other areas, but the condition -- a significant condition is that instead of just timber rights, we will seek to negotiation a conservation easement and public access provisions roughly analogous to what we are -- we have on paper and have been discussing with Chenega.

MR. SHERIDAN: That's my understanding.

MR. FRAMPTON: And that the resolution will also indicate that if that -- that is our preferred alternative, and we would like to do a deal in their framework on those conditions, but that if that is not possible, we are prepared to make an offer as well on the core lands only in fee, and that either way the price would be the appraised value plus twenty percent in lieu of interest in consideration of the payout over time, with a cap of \$21,000,000 if we do the core only, and \$50,000,000 if we do the entire deal that they have proposed. Is that right? That's the resolution we're going to have before us.

MR. SHERIDAN: That's my understanding.

MR. PENNOYER: Mr. Sheridan, I guess didn't totally track -- I -- I thought that our desired alternative was to go with, as mentioned their package revised to fit some of our considerations. I wasn't I'm not -- are we prepared to go forward though with the core parcel? Are we prepared to go forward with the core parcel by itself? I thought the fact that -- I thought some of our -- in this discussions that we were allowing for the fact that the larger value was what we wanted to do, and that at this stage of the game, I don't know that I was prepared to go forward with a piece of it, absent the rest of it, without further discussion. I thought the objective was to go for the larger package, including, I hope, a conservation easement in other areas. Actually fact, as we discussed this thing, the highest habitat values were not either in the core or in Orca Narrows or in those other bays. So when they -- they only offered a five year easement, which may or may not be, I'm not sure, nevertheless those are the highest value areas in terms of restoration value, and it sounds as thought what you're saying is, okay, we'll take the core and let's forget the rest of it if you want to. I'm not sure we really -- Mr. Sandor.

MR. SANDOR: It's my understanding, Mr. Chairman, that we preferred the total package, as described by Mr. Frampton, but that if in fact that was not acceptable to Eyak, they would propose something less than that and get back.

MR. PENNOYER: I understand. Seems like practically like we're proposing something less than that, and I didn't know that

that was as being "acceptable" and I thought we thought that the larger package was what we really wanted, even though the core package -- we've been discussing the core package for a long time - - started out discussing just that, and -- but it was clear that the higher value areas at one point being a \$50,000,000 deal here for the whole thing, including the other areas, and I wish they would deal with what we agreed to, it was on the table, and come back and sort of say that the core is something, but if you don't like it we'll do the core right now, I'm not clear that was our idea of funding it more -- the idea in mind is that we wanted to -- wanted to (indiscernible) larger package, and make it clear that in that larger package, we did understand \$22,000,000 for the core was okay, it was capped. But, part of the deal was the rest of this as well. And, if somebody else wants to come back with a separate offer, they could do it. I didn't realize we were going to separate it at this point. Maybe that doesn't track with what everybody else was thinking, I mean, that's what I ...

MR. JANIK: Mr. Chairman, I think that the sense of the Council, I believe, would like to try to characterize is definitely going -- providing the offer for the entire package. Not knowing how Eyak is going to react to that because of the points that Walt has mentioned, who are involved in negotiation that there was not a complete agreement on. There certainly is some uncertainty as to how they're going to react to this. However, the Council definitely wants to go after the larger package with the conditions stated. That is the preference. How

the resolution is actually crafted with regard to the other segment of that. I guess we need to take a look at that.

MR. PENNOYER: I don't -- my feeling is we would craft the larger package and in that package is included \$22 million cap on the core parcel, plus the rest of this, but we would (Aside comments - \$21 million) -- whatever, 21 -- (indiscernible), but that we would not -- we wouldn't separate it, because I don't think we want to separate it. And, I'm (indiscernible) we wanted to have the large -- because the higher resource value is (indiscernible). So, if we only have an easement, it's desirable to get (indiscernible).

(Indiscernible - simultaneous talking)

MS. McCAMMON: Mr. Chairman, first of all, a lot of this isn't getting picked up by the recorder when you turn to the side. And secondly, I think having read a lot of these records after decisions have been made and trying to recapitulate what happens, it would be really useful to have the resolution in hand and go through it specifically, line-by-line, so that is officially on record just because of this discussion, and we could expect that ...?

MR. SHERIDAN: The last word I had was about thirty minutes.

