

TRUSTEE COUNCIL TELECONFERENCE MEETING  
Monday, November 20, 1995  
10:00 o'clock a.m.

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Federal Building  
Forest Service Conference Room  
Juneau, Alaska

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**TRUSTEE COUNCIL MEMBERS PRESENT:**

U. S. DEPARTMENT OF THE INTERIOR:

**MS. DEBORAH WILLIAMS (Chair)**  
Special Assistant to the  
Assistant Secretary

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STATE OF ALASKA:

**MR. CRAIG TILLERY and**  
**MR. ALEX SWIDERSKI**  
Trustee Representatives  
for the Attorney General

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STATE OF ALASKA - DEPARTMENT  
OF FISH AND GAME:

**MR. FRANK RUE**  
Commissioner

U. S. DEPARTMENT OF AGRICULTURE -  
U. S. FOREST SERVICE:

**MR. PHIL JANIK**  
Regional Forester  
**MR. JAMES WOLFE**, Alternate

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U. S. DEPARTMENT OF  
COMMERCE - NOAA:

**MR. STEVE PENNOYER**  
Director, Alaska Region

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STATE OF ALASKA - DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION:

**MR. ERNIE PIPER**  
Alternate for  
Commissioner Gene Burden

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**TRUSTEE COUNCIL STAFF PRESENT:**

MS. MOLLY McCAMMON

Executive Director  
EVOS Trustee Council  
Director of Operations  
EVOS Trustee Council

MR. ERIC MYERS

MS. REBECCA WILLIAMS

Executive Secretary  
EVOS Trustee Council  
Public Information Specialist  
EVOS Trustee Council

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MS. L. J. EVANS

2

**OTHER PARTICIPANTS:**

MS. GINA BELT

U. S. Department of Justice  
State of Alaska  
Department of Fish and Game

MR. KIM SUNDBERG

MR. GLENN ELISON

U. S. Department of Interior  
U. S. Department of Interior  
(Telephonic)

MR. BARRY ROTH

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PUBLIC TESTIMONY (Location Testifying From)	PAGE
MR. DAVE DEANS (Anchorage) .....	44
MS. PAM BRODIE (Homer) .....	45
MS. DIANA ZIRUL (Kenai) .....	47
MR. MARK LUTTRELL (Seward) .....	49
MAYOR JEROME SELBY (Juneau) .....	51
MR. JOEL BOLGER (Juneau) .....	56
MR. LARRY LANDRY (Juneau) .....	61
MR. CHARLES McKEE (Anchorage) .....	65
MS. BARBARA SEAMAN (Homer) .....	68
MR. BRANDON ANDERSON (Seward) .....	70
MS. RICKIE OTT (Cordova) .....	71
MR. RICHARD TYLER (Homer) .....	75
MS. AMY BOLLENBACH (Homer) .....	77

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(Tape No. 1 of 3)

(On record at 10:00 a.m.)

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CHAIR WILLIAMS: I'd like to welcome the Trustee Council  
6 members, Agency staff, and the public. I would like to call to order the  
7 November 20th, 1995, meeting of the Exxon Valdez Oil Spill Trustee Council.  
8 And we will begin with the approval of the agenda.

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Did all the Trustee Council members have the opportunity to  
11 review the agenda?

12

(No audible response)

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CHAIR WILLIAMS: Is there a motion to approve the agenda?

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MR. PENNOYER: I move we approve the agenda.

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MR. JANIK: Second.

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CHAIR WILLIAMS: Moved by Mr. Pennoyer, seconded by Mr. Janik.  
20 Is there any opposition to approving the agenda as written?

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(No audible response)

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CHAIR WILLIAMS: The agenda is approved. We'll next move to the approval of the August 25th, 1995, meeting notes. Did all the Trustee Council members have the opportunity to review the meeting notes?

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(No audible response)

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CHAIR WILLIAMS: Is there a motion to approve the meeting notes as written?

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MR. JANIK: So move.

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MR. PENNOYER: Second.

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CHAIR WILLIAMS: Moved by Mr. Janik, seconded by Mr. Pennoyer. Any opposition to approving the meeting notes for August 25th, 1995, as written?

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(No audible response)

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CHAIR WILLIAMS: They are approved. The next item of business is the Executive Director's report. Ms. McCammon?

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MS. McCAMMON: Thank you, Madam Chair. In your packet you'll notice that you have a financial report as of October 31st, 1995. This shows the Joint Trust Fund account balance of \$117,534,467, less current  
1 year commitments, the restoration reserve balance, plus adjustments, for an  
2 uncommitted Fund balance of \$46,094,678. It's estimated between future  
3 Exxon payments and less the remaining reimbursements and less the remaining  
4 commitments that the Council has made so far that the total estimated funds  
5 available are approximately \$406,000,000. There is also associated backup  
6 with this.

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And at this point, these financial reports that you've been  
13 receiving on a monthly basis have not been certified through the accounting  
14 agency that has been contracted to do our audit, but following the final  
15 audit report in March, we'll be able to have these certified on a regular  
16 basis.

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CHAIR WILLIAMS: Thank you. Are there any questions from the  
22 Trustee Council members? And let me take a moment, if I could. I neglected  
23 to introduce the Trustee Council members. Let me do so at this time,  
24 particularly for the benefit of those people on the teleconference system.  
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We have with us today Commissioner Frank Rue, representing the  
Alaska Department of Fish and Game; Mr. Phil Janik, Regional Forester for  
the Forest Service, Department of Agriculture; Mr. Pennoyer, representing  
NMFS, NOAA, and Department of Commerce. Of course, we have Eric Myers,  
Chief of Staff for the Exxon Valdez Trustee Council; Molly McCammon,  
Executive Director, Exxon Valdez Trustee Council; Mr. Craig Tillery,  
representing the Attorney General's Office; Ernie Piper, representing the  
Alaska Department of Environmental Conservation. And I am Deborah Williams,  
representing the Department of Interior and acting as Chair today.

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Thank you, Ms. McCammon. If you would continue, please.

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MS. McCAMMON: The next item in your packet is the quarterly project status summary as of September 30th, 1995, and this is for the  
1 status of all the projects, the 1992 projects, '93 projects, '94 projects,  
2 and '95 projects as of the end of this fiscal year. I think the main item  
3 of interest here is that the Trustee agencies have done a much better job in  
4 the last year, and especially in the last three months, in getting final  
5 reports submitted, reviewed, approved, and then into the proper format to be  
6 delivered to OSPIC and made available to the public.

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In addition, this year we made a major change with the '95  
13 projects and are requiring, for those projects that have multi-year funding,  
14 requiring an annual report that still goes through the same kind of peer  
15 review process, but it doesn't have the back-and-forth rewrite that a final  
16 report gets. And this should, I think, expedite getting these kinds of  
17 reports out and available to the public. The peer review comments are still  
18 available to the public and will be available upon request.

19

What we're trying to expedite, simplify, and make sure that all  
20 of our report requirements are accomplished in as timely a fashion as  
21 possible. And I think there's been a much better effort made this year than  
22 in the past.

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The new thing that we're implementing for next year is that for  
24 FY '97, all reports for projects that just finished the field season for the

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FY '95 projects, those reports are due on April 15th. That is the same date  
that the proposal for FY '97 is due. The FY '97 proposal will not be read  
unless -- or even considered -- unless it is accompanied by a final report or  
1  
an annual report, whichever the case is. That's also due on that same date.  
2  
Or if there is some special accommodation that needs to be made, that that  
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needs to be submitted in writing and approved.

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So this means before any future funding will even be considered,  
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before a proposal will be reviewed, that the report for the prior field  
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season has to accompany any request for future funding.

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We've been working very closely with the Trustee agencies and  
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with the PIs on the report process and have had a great deal of cooperation  
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from those within the agencies. We're trying to clean up a -- there's a  
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number of reports that are still on backlog status. To a large degree,  
11  
these are reports that either the principal investigator quit, took another  
12  
job, left, and the reports had to be picked up by someone else. Or, in some  
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cases, they are reports that have some -- we're almost at the point of having  
14  
some irreconcilable differences between the principal investigators and the  
15  
peer reviewers, and we're trying to work out ways of resolving that.