MS. McCAMMON: In about thirty minutes from now.

MR. PENNOYER: Okay, that's fine. We're not going to take action at this moment, I just thought if they were drafting it that would have a (indiscernible - simultaneous talking) ...

MS. McCAMMON: But, if they're drafting it, that should be clarified.

MR. PENNOYER: ... difference in direction. They don't know whether a draft would be easier (indiscernible). That's fine, we'll take it up when it comes back. Any further discussion on Eyak? Thank you, all, very much. I think we'll go on to Tatitlek. Who wants to do Tatitlek?

MS. McCAMMON: Alex. Alex is the only one who can do Tatitlek, AJV and Shuyak.

MR. PENNOYER: Well, then, we're dead in the water for the moment.

(Aside comments)

MR. PENNOYER: I think -- I've had a request for a motion to go to executive session for five or ten minutes.

MR. TILLERY: What purpose is that?

(Indiscernible - simultaneous talking)

MR. PENNOYER: A negotiation item relative to habitat acquisition.

MR. TILLERY: Second.

MR. PENNOYER: It's been moved and seconded we go to executive session. This would be with staff -- correct? And, it will only be five or ten minutes, so those of you who wish to (indiscernible -- simultaneous talking).

(Off Record 3:55 p.m.)

(On Record 4:10 p.m.)

BRIDGE OPERATOR: This is the bridge operator, we do

have Kodiak, we do have Trustees in Anchorage, Seward and Cordova.

MR. PENNOYER: Go back on the record now, can we go ahead with the -- proceeding down the list, I believe the next item we have is Tatitlek. Alex were you going to present Tatitlek?

MR. SWIDERSKI: Yes, I am, and thank you Mr. Chairman. Initially, I would like to circulate to the Council members, I think I was actually given this yesterday, and I have not had an opportunity to really read it, though I've spoken with counsel for Tatitlek a number of times, a letter from the Tatitlek Corporation with a proposal to the Council, and I believe their proposal is very close to a proposal that I would make to the Council, which would, in effect, be an offer to Tatitlek. The offer that they are proposing includes the price of \$24.8 million. The proposal that the Department of Law would make to the Trustees is that the Council offer to purchase a total of approximately 61,000 acres for a price equivalent to fair market value as determined by an appraisal, plus 20 percent to reflect the time value of money, and the fact that the Council will not be paying, or the purchaser will not be paying interest, pursuant to a payment schedule which would have -- contemplate a down payment of 20 percent at the time of closing followed by an initial payment -- first payment at five percent of the purchase price on October 1, 1996, and subsequent payments -- six subsequent payments -- five subsequent payments at 15 percent each, October 1, 1997, 1998, 1999, 2000, and 2001. The 61,000 acres of land are in a number of different parcels at -- there's a parcel at Sawmill Bay, 1,521 acres which would be

acquired in fee simple. A parcel at Heather Bay which would be acquired partially in fee simple and partially a conservation easement, a highly restriction conservation easement, including public access. A parcel in Galena Bay, including in part fee simple and in part a highly restrictive conservation easement with public access. A parcel at Bligh Island, the majority of which would not include public access, but would include a public access to Busby Island. There would be a highly restrictive conservation easement there and an available site for a hardened camp site for a cabin on Busby Island of approximately two to three acres to be held also by conservation easement. At Two Moon Bay there would be fee simple sites on toward Port Fidalgo and at Hell's Hole, at (indiscernible - coughing) Cove a two to three acree fee simple site. The remainder would be conservation easement, highly restrictive. The timber has -- on Two Moon has been sold to a CityCorp Corporation. We would urge the Tatitlek Corporation to attempt to reacquire the rights to the timber that has not yet been cut, and finally at Whalen Bay, a fee simple acquisition at Whalen Bay, as well. The timber to the north of the bay has already been sold to the CityCorp Corporation and the proposal contemplates urging Tatitlek to re-acquire that timber. There -- these lands are within the oil spill area. There are reported wildlife habitat. Significantly, the Two Moon Bay parcel ranks as a highly ranked parcel, even with the timber harvest on it. It's an important habitat for harlequin ducks, black oystercatchers, bald eagles, marbled murrelets, pigeon guillemots. There are

approximately 61 anadromous streams within the proposed acquisition, three saltwater lagoons. The area, in addition, has a significant high value, wilderness-based recreations -- history of significant high value, wilderness-based recreational use, including hunting, boating and fishing. There are high scenic values and cultural resources. A benefit of this acquisition is that this proposal is that we would propose that the Council authorize that the highly -- highly restrictive conservation easement on Bligh Island, which does not include public access but includes acquisition of timber rights, should be proposed to be made at 50 percent of the fee simple value, recognizing the limits on restoration due to the lack of public access and the availability of some development -- some development rights remaining. The proposal would be that the -- the proposal is that the Council provide \$12,000,000 -- the first \$12,000,000 of the purchase price with the remaining funds up to an additional \$10,000,000 to be paid from other federal sources. The offer would -- we would propose be open until 60 days after completing of a final approved appraisal as contemplated in the 12-step process, but that the offer may be withdrawn on 30 days notice by the Trustee Council. Are there questions?

MR. PENNOYER: Are there questions of the Trustee Council members?

MR. PENNOYER: Do you have a completed resolution for us to look at?

MR. SWIDERSKI: I have a resolution that has still a

little more typing work -- do you want it -- which I would propose.

MR. PENNOYER: We would get that back before us for further questions before it's in front of us, Mr. Frampton.

MR. FRAMPTON: Mr. Chairman, the Tatitlik Corporation's letter dated December 1, seems to add up to about 56 or 57,000 acres, including both fee and easements. Are you ...

MR. SWIDERSKI: I ...

MR. FRAMPTON: Said that the resolution will call for acquisition of fee and easement combined of about 61,000 acres. Are we using the same parcels as they've offered?

MR. SWIDERSKI: Mr. Chairman, we should be using the same parcels as they have offered, and it is certainly possible that one of us has an addition error given the number of hours we have had - - the extensive discussions about parcels, and I think we have mathematical errors in either of mine or Mr. Jones.

MR. FRAMPTON: But, it's the parcel numbers that are contained in their December 1 letter that would be subject to the offer, if we approve the resolution?

MR. SWIDERSKI: Yes, I think so. I have identified in this proposed resolution -- I don't have a copy of the letter in front of me, but it should be the same.

MR. FRAMPTON: It's not all of each parcel.

MR. SWIDERSKI: The map -- there is a map that I circulated which is a photocopy, a colored xerox of a map that identifies the proposed acquisitions.

MR. PENNOYER: Wasn't it requested that the parcels be

re-checked against the letter and what the resolution will contain, Alex, can we assume you'll do that before we get the final one in front of us? Should we go on? Do you have further questions on this package or should we go on to the next review while we wait for the resolution?

MR. FRAMPTON: How is the -- can I ask I question?

MR. PENNOYER: Sure.

MR. FRAMPTON: Mr. Chairman, how is the resolution going to identify by parcel number, a list of parcel numbers or ...?

MR. SWIDERSKI: Mr. Chairman, because of the shortness of time, the resolution prepared identifies a map which is the map that is front of you, that would be attached as an exhibit. We are working to complete a legal description that is not -- that will not be completed this afternoon, although it's referenced in the resolution. I will track this map.

MR. PENNOYER: This is the map that's dated October 20.

MR. SWIDERSKI: That's correct.

MR. PENNOYER: Tatitlek habitat conservation and acquisition proposal. So, this will be the substance of the offer.

MR. SWIDERSKI: That's correct.

MR. TILLERY: Mr. Chairman.

MR. PENNOYER: Mr. Tillery.

MR. TILLERY: We are not -- we are -- by these resolutions, I believe, authorizing the negotiators to make an offer, we're not actually making offers. I would suggest that part of the resolution that we -- if we authorize this offer, we ask

that this map be turned into a land description, and that that land description be a part of the offer that the negotiator makes -- but, our action is based on this map.

MR. PENNOYER: Further discussion -- further discussion on Tatitlek?

MR. SANDOR: Question, Alex.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: In the resolution being drafted, is the section on conservation easements and access similar to that of Chenega?

MR. SWIDERSKI: Mr. Chairman, the parcels that have public access we would propose that the public access not be limited except with respect to group size and number of group for lengthy periods of time.

MR. PENNOYER: Okay, shall we go on and get the presentation on Shuyak, then. Are you ready for Shuyak or AJV, which ever you want.