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Some of the items, I think you'll notice, of interest in the  
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status report that have occurred since our August meeting, first of all, in  
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September, the Council sponsored a Youth/Elder Subsistence Conference. This  
19  
was attended by more than 100 people. There were representatives from every  
20  
community within the spill area, with the exception of the village of  
21  
Tatitlek that was weathered out during those two days.

22  
The group spent several days going over the status of the  
23  
injured resources, their concerns about subsistence use of those resources  
24  
within the spill area. And I think afterwards, the good news from all of  
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this is that many of the recommendations and concerns that were brought up  
in that conference are items that the Council has heard in the past and has  
worked to implement some way of addressing them. So a lot of the  
1  
recommendations, when I was reviewing the final report, are things that the  
2  
Council has already undertaken.

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There were two concerns that I think were very important to  
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those gathered. One concern that they definitely wanted passed on to the  
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Council is their recommendation that there be a Native trustee on the  
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Trustee Council. And the second concern that was brought up was a concern  
7  
that the process under which this settlement occurred does not adequately  
8  
take into account human issues and concerns: the impact of the spill on  
9  
Native culture and human resources within the villages. And they wanted  
10  
that message passed on to the Trustee Council.

11  
A final report has been written, and right now I'm drafting a  
12  
response to that report and I'll be circulating that to all of you before we  
13  
issue it, on how to respond to it.

14  
In addition, in early November, the Council also sponsored a  
15  
Residual Oiling Conference. At this time, this was attended by all of the  
16  
experts who have participated in the DEC process over the last few years, in  
17  
terms of looking at what leftover oil is still out there on the beaches. We  
18  
heard-- we had significant participation from the village of Chenega; they  
19  
sent, I think, 10 or 12 people who represented the community. There was a  
20  
lot of very good discussion. There is continuing concern from the residents  
21  
about remaining oil on the beaches.

22  
We have worked with them really closely to identify those  
23  
beaches of greatest concern to the residents, and we'll be preparing a set  
24  
of option papers probably for you by January. But I did want to bring to  
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11  
your attention that the presence of oil is still a major issue, especially  
to the residents of Chenega and right around their community.

In addition, the third conference that the Council sponsored was  
1 the Sea Bird Restoration Workshop that was held in Girdwood in early  
2 October. That workshop will be developing a report and will have some  
3 possible options for the Council to consider in the future.

4  
Right at the moment, the chief scientist is sponsoring a number  
5 of technical review sessions in preparation for action on the final work  
6 plan in December. Those include review sessions on herring, pink salmon,  
7 sockeye salmon, the APEX project, and many sessions on clams, octopus, and  
8 harlequin ducks. Those technical sessions, we're hoping, will be able to be  
9 accomplished in the time schedule that we've set.

10  
They depend, to some degree, on participation by federal agency  
11 folks. The last one on the herring review last week, the -- one of the  
12 reviewers was a federal employee who was grounded at the last minute, and  
13 fortunately, we were able to find an alternate on 24-hour notice. But  
14 hopefully, we'll get through these sessions in the next month.

15  
This will lead us to a final recommendation for the rest of the  
16 work plan on December 11th. The schedule that we have is extremely tight.  
17 Because of the reviewers' schedules, we were not able to schedule a lot of  
18 these technical sessions until late November/early December. The last  
19 session, I believe, is completed on December 2nd. We'll be working, at that  
20 time to develop a draft recommendation. The Public Advisory Group meets in  
21 Anchorage on December 6th.

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Based on -- we'll incorporate their comments into the draft  
23 recommendation, and you will be receiving it on approximately December 8th,  
24 in preparation for a December 11th meeting. So it's a very tight time  
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schedule; I apologize in advance for that. The only other option is not  
having us meeting until January, which I think, from most people's  
perspective, is not acceptable in terms of funding, schedules, and trying to  
1 get funds through the court and through the various processes.

2  
3 These are all projects that have been reviewed, the Council has  
4 seen in the past. They're all ones that the public has seen. There is  
5 nothing new on the table. So I think in terms of public process, there's  
6 nothing new out there, it's just a question of what the results of the  
7 technical sessions are.

8 In addition, we're working right now in preparation for the  
9 annual Restoration Conference, which will be held in Anchorage at the  
10 Captain Cook Hotel January 16th through the 18th. This is one that is a  
11 mandatory meeting of all the principal investigators for all of the Trustee  
12 Council projects. Last year, we had more than 200 people attend this  
13 conference.

14 One of the -- the keynote speaker and the keynote address that  
15 we're focusing on this year will be on traditional environmental knowledge.  
16 And the person who's giving the keynote speech has not been selected yet,  
17 but we should have that nailed down in the next week or so.

18 But I would encourage any of the Council members, if you're able  
19 to do so, this is a really good opportunity to really listen to what's  
20 happening within the program and get involved in the exchange, this  
21 scientific exchange that occurs at conferences like this. We'll have a  
22 final more tentative -- a more final tentative agenda on that available next  
23 week, and I'll get that out to all of you.

24 In addition, I wanted to note that one of the Council's  
25 projects, the Sound Waste Management Plan, which is nearing completion this

13  
year, did receive an award at the Alaska Municipal League at their banquet  
on Friday. The award was accepted by the Mayors that are participating in  
that project. So the Mayors of Whittier, Valdez, Cordova, and, I believe,  
1  
representatives from Chenega and Tatitlek accepted that award on the  
2  
Council's behalf.

3  
And one final item that I wanted to note here also is, during  
4  
the month of October -- well, actually, it was in late September, the Public  
5  
Advisory Group took a tour of Prince William Sound, starting in Valdez,  
6  
holding a public meeting there, and then on one of Stan Stevens' boats,  
7  
viewing a significant amount of the land that's considered for protection  
8  
within Prince William Sound, right around Tatitlek. We had Gary Kompkoff,  
9  
who was the Village Council President, get on board the boat and describe  
10  
the Trustee Council projects that are being funded within that area.

11  
Then we crossed over the Sound to Chenega, held a public meeting  
12  
in that community that night, attempted to leave the next day but were  
13  
caught up in Typhoon Oscar, and after -- I don't know -- huge waves,  
14  
whatever -- I don't know how many feet they were, but they were big, turned  
15  
around and spent an additional day in Chenega, which actually was really  
16  
beneficial. It gave us the opportunity to talk to them about the  
17  
archaeological restoration projects and about habitat acquisition and a  
18  
number of other items.

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So it was, I think from everyone's perspective, a really  
20  
worthwhile trip. Enforced confinement on a vessel gets you talking to  
21  
people. So it was very beneficial.

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The next item I wanted to report on was the status of the audit.

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And I believe.....

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CHAIR WILLIAMS: Molly, let's quickly ask: Do any Trustee

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Council members have any questions about recent or future conferences or  
about the quarterly project status report? Yes. Mr. Pennoyer.

MR. PENNOYER: Thank you, Madam Chair. In the past meeting,  
1 Molly, we approved the minutes of the meeting, but there were various things  
2 people undertook to do, and one of them was this age-old question of  
3 criteria to differentiate between oil spill related projects and normal  
4 operation projects. Is this something that will also come to us in the  
5 December meeting?

6  
MS. McCAMMON: Yes. Mr. Pennoyer, we have a draft being  
7 circulated right now; it's being looked at by Agency staff. The Public  
8 Advisory Group requested this also. We'll do a presentation with them on  
9 December 6th and then bring it back to you on December 11th. Yes.

10  
MR. PENNOYER: Okay. I wasn't aware we'd seen a draft.

11  
MS. McCAMMON: Yeah.

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MR. PENNOYER: We'll get a copy from you if we don't have one?

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MS. McCAMMON: Yes.

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MR. PENNOYER: Thank you.

15  
MS. McCAMMON: No, you haven't seen the draft yet. It's

16  
just.....

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MR. PENNOYER: Oh, okay. You said it was circulating.

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MS. McCAMMON: It just came out last week.

19  
MR. PENNOYER: Okay. All right. Thank you.

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CHAIR WILLIAMS: Certainly. Any other questions or comments?

21  
(No audible response)

22  
CHAIR WILLIAMS: Okay. Ms. McCammon?

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MS. McCAMMON: We do have two members of the audit team here  
24 today: Max Marts and Tim O'Keith. They're with the firm of -- back here in  
25

15  
the corner. They're with the firm of Elgee, Rehfeld.....