MR. SWIDERSKI: Shuyak. Mr. Chairman, the proposed acquisition at Shuyak would be for 25,665 acres, all of which is on Shuyak Island. The acquisition would be a fee simple acquisition in its entirety. State of Alaska already owns the subsurface estate there. The land is important habitat for various species of fish and wildlife, black oystercatchers; pigeon guillemots nest and harlequin ducks molt along the shoreline. The habitat is -- has a high likelihood of restoration benefits for river otters. There are concentrations of sea otters which feed and breed along this

shoreline. Harbor seals is a species which suffered serious population reduction in the oil spill will benefit from the acquisition of this parcel. Pacific herring spawn along the coastline. Acquisition of the parcel will benefit pink salmon, wild pink salmon, populations which are documented in six streams and dolly varden which are documented in eight streams in the parcel. The parcel has very high scenic value and support high value wilderness-based recreation, including hunting, fishing, sea kayaking and camping. The parcel possesses significant cultural resource values with 15 documented historical and archeological sites. The parcel -- acquisition to the parcel would complete the Shuyak Island acquisition of the -- and protection of the Shuyak Island ecosystem which is currently, in addition to these lands, consists of the Shuyak Island State Park and the Alexander Baranof State Game Refuge. Once again it would be the proposal to -- offer to acquire this land at appraised fair market -- appraised fair market value, plus twenty percent to reflect a payment schedule which would be identical to that as described for Tatitlek, that is initial payment of twenty percent at the time of closing, followed by an annual payment of initially five percent, and then fifteen percent per year through the year 2001. The appraisal is currently completed and is being reviewed by the Kodiak Island Borough. Our proposal is that the purchase price plus twenty percent at a cap of \$42,000,000. The entire purchase price would be paid from civil trust funds. I would advise the Council that the Kodiak Island Borough has enacted an ordinance to establish (indiscernible)

funds, and which proceeds from the sale of the land are to be deposited. The borough has a further benefit of this acquisition, is that the borough is prepared to commit six million dollars of the proceeds from the acquisition to construction of the Kodiak Fisheries Industrial Technology Center. That would mean a condition of the agreement for sale and purchase of easements on lands on Shuyak Island, which I would propose to attach to a resolution, which I believe I have a copy of, and I will make further copies of and circulate to the Council, if you wish. Thank you, Mr. Chairman.

MR. PENNOYER: Questions on Shuyak? (Indiscernible)

MR. TILLERY: Am I correct in thinking that the purchase agreement with (indiscernible) of the money to the Fisheries Technology Center would indicate that the money would be provided in a reasonable time or kind of on an as-needed basis.

MR. SWIDERSKI: It would be provided -- at such time -- following the closing, at such time as the contract for construction expansion of the facility is awarded.

MR. FRAMPTON: Mr. Chairman, one other? Is the offer conditioned upon appropriate legislative appropriation?

MR. SWIDERSKI: Yes.

MR. PENNOYER: I don't know if we have the resolution.

MR. SWIDERSKI: I have a copy of the resolution, but I only have one copy and I need to (indiscernible).

MR. FRAMPTON: Mr. Chairman, we're prepared to act on this, perhaps we should seek a motion, act on it at this time, and

then we can sign it when there are copies, because we have reviewed it.

MR. TILLERY: Mr. Chairman, I move to adopt the resolution for the acquisition of Shuyak Island property as proposed.

MR. FRAMPTON: Second.

MR. PENNOYER: It's been moved, and seconded by Mr. Frampton, that we proceed with the resolution to adopt the -- to purchase the property on Shuyak Island. Any further discussion? Is there any objection? (No objection) It is then approved, thank you. You want to go to AJV?

MR. SWIDERSKI: That will be fine Mr. Chairman. Mr. Chairman, it would be our proposal that the Trustee Council offer to fund a proposed purchase at -- on Afognak Island for lands identified on the map that is on the wall, and -- which are further identified in the proposed resolution, including the map that I've circulated and will be further identified by legal description, specifically parcels AJV 1A comprised of approximately 19,500 acres; parcel AJV 3 A & B, 13,400 acres; parcel AJV 7, 2,500 acres; parcel AJV 8, 13,328 acres, for a total of 48,728 acres. It is our proposal that the Council offer to purchase this land, the surface estate to this land for a price equal to the fair market value as determined by an appraisal in accordance with the 12-step process with a cap -- I'm sorry -- plus 20 percent to again reflect the time value of money and the need for a payment schedule, schedule again to be 20 percent down at the time of closing, five percent,

October 1, 1996, and 15 percent October 1, 1997, '98, '99, 2000 and 2001. It is our proposal that the cap -- that the Council adopt a cap on that purchase price of \$70,000,000. The parcels are -- are important habitat for numerous species of fish and wildlife. AJV 1A and 3 are highly ranked. Black oystercatchers and pigeon guillemots and harlequin ducks molt along the shoreline. There's evidence of nesting marbled murrelets and a high probability of harlequin ducks nest within the area. This area is slated for further logging. There are 25 documented bald eagle nests within parcel 1A and 24 within parcel 3. As with Shuyak, high potential recovery benefits for sea otters in the area. There are concentrations of puffin and feeding sea otters in the area, particularly in Blue Fox Bay, western Perenosa Bay, Discover Bay, and Phoenix and Seal Bay. Harbor seals would benefit from this acquisition. Pacific herring spawn in the area. There are numerous pink salmon streams, dolly varden streams. Pauls (ph) Lake, Laura Lake is an important anadromous fish stream. The area supports high value wilderness base recreation, including hunting, fishing and camping. There are 14 historic -- prehistoric sites documented in parcel 3, and five in parcel 1A. It is our proposal that the offer be opened for a period extending 60 days -- until 60 days after completion of a final approved appraisals, except that the offer may be withdrawn by the Council upon 30 days notice to the seller. Thank you.

MR. PENNOYER: Questions? Do we have a resolution?
(Indiscernible).

MR. FRAMPTON: Mr. Chairman, question. Mr. Chairman, is the resolution going to provide for any further action should the appraisal plus twenty percent be below the cap?

MR. SWIDERSKI: Mr. Chairman. Thank you for reminding me, Mr. Frampton, it is our proposal that if the (indiscernible) of the purchase price is less than \$70,000,000, to negotiate either with the assistance of the Executive Director, be authorized to engage in further negotiations with AJV to acquire parcels or portions of parcels within what are identified as AJV 1B, 2, 4 and the subsurface estate which is owned by one of the joint venture partners in AJV, Koniag at both -- both on the AJV lands, and possibly at Seal Bay.

MR. FRAMPTON: Thank you.

MR. PENNOYER: Further questions? (Indiscernible - papers) Trustee Council want to do at this time?

MR. TILLERY: Mr. Chairman, I move the adoption of the resolution as proposed for the acquisition of lands -- interested lands on Afognak Island.

MR. PENNOYER: Do I have a second?

MR. FRAMPTON: Second.

MR. PENNOYER: Moved, and second by Mr. Frampton, to proceed with the agreement as outlined for the purchase of lands on Afognak Island.

MR. ROSIER: Mr. Chair. I believe I may have a conflict. I'd like to have Mr. Dean vote for me (indiscernible).

(Mr. Mike Deans is seated in place of Commissioner Rosier at

Council table.)

MR. PENNOYER: Thank you. Is there further discussion of this motion? Further questions? Is there any objection to this motion? Hearing no objection, the motion is -- the resolution is approved. I think that completes the list I have. Does somebody have an additional item? I know we have to come back and revisit one, we were waiting for a resolution, and I'm not sure if it's done or not.

(Commissioner Rosier retakes his seat at Council table.)

(Aside comments

MR. SHERIDAN: Yeah, I think they're ready to read for the record final resolution for Eyak, Mr. Chairman.

MR. PENNOYER: You wish to do Eyak the first one and then Tatitlek?

MR. SHERIDAN: Let's do that, Mr. Chairman.

MR. PENNOYER: Okay, proceed with Eyak then.

MR. SHERIDAN: Mr. Chairman, I think that the pertinent wording is the "resolve" clause, if I could just read that.

MR. PENNOYER: Please.