CHAIR WILLIAMS: Sort of like the.....

MS. McCAMMON: .....& Funk.

1

CHAIR WILLIAMS: .....Academy Awards, huh?

2

(Laughter)

3

MS. McCAMMON: This is a Juneau firm that was awarded the  
4 contract to conduct the audit on behalf of the Trustee Council. They have  
5 been -- their efforts have been under way in the last month, and barring some  
6 further major shutdown on the federal side, all of the meetings are on  
7 schedule. The draft report from the audit should be submitted to us by  
8 February 1st, and we should have a final audit by March 1st. So everything  
9 seems to be on schedule with that.

10

As this audit proceeds, they're focusing a lot on the processes  
11 that are used for the transfer of funds and for various mechanisms, and if  
12 anything does get identified during the audit that seems like it might be  
13 appropriate to institute a change or at least look into the reasons for  
14 various things, we're doing that as we go through the audit. So we're not  
15 waiting till the end of the audit to look at making some changes in  
16 processes and all. We'll be bringing them to individual agencies' attention  
17 as they get identified through the process. But I think having this is  
18 going to be very worthwhile.

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CHAIR WILLIAMS: Any questions or comments for either Ms.  
20 McCammon or the auditors from the Trustee Council members?

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(No audible response)

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CHAIR WILLIAMS: Okay.

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MS. McCAMMON: The only other item there that I wanted to  
24 mention is that the Council, if you'll recall, has committed to \$36 million

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in the Restoration Reserve, which is to be invested on a longer-term basis  
than the rest of the Trustee Council funds. As of this date, today, the  
court has still not made those investments. They have told us that it  
1  
requires a change in their contract with the Texas bank that they use, and  
2  
that they are waiting for certain securities to mature and for the timing to  
3  
be right to make those investments.

4  
We'll be pursuing this. This has been a lengthy process. The  
5  
Council first initiated this effort more than a year ago, and it's been  
6  
frustrating, to say the least. But all the papers have been filed with the  
7  
court; it's all in place. The burden is really now with the court system to  
8  
do this.

9  
As part of the audit process, we do have a meeting scheduled in  
10  
Houston with the Court Registry Investment System, and I hope to have this  
11  
fixed before that meeting.

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CHAIR WILLIAMS: I do find this appalling (laugh). And is  
13  
there -- Mr. Tillery or Ms. Belt, is there anything we can do, or Ms.  
14  
McCammon, to put more pressure on this process?

15  
MR. TILLERY: To clarify, the court here has done everything it  
16  
can do.

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CHAIR WILLIAMS: All right.

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MR. TILLERY: Judge Holland has signed the enabling legislation,  
19  
the enabling court order; he has signed the two deposit orders. It's a  
20  
function of them -- the Court Registry Investment System getting their  
21  
contracts with the bank in order. And I guess we kind of caught them at a  
22  
time when they were changing their system around. And we were originally  
23  
told there was nothing more that was needed to be done, and then after we  
24  
scuttled the order down there and, apparently, they started to thinking  
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17  
about how they were going to do it, they decided they did need to do  
something.

And I think one of the -- I think one thing we need to do is to  
1 have Ms. McCammon go down to Texas and have some personal discussions that I  
2 think will make things maybe easier to work with in the future, go quicker.

3 CHAIR WILLIAMS: Ms. McCammon, do you think a new resolution by  
4 this body emphasizing how important it is for restoration to maximize, you  
5 know, our investment dollars would be helpful for you to take down, and  
6 perhaps one that expresses just a little bit of frustration with the time  
7 that's been involved? Would that be helpful for you to have?

8 MS. McCAMMON: I'm not sure whether that would or not. I don't  
9 think it hurts to have a -- to be able to have a strong message from the  
10 Council from that perspective, but.....

11 MR. TILLERY: Previous.....

12 MS. McCAMMON: .....I'm not sure whether it would help.

13 MR. TILLERY: .....impression in dealing with courts is that  
14 expressions of frustration are not very fruitful.

15 (Laughter)

16 CHAIR WILLIAMS: How about just an expression of renewed  
17 commitment to have this occur in a timely manner? Again, if it is felt to  
18 be either futile or non-productive, we won't do it, but it's been a year,  
19 and our last expression is somewhat stale. I don't even think it included  
20 the Knowles appointees. I'm trying to remember. Was that pre-- that was  
21 pre-Knowles; right?

22 MS. McCAMMON: Right.

23 CHAIR WILLIAMS: Would.....

24 MS. McCAMMON: Madam Chair, the next -- this meeting in Texas is  
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scheduled for December 14th, after our next meeting. So if we haven't  
gotten any further with this by December 11th, then we can draft something  
for that meeting.

1 CHAIR WILLIAMS: Okay. Let's plan on that. I think that's a  
2 good idea. Thank you.

3 Any other questions or comments about the investment situation?

4 (No audible response)

5 CHAIR WILLIAMS: Okay. Ms. McCammon?

6 MS. McCAMMON: Madam Chair, the last item I wanted to report on  
7 is the status of the Alaska SeaLife Center, and there is a report in your  
8 packet on this from Kim Sundberg with the Department of Fish and Game.

9 The current status of this project is that at its October 12th  
10 meeting, the Legislative Budget and Audit Committee granted approval for the  
11 Alaska Department of Fish and Game to receive and expend the up to \$25  
12 million approved by the Council for construction of the Alaska SeaLife  
13 Center; however, they put two conditions on it.

14 The first condition was that none of this money could be spent  
15 until all funding for the entire facility, both the research and the visitor  
16 component, was in place; and secondly, until AIDEA had made a final  
17 determination and actually provided written certification that the entire  
18 project would be financially viable from both a construction and an  
19 operating aspect.

20 Since that time, if you'll recall, this project actually had two  
21 portions to it: the research facility portion, which is the one that the  
22 Trustee Council contributed to, and the visitor portion. The research  
23 portion had all of the funding available and ready to go. The visitor  
24 portion was to be paid for by additional fund-raising over the next three to  
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six years, approximately, for a total of \$12 million.

So that the whole project could be constructed at the same time, the project was attempting to obtain bridge financing, and they've been  
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working with AIDEA to do so. The bridge financing that they would receive  
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would be under the bank sharing program where a bank provides 20 percent of  
3  
it and AIDEA provides the other 80 percent. So this would be \$3 million and  
4  
\$9 million, basically.

5  
National Bank of Alaska is very interested in participating in  
6  
that. They're looking at some conditions of their own onto the funding.  
7  
It's becoming -- there are a lot of discussions going on now; AIDEA's having  
8  
their additional reviews done. The end result, at the moment, is that the  
9  
anticipated bid opening date for construction, which had been December 15th,  
10  
has now been delayed until at least March.

11  
Now, the project planners have said that even with that delay in  
12  
the bid opening, that the facility could still be constructed and open on --  
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during the month of May of 1998, assuming everything goes as planned. But  
14  
it doesn't allow much room for any further problems after that. If  
15  
additional problems occur between now and March, it could be even further  
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delayed. But at this point, we're looking -- we're still looking at a May  
17  
'98 opening date, but not until March for the bid opening.

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CHAIR WILLIAMS: Is Mr. Sundberg on the line, or anyone else?

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MS. McCAMMON: He should be available in Anchorage.

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CHAIR WILLIAMS: Kim?

21  
(No audible response)

22  
CHAIR WILLIAMS: Do we have Anchorage on line?

23  
MR. SUNDBERG: Yeah, I'm here. This is Kim Sundberg.....

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CHAIR WILLIAMS: Oh, good.

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MR. SUNDBERG: .....with Fish and Game.

CHAIR WILLIAMS: Good. I don't know. Just in case Molly can't respond to this, I thought I'd ask you, Kim, to serve as a backup. Two  
1 questions that I have.

2

One, in reading through the notebook, there was a lot of  
3 discussion about the City of Seward becoming involved in the financing issue  
4 and providing a guarantee or something of that sort. I couldn't quite  
5 figure out what the City of Seward's role is projected to be, or is, in this  
6 process.

7

MR. SUNDBERG: This is Kim Sundberg with Fish and Game. The  
8 City of Seward is involved with the discussions of putting together the  
9 financing package. Specifically, they're looking into their abilities to  
10 participate as far as floating some municipal bonds, which would then be, to  
11 my understanding, purchased by the banks and by AIDEA to back this loan. So  
12 they are involved with the discussions with AIDEA and the banks in terms of  
13 the overall financing package.

14

CHAIR WILLIAMS: Okay. They've not made a specific commitment  
15 at this point yet, though?

16

MR. SUNDBERG: No. Those discussions are still ongoing, and I  
17 expect that those are going to occur over the next month or two in terms of,  
18 you know, coming back with a proposed package.

19

CHAIR WILLIAMS: Okay. My second question is this: As I'm sure  
20 the other Council members know and have been keeping track of, we have been  
21 proposing various ways to address the potential and the actuality of having  
22 archaeological finds on the site.

23

Let me take this moment, first, to commend those people who have  
24 been working on that issue. People really have done an outstanding job in  
25

21  
expediting the analysis and review of that issue, both at the Federal/State  
and National Board level, and also, of course, the SAAMS folks. So again,  
let me thank everyone for doing that quickly.

1  
Now to my question. Since we are facing a more delayed bid  
2  
opening time than I think we thought was going to be the case when we were  
3  
having the discussions about test holes and so forth, Kim, can you tell us  
4  
what the likely schedule is for the archaeology mitigation and testing?

5  
MR. SUNDBERG: Yeah, this is Kim Sundberg. The project has gone  
6  
ahead during the month of November with the eight test trenches within the  
7  
building footprint, and those are now completed and the archaeologist is  
8  
writing up his results. I can report that seven of those trenches, they  
9  
didn't find any cultural materials. One of the trenches, they found some  
10  
materials that were similar in nature to the materials that were found in  
11  
the Lowell homestead site, and that trench actually ended near the Lowell  
12  
homestead site.

13  
So the sort of field results were that that was the same type of  
14  
material. So essentially, those eight clearance trenches have been all dug,  
15  
and the site appears to be clean from an archaeological standpoint.

16  
The test pits that were agreed to in the mitigation plan at the  
17  
Lowell homestead site, the work is going to be done on those next spring, I  
18  
believe.

19  
CHAIR WILLIAMS: Very good. Well, that's very good news about  
20  
the next trenches.

21  
Any questions or comments about Alaska SeaLife Center from the  
22  
other Council members?

23  
(No audible response)

24  
CHAIR WILLIAMS: All right. Thank you. Ms. McCammon, who will  
25

22  
be giving the habitat protection status report and discussion of appraisal  
and acquisition processes?

MS. McCAMMON: I will be.

1  
CHAIR WILLIAMS: Excellent. Please proceed.

2  
MS. McCAMMON: Okay. Also included in your packet is the status  
3  
report on habitat acquisition and protection, just to give a brief summary  
4  
for the public and also to bring everyone totally up to date as to what's  
5  
occurred.

6  
Under the Small Parcel Program, we do have a package of  
7  
recommendations for your consideration and possible action as a separate  
8  
item on the agenda today.

9  
For Koniag, the Koniag purchase agreement for lands on Koniag --  
10  
Kodiak Island was signed in Washington, D.C., on Monday, November 13th. The  
11  
ceremony was held for the World Wildlife Fund two days later; it was held  
12  
outside of Interior Department due to the federal shutdown. And the court  
13  
request for the first payment has been filed.

14  
On Shuyak, we have that as a possible action item today, and it --  
15  
this will be discussed in Executive Session. Jim Wolfe, Craig Tillery,  
16  
and Sheila Anderson, the State's timber review appraiser, met in Portland on  
17  
Monday, November 13th with Ray Granville, the Council's timber appraiser who  
18  
is under contract with the Forest Service. And that meeting was held to  
19  
discuss a draft timber review that had been contracted out to Mr. Granville.

20  
Reconciliation of the government-approved appraisal was  
21  
accomplished last week. This was given to the Kodiak Island Borough, and  
22,  
we're hopeful that we'll have some form of action on this later today.

23  
For Chenega, Ray Granville is still analyzing the data that he  
24  
obtained during the additional field work in October. He was able to get  
25

23  
out there during ten clear days and do all the work that he had hoped to get  
accomplished during that period of time. His assessment is expected to be  
completed in about one week, and we'll probably be discussing the results of  
1 that assessment at the December 11th meeting.

2  
3 For Tatitlek, the draft appraisal had been expected at about the  
4 1st of November. This has slipped by a number of weeks, primarily due to  
5 additional work on Shuyak and also due to Mr. Granville's medical problems.  
6 The expected date for his preliminary draft now is late December.

7  
8 The Tatitlek Corporation will be getting all of the timber  
9 cruise data as it is being developed at the same time, and they're working  
10 up all of the numbers at the same time as the government appraisers are.  
11 We're still hopeful that, although it doesn't look like we'll have an  
12 agreement reached by December 11th, we're really hopeful that January,  
13 something will occur.

14  
15 On Eyak, Phil Janik, Craig Tillery, and I met with Eyak  
16 Corporation President, Nancy Barnes, here in Juneau a few weeks ago to  
17 discuss the continuation of negotiations with Eyak. The response that we  
18 heard from Nancy was very positive. She requested that we meet with several  
19 additional members of the Eyak Board. We've been trying to set up that  
20 meeting, and to this date, we haven't been able to reach a mutually  
21 agreeable time. We're hopeful to have that done by the middle of December.

22  
23 In the meantime, the Forest Service has requested all of the  
24 timber cruise data from Pacific Forest Consultants and will be looking at  
25 that information and making a recommendation on how best to proceed with  
finalizing the appraisal for the Eyak lands.

26  
27 On Afognak Joint Venture, the Alaska Department of Natural  
28 Resources will be issuing an RFP for this appraisal in January, with work  
29

24  
expected to commence, depending on snow and weather, as early in the spring  
as possible.

And that completes, basically, the summary of what action has  
1  
been taken in the past few weeks.

2  
CHAIR WILLIAMS: I have a question. How long do we expect the  
3  
Afognak appraisal process to take, or, more precisely, when could we expect  
4  
to have an appraisal number in front of the Council?

5  
MR. TILLERY: Madam Chairman, we would hope to get the  
6  
procurement done by spring, by this season. It will take a good-- it  
7  
depends. They've-- there's an existing cruise; they have to go check that  
8  
cruise. If the cruise is adequate, if it doesn't need much more work, then  
9  
I would hope that by sometime mid-summer or so, we would have the  
10  
information from that and could-- I would say, by the end of the summer,  
11  
have an appraisal done.

12  
CHAIR WILLIAMS: Any further questions about the status of  
13  
habitat protection? Mr. Janik?

14  
MR. JANIK: Madam Chair, just a comment. I'd be remiss if I did  
15  
not acknowledge all the hard-spent time and effort by both the federal and  
16  
state individuals involved in getting these appraisals where they are. The  
17  
appraisal process, as we know, has never been satisfying to the time lines  
18  
we would have liked to have seen. The fact of the matter is these are very  
19  
complicated exercises that need to be accomplished, and a great deal of  
20  
personal time has been spent moving them along as fast as they have gone.  
21  
And I just want to make that acknowledgement to the federal and state people  
22  
involved in these.

23  
CHAIR WILLIAMS: Thank you. I think that's shared by all  
24  
Trustee Council members.

25



Any further comments?

(No audible response)

CHAIR WILLIAMS: Ms. McCammon?

1

MS. McCAMMON: Madam Chair, there -- under the tab labeled  
2  
3 Appraisal Report," there is a draft report for discussion purposes. That  
4 was prepared by myself and a working group that consisted of Barry Roth and  
5 Glenn Elison with the Department of Interior; Dave Gibbons with the Forest  
6 Service; Alex Swiderski with the Department of Law; and Carol Fries with the  
7 Alaska Department of Natural Resources.

7

This group was -- or report was requested at your August 25th  
8 Council meeting to review the costs, logistics, and processes for habitat  
9 acquisitions, including pre-acquisition closing and post-acquisition  
10 activities and costs. There were a number of issues that were identified,  
11 and I have in here a -- some suggested recommendations and also have  
12 highlighted where some of the policy issues are.