MR. SHERIDAN: "Therefore, we resolve to authorize funding for an offer to purchase a combination of fee simple and conservation easement in certain of these lands as is detailed below, and to provide the funds if the offer is accepted in the amount set forth below for the United States, acting through the Forest Service, to enter into an appropriate agreement in conformity with applicable federal and state laws to purchase and

acquire the interest in the land. Such agreements shall contain and are subject to the following conditions and terms. The Trustee Council authorizes an offer to purchase the core lands in fee simple and certain interests in the Orca Revised lands. The purchase price for the interest in the Orca Revised and the core lands shall be the final approved appraised fair market value of the interest of the Orca Revised and the core lands, plus twenty percent of the final approved appraised fair market value of the Orca Revised and core lands, so long as the total does not exceed \$50 million, and subject to the terms detailed below (Purchase Price). The final approved appraised fair market value shall be determined through the Trustee Council's 12-step appraisal process.

Acceptance of this offer is subject to the preparation of easements that provide for development of the Orca Revised and protect to the maximum extent possible natural resources that Eyak and Sherestone shall convey Bay in perpetuity to the United States, which shall include the right to public access, except for negotiated exceptions and be subject to additional terms and conditions as negotiated and determined by the parties and approved by the Trustee Council. In addition, Eyak and Sherestone shall grant, at no cost to the United States, an easement as described as moratorium on the harvest of timber on remaining Eyak lands in the December 2 offer. This offer is the preferred offer of the Trustee Council. (B) In the alternative to the offer detailed in paragraph (A), the Trustee Council conditionally and conceptually accepts Eyak and Sherestone's offer to sell fee simply interest in the core

lands as described in the December 2nd offer. The purchase price for the fee interest in the core lands shall be the final, approved, appraised, fair market value of the interest in the core land, plus 20 percent of the final, approved, appraised, fair market value of the core lands, so long as this price does not exceed \$21,000,000. This is entitled "alternative purchase price."

The final approved appraised fair market value shall be determined through the Trustee Council 12-step appraisal process." I think that's the pertinent language.

MR. PENNOYER: Are there any questions on the lines just read? Mr. Tillery.

MR. TILLERY: The -- I -- did you say how long the moratorium?

MR. SHERIDAN: The moratorium is for five years. This is what the resolution does, it just tie it to Eyak's December 2nd offer which is five years.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: Mr. Chairman, I thought I heard language that said that the preparation of conservation easements shall provide for the development?

MR. SHERIDAN: Provide for development is what it says.

MR. FRAMPTON: Read the rest of that ...

MR. SHERIDAN: Let me read the whole sentence, Mr. Chairman, if I may. "Acceptance of this offer is subject to the preparation of easements that provide for development on the Orca Revised land, and protects to the maximum extent possible, natural

resources that Eyak and Sherestone shall convey."

MR PENNOYER: Mr. Frampton.

MR. FRAMPTON: Well, easements usually limit development, not provide for them. It sounds like we're going -- there is no reference made here to the other kinds of easements that we're trying to -- we're getting close to finalizing with other corporations in the Sound. Sounds like the easement will require them to develop. That's a little bit unusual language, easements that provide for development.

MR. SHERIDAN: Mr. Chairman, the intent here is to allow development in a manner that can be done compatibly with restoration of damaged resource.

MR. PENNOYER: Two minute at ease has been requested.

(Off Record 4:54 p.m.)

(On Record 4:59 p.m.)

MR. PENNOYER: Okay, we're ready to go back on the record. Do you have a revision to that language?

MR. SHERIDAN: Yes, let me read this.

MR. PENNOYER: Could we come back on the record, please.

MR. SHERIDAN: "Acceptance of this offer is subject to the preparation of easements -- conservation easements, which shall allow for development only to the extent compatible with the restoration of injured natural resources and associated services."

And then the paragraph would continue.

MR. FRAMPTON: And I think our -- Mr. Chairman -- I think our understanding is that the resolution will provide that the

specific provisions relating to conservation easements and public access only shall come back to the Council for Trustee Council review and approval.

MR. PENNOYER: Okay. The resolution shall provide ...

MR. SHERIDAN: The end of that sentence -- it's a very long sentence dealing with both development and public access. The final phrase is "negotiated to determine by the parties and approve by the Trustee Council."

MR. FRAMPTON: Fine, thank you.

MR. PENNOYER: That cover it?

MR. FRAMPTON: Yes.

MR. PENNOYER: Any further questions on this? Do we have a motion?

MR. JANIK: I move that the resolution be accepted.