13

The one thing that we did not finalize was a final review of the  
14 126 -- the 96-126 budget, in light of some of these recommendations. And  
15 following our discussion today, we'll go back and take a further look at  
16 those budgets and have a revised budget for your consideration at the  
17 December meeting.

18

But at this time, if it's the wish of the Council, we could go  
19 through this, or we could defer it until later in the day. It's kind of up  
20 to you.

21

CHAIR WILLIAMS: Well, we have 15 minutes before the public  
22 comment period begins, so unless anyone objects, I'd propose we get as much  
23 done as we can in the next 15 minutes.

24

MS. McCAMMON: Okay. We could just take these item by item.

25

26  
And the first one on the list here is title insurance. The question that was raised during our process was whether title insurance is required for all of the acquisitions that the Council undertakes.

1  
2           And it took some doing to try to figure out whether it was a  
3 matter of law, a matter of policy, a matter of regulation that the various  
4 agencies were acting under. The Department of Interior provided me with the  
5 standards for the preparation of title evidence in land acquisitions by the  
6 United States that they use, requiring that acquiring federal agencies  
7 furnish necessary evidence of title to land to be acquired by direct  
8 purchase, exchange, or donation.

9           The standards direct that evidence of title acceptable to  
10 prudent attorneys and title examiners in the locality in which the land is  
11 situated will ordinarily be acceptable to the Department. While the  
12 practice of Interior agencies normally is to purchase title insurance  
13 policies, there are other types of evidence that can be used after  
14 considering local practice, reliability, security, economy, efficiency, and  
15 speed.

16           Since the purchase of title insurance policies is based on a  
17 percentage of the cost of the transaction, for some of these large deals, it  
18 can be very expensive and, in some cases, not necessary. What the  
19 Interior's Office of the Regional Solicitor has approved is the use of  
20 abstracts of title from an abstract company that is approved by the  
21 Department of Interior in lieu of purchasing title insurance. The State  
22 would be comfortable with using abstracts of title for most acquisitions.

23           The Department of Agriculture has indicated that basically what  
24 is acceptable to Department of Justice would be acceptable -- would be what  
25 they would use. And so we'll be clarifying with the Department of Justice

27  
what exactly they believe are the requirements, but I would imagine that  
they're similar to Interior's.

In some cases, it makes sense to have title insurance, and  
1 others not, and we'll probably be looking at it on a case-by-case basis.

2 CHAIR WILLIAMS: Ms. McCammon, is it our goal to go through this  
3 now, raise questions, make assignments where appropriate, and then have a  
4 final document for our December meeting?

5 MS. McCAMMON: That's correct.

6 CHAIR WILLIAMS: Good. Ms. Belt, do you think Department of  
7 Justice will be able to review this issue before our December meeting?

8 MS. BELT: If we can get a copy of the report, yes.

9 MS. McCAMMON: It's in your -- in the draft packet.

10 (Pause - Side comments)

11 MR. PENNOYER: Hm mmm (negative).

12 CHAIR WILLIAMS: It's not?

13 MR. PENNOYER: No.

14 CHAIR WILLIAMS: Under appraisal report?

15 (No audible response)

16 CHAIR WILLIAMS: Okay.

17 MS. McCAMMON: On the next page is hazardous materials surveys.

18 And it is the policy of the Department of Interior that all acquisitions of  
19 real property require a pre-acquisition site assessment. It is also the  
20 policy that the Department minimize its potential liability by acquiring  
21 real property that is not contaminated unless directed by the Congress,  
22 court mandate, or as determined by the Secretary of the Interior. The  
23 Department of Agriculture has a similar policy.

24 For Trustee Council acquisitions, the State concurs in the need  
25

28  
for pre-acquisition site assessments. The State has no written policy in  
statute or regulation.

The next item, surveys needed to accomplish acquisition. The  
1 issue.....

2 CHAIR WILLIAMS: Actually, I do have one question about the  
3 hazardous materials survey. So the State would concur that hazardous  
4 materials surveys are a necessary prerequisite on both state and federal  
5 land or just on federal land?

6 MR. TILLERY: Just on state land.

7 (Laughter)

8 MR. TILLERY: It's a prudent action.....

9 CHAIR WILLIAMS: Yes.

10 MR. TILLERY: .....to be taken.

11 CHAIR WILLIAMS: Okay. But you would concur on federal land  
12 also.

13 MR. TILLERY: Yes, we have no.....

14 CHAIR WILLIAMS: Very good.

15 MR. TILLERY: .....problems within the federal land.

16 CHAIR WILLIAMS: Thank you.

17 MS. McCAMMON: Would you like that clarified, Madam Chair?

18 CHAIR WILLIAMS: Yes, please.

19 MS. McCAMMON: Okay. The next issue was on surveys needed to  
20 accomplish acquisition. The issue that arose was whether and to what extent  
21 surveying of lands is necessary in order to close an acquisition. Interior  
22 agencies have standards that involve how lands can be legally described to  
23 meet Departmental standards for acquisition. Allocate (sic) part  
24 descriptions are acceptable -- are considered acceptable descriptions.  
25

The working group recommended that the following guidelines be used in making such a determination: To, first off, use the least expensive acceptable means available for describing a property. In most cases, this will be the allocate parts. If the seller has taken action to create an in-2 holding that results in a need to survey, the seller has the responsibility 3 to pay for the survey.

4 The policy question that arises is how this might be addressed 5 in various negotiations and whether it might be considered a negotiable 6 item. And if so, at what time and where does funding for this take place? 7 Is it in a budget after the acquisition is approved, or is it considered 8 part of the acquisition total price?

9 In addition, the one agreement with AKI that has already been 10 signed and agreed to, although it doesn't specifically address the issue of 11 assigned responsibility for survey of in-holdings within corporation lands, 12 Akiak/Aguyak must deliver free and clear title. The lands to be conveyed in 13 the final closing are encumbered by claims arising from Section 14(c) of 14 ANCSA. These are in litigation and remain unresolved, and they mainly 15 involve improved setnet sites.

16 Fish and Wildlife Service has -- says that these areas must be 17 excluded in the deed to the United States and cannot be legally described, 18 and thus, a survey is required. Fish and Wildlife Service is requesting 19 funds in this -- they'll be requesting funds next year in the FY '97 budget 20 for these.

21 Did you want to add something further to that, Glenn?

22 MR. ELISON: I think you've captured it nicely, Molly.

23 MS. McCAMMON: Okay.

24 CHAIR WILLIAMS: Commissioner Rue?

25

COMMISSIONER RUE: Madam Chair, do we want to discuss the policy question now? I think this really is an interesting one. And I guess I would ask Mr. Tillery if he would want to give us an opinion, since he's negotiated a number of the land sales, or transactions. On the face of it, it seems like the survey should be a part of any negotiated settlement, and who pays for it. But I'm just curious why -- whether there's a reason you might not want to include that in negotiations.

CHAIR WILLIAMS: Mr. Tillery?

MR. TILLERY: Madam Chairman, I can't think of any reason not to include it in negotiations. If we have to do this -- I mean, I would -- my own preference is not to do a survey, to have the survey be done by an agency after acquisition, if they need it, unless it has to be done as part of closing. If that's like a legal requirement in order to close the deal, then I think we need to do the survey, and if we need to do the survey and the seller is the one that has created the problem through its -- through its holdings or stuff, or for whatever reason, I think they should be part of the negotiation.

COMMISSIONER RUE: Madam Chair?

CHAIR WILLIAMS: Commissioner Rue?

COMMISSIONER RUE: I -- it seems to me it would be nice to know the whole package you're buying, and if survey is a significant price or -- why wouldn't we want to know that up front rather than having it come back to us as a Council a year or two later?

MR. TILLERY: No, you do. I think -- that's right. I think all the -- all of these items, whether it's marking and posting or surveying or whatever, it should come -- the Council should be aware of those, or at least, if you don't know the costs or you don't know whether you're going to

31  
have to do them, aware of the possibility of them at the time.....

COMMISSIONER RUE: Mm hmm (affirmative).

MR. TILLERY: .....we decide to acquire the land.

1  
CHAIR WILLIAMS: Mr. Elison, for example, how much do you think  
2  
the Akiak/Aguyak surveys for the setnet sites will cost?

3  
MR. ELISON: Madam Chair, I don't have even a good guess at this  
4  
point because the sites are located in various areas throughout southern  
5  
Kodiak. The parcels are relatively small, generally an acre and a half to  
6  
three acres. There are only a handful of the sites, approximately a half a  
7  
dozen, but I'm not sure what that would translate to.

8  
CHAIR WILLIAMS: Okay. Other questions or comments about  
9  
surveys? I have one clarification question having to do with the intent of  
10  
the group on Item 2. And I don't know, Ms. McCammon, if you can answer it  
11  
or one of the other group members can.

12  
Obviously, there are several kinds of in-holdings you could  
13  
have. One is just pre-existing property rights that had nothing to do with  
14  
the particular seller, be it allotments or homestead sites or whatever. The  
15  
other is if the seller says, you know, 'I don't want to sell this piece of  
16  
land,' or, 'I want a conservation easement on this piece of land as opposed  
17  
to selling fee simple.' Was 2 meant to apply only to the latter category?

18  
MS. McCAMMON: Madam Chair, I'd look for some further guidance  
19  
from some of the other members of the group on that.

20  
CHAIR WILLIAMS: Would anyone from the group like to address  
21  
that? Mr. Elison? Or Barry Roth, are you on the phone?

22  
MR. ROTH: Yes, I am, Deborah. Can you hear me?

23  
CHAIR WILLIAMS: Yes, very well. Thank you. Did you hear my  
24  
question, Barry?

25

MR. ROTH: It's the situation on the 14(c) that's given here.

If that was a right created by ANCSA, that while the burden falls on the Native corporation to convey the lands out, they had no control over it. If they took subject to it, the United States will not and cannot take the property back subject to that. It's really not up to the Native corporation created.

We haven't run into other situations yet, that I'm aware of, in Interior where we had survey problems that we're asking the Council to pay for because of actions taken by the sellers. And the boundaries -- we've been able, even with Koniag, to ease out the park descriptions. So I'm not sure we have the exact situation where something has arisen where somebody's unwilling to sell, but if that comes up, again, the policy group will disclose to the Council at the time we've approved.

But again, the key on the 14(c) is that AKI did nothing in and of its own to create this problem. The U.S. gave it to them that way, but it's not something that BLM has responsibility for surveying for.

CHAIR WILLIAMS: Yes, Mr. Tillery?

MR. TILLERY: If Mr. Roth could explain, who has -- if we don't -- if we hadn't done the AKI deal, who -- would those parcels have had to have been surveyed eventually, and if so, who would have paid for it?

MR. ROTH: The litigation will result in a judgment, and I don't know how the court system would assess the cost. And what's subject to the cloud by the litigation is what's being excluded, and that's why there's a survey to determine the boundaries.

CHAIR WILLIAMS: Okay. Are there any other questions about survey?

24

(No audible response)

25



CHAIR WILLIAMS: Would any Board member like to address a motion on the policy question?

COMMISSIONER RUE: Madam Chair, is that something you think we  
1 need to do today, or is this coming back to us as a formal proposal at the  
2 next meeting? I would-- I thought the general direction of this discussion  
3 was good. It was-- it looked like we were getting away from unnecessary  
4 costs and trying to keep things as cheap as possible and putting the burden  
5 of survey where it legitimately should be. All of those seem like laudible  
6 objectives.

7  
8 As the policy question is whether they should be a negotiable  
9 item in land negotiations, I would-- I wouldn't mind -- that seems like a  
10 simple enough issue. I wouldn't mind making a motion to that effect, that  
11 survey costs ought to be the-- a negotiable item in land negotiations. I  
12 think it's a simple motion, so.....

13 CHAIR WILLIAMS: Okay.

14 COMMISSIONER RUE: .....for purposes of discussion, I'll put it  
15 on the table.....

16 CHAIR WILLIAMS: Okay. Is there.....

17 COMMISSIONER RUE: .....and then we can decide.

18 CHAIR WILLIAMS: .....a second to that motion?

19 MR. PENNOYER: I'll second the motion.

20 CHAIR WILLIAMS: Okay. It's been moved by Commissioner Rue and  
21 seconded by Mr. Pennoyer that, for purposes of this policy paper and future  
22 negotiations, that survey costs be a negotiable item in land negotiations.  
23 Any discussion of that motion? Yes, Mr. Pennoyer?

24 MR. PENNOYER: Madam Chair, having seconded it for purposes of  
25 discussion, to some degree, a clarification of what that means, obviously,

34  
anything is negotiable that the seller believes might be a cost or the buyer  
believes might be a cost. So in this case, when we say it's a negotiable  
item, are we directing it toward the bank that it would be negotiated -- of  
1 which side? I mean, are you negotiating it -- we're negotiating that they  
2 might have to pay for it?

3  
4 That some cost, total value of the land, in the eyes of the  
5 seller and the beholder -- and a buyer are still conclude (sic) all sorts of  
6 considerations. But in this case, we're saying specifically we would  
7 perhaps decide who's going to pay for that item.

8 COMMISSIONER RUE: Mm hmm (affirmative).

9 MR. PENNOYER: Okay. I guess I talked myself into it.

10 (Laughter)

11 CHAIR WILLIAMS: Any additional discussion? Mr. Tillery?

12 MR. TILLERY: I think that this is an issue that needs to be  
13 decided in the context of figuring out exactly where these surveys, why they  
14 originate, who's responsible for them, who needs to pay for them. I don't  
15 think this is an issue that should be separated out for a vote right now.  
16 I'd rather see it be maybe as part of a greater or larger motion in the  
17 December 11th meeting.

18 CHAIR WILLIAMS: Okay.

19 MR. TILLERY: I mean, I think the discussion is useful, but I  
20 guess I don't think making a decision on this one item right now is  
21 necessary. I'm not aware of any negotiations that will happen before  
22 December 11th that this would impact.

23 CHAIR WILLIAMS: So you move to table?

24 MR. TILLERY: I -- if that's what I need to do to do that, yes, I  
25 do.

35

COMMISSIONER RUE: And, Madam Chair, I simply made the motion to get it on the table.....

CHAIR WILLIAMS: Indeed.

1

COMMISSIONER RUE: .....so we could discuss it, and if other Council members would like to table it until December 11th, I have no objection to that.

4

CHAIR WILLIAMS: Is there a second to the tabling motion?

5

MR. PIPER: Second.

6

CHAIR WILLIAMS: All right. It's been moved to table. All in favor of tabling this until December and put it in the larger context, please indicate by raising your hand.

9

(Unanimous affirmative signal response)

10

CHAIR WILLIAMS: Any opposition?

11

(No response)

12

CHAIR WILLIAMS: All right. We'll address this in the larger context. But I do believe the discussion was helpful.

14

MR. TILLERY: Mm hmm (affirmative).

15

CHAIR WILLIAMS: All right. It is 11:00 o'clock, and I would propose that we break this discussion to go into public comment. And would we like to take a few-minute break first? Okay. Let us take a five-minute break, and we will resume about a few minutes after 11:00, and at that time, we will be taking public comment.

20

MS. EVANS: And we will stay on line until.....

21

CHAIR WILLIAMS: And please everyone stay on line. We'll be right back.

23

(In recess at 11:00 o'clock a.m.)

24

(Tape Change - Tape No. 2 of 3)

25

(Pause)

1                   COMMISSIONER RUE: The Chair has called the meeting back to  
2 order.

3                   MS. EVANS: And we've designated this area right here for public  
4 testimony if anyone cares to testify here in Juneau.

5                   CHAIR WILLIAMS: Very good. I'd like to call the meeting back  
6 to order, and we will now begin public comment. First I'd like to check to  
7 see if the following sites are still on line, and if you could just tell me  
8 whether anyone would like to testify at your site, then we will go ahead and  
9 do the round-robin testimony that we normally do.

10                   Anchorage, are you on line, and is there anyone who wishes to  
11 testify?

(No audible response)

12                   CHAIR WILLIAMS: Anchorage?

13                   MR. THOMPSON: This is Ray Thompson. Anchorage is on line;  
14 there is one person signed up here to testify. I'm not sure if that  
15 person's present, Ms. Dave Deans (sic). Yes, he's present.