MR. PENNOYER: Moved the resolution regarding Eyak Bay be accepted, a second?

MR. SANDOR: Second.

MR. PENNOYER: Seconded by Commissioner Sandor. Is there any further discussion? Is there any objection? It has been moved and approved then. We'll proceed with the language as presented to us on Eyak. Yes, we still have one more to go and that was Tatitlik.

MR. TILLERY: Appears to still be in typing, Mr. Chairman -- I don't see the typist.

MR. PENNOYER: We had it presented to us, is it ...

MR. TILLERY: Mr. Chairman.

MR. PENNOYER: ... why is it different than some of the others we've got.

MR. TILLERY: For example, Koniag where we have approved it based on the oral statement of it and we will be signing it after in a meeting. I have no -- I think that's the proper way to proceed.

MR. PENNOYER: I think where we have waited is where we had some real concerns on the language and how it would work. I didn't realize we had that concern with Tatitlek.

MS. WILLIAMS: Had to do with acreage ...

MR. PENNOYER: (Indiscernible) and acreage, consistency, that's true.

MR. TILLERY: I believe the proposals would be to adopt it, based upon the map, but with the requirement prior to an offer being extended, that map be translated into geographic (indiscernible)

MR. PENNOYER: Since we have an approved map, as was presented to us, do we need do anything further then at this time?

MR. TILLERY: I don't believe we do, Mr. Chairman, and I would move that we adopt the resolution as orally presented to us with the condition that the -- and based upon the map that was presented to us with the condition that prior to any offer being extended that map be changed into a ...

MR. PENNOYER: That's part of the October 20th map and (indiscernible).

MR. TILLERY: That's correct, Mr. Chairman.

MR. FRAMPTON: Second the motion.

MR. PENNOYER: It has been moved and seconded, is there further discussion? Is there any objection to the motion? The motion covering Tatitlek has been approved. Is there -- what's the next item of business. Ms. McCammon.

MS. McCAMMON: Mr. Chairman, I believe that concludes the items of business other than signing the resolutions that we'll be having momentarily.

MR. PENNOYER: Okay, we need to discuss the next meeting at all, or you just going to contact us?

MS. McCAMMON: At this point, the meeting could be soon, or it could be in January, but we are ...

MR. PENNOYER: And, I'm assuming we were adjourning this meeting?

MS. McCAMMON: We have had a request from -- we've got the court request to sign, right here. The court request is one of the items that needs to be signed before everyone leaves today, and we should have a final on that.

MR. PENNOYER: Any further action required -- it's already been approved.

MS. McCAMMON: No, it's already been approved. But, we do have a request from the City of Cordova to hold the next full meeting in the City of Cordova, and we may be contacting you about the possibility of setting something like that up in late January or early February.

MR. PENNOYER: Okay, thank you. All have to look on

calendars when you contact us, so we don't have to look now.
Further business? Ms. Williams.

MS. WILLIAMS: Mr. Chairman, I would just urge the Executive Director's -- one of her first acts to invite Mr. Ayers to the next full meeting, so that we can properly recognize Jim's past (indiscernible). Thank him from all of us.

MR. PENNOYER: Nicely put forth. Purchase the gold watch ... (Laughter)

MS. WILLIAMS: We do want Mr. Ayers to know, so we hope to see him at our next meeting for the appropriate commendation from the board.

MR. PENNOYER: Small ceremony.

MS. WILLIAMS: Yeah, just a small ceremony.

MR. FRAMPTON: Mr. Chairman.

MR. PENNOYER: Mr. Frampton.

MR. FRAMPTON: I would just like to say that I think that the work that the staff of this Council has done in the last couple of months has been truly astonishing in terms of both the quality and the quantity and the speed and response, and just -- I think we should, as a Council, adopt a resolution of thanks both to Mr. Ayers and Ms. McCammon and all the other members of the staff for the last couple of months, some way that's officially recognizes ...

MR. PENNOYER: Shall we ask Ms. McCammon to draft up (indiscernible - laughter).

MR. FRAMPTON: I would just suggest I guess -- I move

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 343 through 438 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on December 2, 1994, commencing at the hour of 8:30 a.m., at the U.S. Forester's Conference Room, Federal Building, Juneau, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by Sandra Yates and me to the best of our knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 7th day of December, 1994.

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/97