16                   CHAIR WILLIAMS: All right. Very good. Again, I'm just going  
17 to go through and see -- make sure who's on line and who has people who wish  
18 to testify. Cordova, are you on line, and do you have anyone who wishes to  
19 testify?

20                   CORDOVA MODERATOR: We're still on line, and we just have one  
21 observer at this time.

22                   CHAIR WILLIAMS: Okay. Homer, are you on line, and do you have  
23 anyone who wishes to testify?

(No audible response)

24  
25

37

CHAIR WILLIAMS: Homer?

HOMER MODERATOR: Yes. Homer is on line, and we have people who wish to testify.

1

CHAIR WILLIAMS: Thank you. Kenai, are you on line, and do you have people who wish to testify?

2

KENAI MODERATOR: Yes, we are here, and we have one to testify.

3

CHAIR WILLIAMS: Thank you. Seward, are you on line, and do you have anyone who wishes to testify?

4

SEWARD MODERATOR: Yes, we are on line, and we do have people to testify.

5

CHAIR WILLIAMS: Very good. Is there anyone else who is on line, any other sites?

6

(No audible response)

7

CHAIR WILLIAMS: And we do have people who wish to testify here in Juneau. Let us begin with Anchorage. And please, could all the witnesses say and spell your last name for the record. Anchorage.

8

(Pause)

9

**PUBLIC TESTIMONY OF MR. DAVE DEANS (ANCHORAGE)**

10

Good morning, Madam Chair. My name is Dave Deans;

11

D-e-a-n-s is the last name. I hadn't intended to testify until I heard your discussion regarding some possible conditions of closing on land

12

acquisitions, that being title insurance and surveys. And my understanding is you've tabled that until the December meeting. And in your discussions

13

between now and your December meeting, you might consider the effects on the negotiations of the survey issue.

14

I do not believe that title insurance is a significant economic issue such that it would affect the negotiations that much. However, with

15

16

38  
respect to surveys, if this is a policy consideration, and if that policy  
should apply equally to small parcels as well as large parcels, I think that  
that should be considered and determined prior to the appraisal having been  
1 done because it's not unrealistic in some scenarios where the cost of the  
2 survey may meet or exceed the value of a particular property.

3  
4 And so I think in order to be consistent, that if it is that a  
5 policy decision is to be created that puts that burden on the seller, that  
6 that be incorporated with the appraiser's instructions and knowledge.  
7 Otherwise, I think that may become a significant deal point and possibly a  
8 deal-killer in the negotiation process.

9  
10 So I guess the item would be either (a) do not establish a  
11 policy that requires a survey at closing, or (b) if the policy is adopted to  
12 require a survey, to make that known and incorporate that in with the  
13 appraisal instructions. Thank you.

14  
15 CHAIR WILLIAMS: Thank you very much, Mr. Deans. Are there any  
16 questions or comments for Mr. Deans from the Trustee Council members?

17  
18 (No audible response)

19  
20 CHAIR WILLIAMS: Thank you. We appreciate those comments. Let  
21 us now go to Homer. If the first witness could please testify, and spell  
22 your last name.

23  
24 (Pause)

25  
**PUBLIC TESTIMONY OF MS. PAM BRODIE (HOMER)**

26  
27 Good morning. This is Pam Brodie from the Sierra Club. I'm in  
28 Homer now. I'd like to say, first of all, that the Sierra Club supports the  
29 small parcel process, and we have a longstanding policy supporting buying  
30 in-holdings within existing conservation units.

31  
32 Particular in this case, Sierra Club has supported the

33

39  
acquisition of the Kenai National Wildlife Refuge in-holding as negotiated  
some time ago between the Trustee Council and the Kenai Native Association,  
and we urge the Trustee Council to contribute the necessary funds to  
1  
complete that deal. I submitted a letter about this, but I'm not sure if  
2  
you folks received it since I didn't send it in till Friday night.

3  
Regarding the rest of the small parcel process, I sincerely hope  
4  
that the appraised values turn out to be fair and accurate, those that many  
5  
of the small parcel owners will agree to these prices. I understand that in  
6  
a few cases, which are the only cases I know about, there are differences of  
7  
opinion between the owners and the appraised prices, so I don't know how  
8  
this process is going to work out in the future.

9  
But that brings up the larger question of the appraisal process  
10  
in Trustee Council activities. And I do want to say that the environmental  
11  
community has been very distressed and leery about the problems with the  
12  
appraisal process. We certainly applaud the efforts that the Trustee  
13  
Council and the staff have gone through, but there has been delays, and a  
14  
number of the appraisals have had to be done over again, which, of course,  
15,  
it's expensive, but even more of a worry is the time that it takes.

16  
We have been happy to see that the Kodiak -- or the partial deal  
17  
with Koniag has finally been completed, but it took more than an entire year  
18  
from the original offer to complete that deal. And we're very worried that  
19  
with appraisals not coming in until next spring or summer, some things --  
20  
some of the deals may not be able to be completed depending on the results  
21  
of Presidential elections next year. I sincerely hope that the process will  
22  
continue for a number of years, but we can't assume that.

23  
And this is kind of in the nature of complaining about what's  
24  
happened in the past rather than recommending something in the future, but I  
25

40  
just -- I -- it's just that we're very worried that some deals will fall  
apart, and in particular, not necessarily the deals that have been delayed,  
which may in fact be completed in time, but the areas that the Trustee  
1 Council is interested in acquiring, and that we would like to see acquired,  
2 but which are considered the problem areas, they're not really going to be  
3 worked on until after the so-called easy areas are done, that the Trustee  
4 Council may never be able to capture that.

5  
6 So we just hope that you can move along these appraisals as  
quickly as possible. Thank you.

7 CHAIR WILLIAMS: Thank you, Ms. Brodie. And I would like to  
8 report that we have a copy of your letter in front of us; it was just passed  
9 out. We appreciate both your written and oral comments.

10 Are there any questions or comments for Ms. Brodie?

11 (No audible response)

12 CHAIR WILLIAMS: All right. I would like to move next to Kenai.  
13 If the first witness could please testify, and be sure and spell your last  
14 name.

15 **PUBLIC TESTIMONY OF MS. DIANA ZIRUL (KENAI)**

16 Hello, Deborah. This is Diana Zirul, spelled Z- as in zebra, -  
17 i-r-u-l. I'm a member of the Board of Directors for Kenai Natives  
18 Association and the General Manager of the Kenai Natives Association. With  
19 me today is Thomas Strohman, who is the President of the Board of Directors  
20 for Kenai Natives Association.

21 On behalf of the Board of Directors and the Corporation, I would  
22 like to express our sincere appreciation to the Executive Director of the  
23 Trustee Council, Molly McCammon, and to the entire Exxon Valdez Oil Spill  
24 Trustee Council for today's consideration of funding for KNA's small  
25



41 parcels. (Clearing throat) Excuse me.

As you are aware, this potential funding would only be part of the solution to a negotiated (indiscernible - cough) with the United States.

1 The Department of Interior is, and has been, working hard towards putting  
2 together an offer to KNA. That has yet to be made, and this funding would  
3 certainly provide positive movement towards that offer.

4 Assuming that the offer is ultimately made and we -- which we  
5 fully expect to happen, our Corporation will then have time to give this  
6 full consideration and also offer full discussion with our shareholders  
7 before any decisions to accept or reject are made.

8 Once again, I'd like to thank all of you who've worked so hard  
9 for our support, and thanks to each of the members of the Council for giving  
10 KNA their consideration. Thank you.

11 CHAIR WILLIAMS: Thank you, Ms. Zirul. Does Mr. Schomann (ph)  
12 wish to testify also at this time?

13 MS. ZIRUL: No, that's fine.

14 CHAIR WILLIAMS: Thank you very much. Are there any questions  
15 or comments for Ms. Zirul?

16 (No audible response)

17 CHAIR WILLIAMS: Well, I do want to thank KNA for their  
18 cooperation and patience and good faith efforts in this regard also, and I  
19 look forward to our resolution of this issue later on this afternoon.

20 I would like now to move to Seward. If the first witness would  
21 please testify in Seward, and spell your last name.

22 **PUBLIC TESTIMONY OF MR. MARK LUTTRELL (SEWARD)**

23 Good morning, everyone. My name is Mark Luttrell; that's  
24 spelled L-u-t-t-r-e-l-l. And I'm the President of a local environmental  
25

42  
group here called the Eastern Kenai Peninsula Environmental Action  
Association, and I'd like to make a few comments regarding the small parcel  
acquisition that is on your agenda for this afternoon.

1  
2           There are two parcels in the Seward area that concern the public  
3 very much. One is Lowell Point; it's at the south end of town. It's the  
4 last -- it's one of two accessible natural beaches. It provides a great deal  
5 of recreation for both locals and visitors, and it also brings in actually  
6 hundreds of school kids from Eagle River, Anchorage, and the Peninsula in  
7 general. There's a lot of natural tide pools out there and opportunities to  
8 learn marine science. The Park Service has projects that involves this  
9 beach as well.

10           I just urge the Trustee Council to support it. It's a worthy  
11 project, it has strong public support, and I hope it -- I hope you all can  
12 support it.

13           The second parcel is the -- that I'm in favor of is Grouse  
14 Creek -- or Grouse Lake, rather. It's at sort of -- well, Mile 7. It's  
15 before you leave the city area. Right now it's just a de facto camping spot  
16 for the local ruffians, and they tend to trash it quite a bit, and it  
17 deserves a lot of support here to convert that to a clean family day-use  
18 area, possibly overnight camping. We'd like to see maybe some small docks  
19 or just some overlooks to provide fishing.

20           Seward, right now, doesn't have an easily accessible, nearby  
21 family campground/day-use area, and this will provide that. It's different  
22 from Lowell Point because Lowell Point is primarily natural. This would  
23 have some development, most of it being exits. The actual construction and  
24 the proposal of various projects would be done by a coalition of local  
25 community groups that would create this proposal and submit it to the Forest

43  
Service. So it wouldn't cost the Forest Service anything in terms of  
construction or maintenance.

But it's -- again, it's another one with strong public support;  
1 it's worthy. It'll eliminate a trashy area that keeps the Troopers busy,  
2 just distracts them from their other duties.

3 And finally, just to plug Homer, there's the Overlook Park. I'm  
4 not sure where my back yard ends, but I think it includes that, and I'd  
5 strongly urge you to support the Overlook Park.

6 That's it. Thanks.

7 CHAIR WILLIAMS: Thank you, Mr. Luttrell. Are there any  
8 questions or comments for Mr. Luttrell from the Council members?

9 (No audible response)

10 CHAIR WILLIAMS: Very good. Let's then move to Juneau, and I  
11 know we have three people who would like to testify today. And because I  
12 believe it's all on the same issue, I'll ask Mr. Selby, Mr. Bolger, and Mr.  
13 Landry to please come to the witness stand.

14 (Pause - Side comments)

15 CHAIR WILLIAMS: And we will begin with Mr. Jerome Selby. Mr.  
16 Selby?

17 **PUBLIC TESTIMONY OF MAYOR JEROME SELBY (JUNEAU)**

18 Thank you, Madam Chairman and members of the Council. I  
19 appreciate the opportunity to be here today. The delightful good news from  
20 our perspective is that with the federal appraisal figures that you have  
21 before you today, that we can fix the value of Shuyak Island at \$35.3  
22 million and close the \$42 million deal that we agreed to last December.

23 While I recognize that that's the high end and your figures  
24 that -- and I'm aware of your figures from Mr. Goossens. Obviously, it's  
25

<sup>44</sup>  
\$27.5 to \$32.3 million is his timber values, plus \$3 million for the land values, which would give a range of \$30.5 million to \$35.3 million, is the range that we need to talk about. I wanted to argue that the \$35.3 million and give you what I consider four outstanding rationales for why the 35.3 number is the right number.

3  
4 First of all, it is the habitat value. I think that there  
5 should be recognition of the extremely high value habitat for all of the  
6 species impacted by the Exxon Valdez oil spill that is represented on Shuyak  
7 Island. This was the crown jewel, folks, of Alaska. This is the prime  
8 habitat in the entire state of Alaska. There is no other land parcel that  
9 has as many birds, marine mammals, and land mammal species who benefit from  
10 this outstanding piece of habitat. Being the crown jewel, I think that  
11 there is very strong rationale for why this should be the up-end value,  
12 then, of the appraisal.

13 Secondly, I think that there needs to be recognition given to  
14 the fact that you are, in fact, buying long-term research on those same many  
15 species that were impacted by the Exxon Valdez oil spill beyond this deal.  
16 And the reason for that is because the Kodiak Island Borough has committed  
17 to the construction of the -- what we are now calling the Near Island  
18 Research Facility, which \$6 million of the \$42 million is destined to go  
19 towards that project and see that through to completion.

20 There's no other deal that you've done that buys you a long-term  
21 research onto the critical species that were impacted by the spill besides  
22 this one. It's the best buy you got going. Again, I think it's a very  
23 strong argument for why this ought to be the up end of the value in terms of  
24 the appraisals that you have before you.

25 Thirdly, there are other -- there is the other appraisals that

45  
have taken place. Shuyak Island is probably now one of the most appraised  
pieces of land in the entire state of Alaska, if not on Earth. And, you  
know, we've all been through this appraisal business, so I'm not going to  
1 spend a lot of time on this, but, you know, back in October of 1993, the  
2 Kodiak Island Borough Assessor, Pat Carlson, did an appraisal of Shuyak  
3 Island and came up with \$36,500,000 as the value of that island.

4  
5 Now, I'm here today to tell you that in spite of two years  
6 later, for my money, that's probably the best number we've got, folks. Pat  
7 Carlson's probably the best man who's familiar with Kodiak Island lands; he  
8 looks at these on a daily basis. His track record with the State of Alaska  
9 for the last two years is that his appraisals are at 99 percent of fair  
10 market value, as certified by the State of Alaska. So \$36,500 (sic), to me,  
11 is probably still the best number we've got, on the record.

12 CHAIR WILLIAMS: Well, we'll buy it for that.

13 (Laughter, side comments)

14 MAYOR SELBY: I'm sorry, \$36,500,000. Okay.

15 (Laughter, side comments)

16 MAYOR SELBY: Personal check.

17 BY MAYOR SELBY (Resuming):

18 Another appraisal was done in July of '94 by a Wesley Rickert.

19 This is the fellow who was used extensively in the Exxon Valdez legal  
20 action; certainly a well known and well respected person. His main -- he  
21 used a faster rate of logging than what was used by your appraiser for the  
22 official federal appraisal, but his figure was \$54,389,628 as the value of  
23 Shuyak Island.

24 In August of 1994, the Kodiak Island Borough had an appraisal  
25 done, and curiously enough, as I mentioned your official appraisal figure

46  
right now can be come in (sic) at \$35.3 million. Here's our appraisal; it's  
done by Affiliated Appraisers of Alaska. The value for Shuyak Island,  
\$35,300,000. Now, I would suggest to you, given the way we've all been  
1  
through appraisals the last two or three years that when we've got three  
2  
appraisers that can all come down to one number, \$35,300,000, we probably  
3  
ought to ink that just as fast as we can before they start changing the  
4  
numbers on us again.

5  
I won't mention that the problem with this, this was based on  
6  
Mr. Manley's \$24 million timber values, so it is below your low end, \$27.5  
7  
million for timber by \$3.5 million. But it's on the record, and if we can  
8  
agree on \$35.3 million as being the value for Shuyak, I'm not going to get  
9  
into that stuff. But that's the reality.

10  
So I think that we've got interesting numbers here, all of  
11  
which, in my view, would tend to all point that somewhere in the \$35 to \$36  
12  
million range is a reasonable value to fix Shuyak Island's value at. You've  
13  
got at least three appraisals in that range. We've got the other higher  
14  
one, you know, and we can throw that one out. But I think that there's  
15  
plenty of rationale to argue that somewhere between \$35 million and \$36  
16  
million would be a reasonable place to fix the value.

17  
Fourthly, even within what Mr. Granville has done, there are  
18  
some technical errors in the appraisal, and I'm talking about arithmetic  
19  
problems, not unlike where we started out with Mr. Manley. And we started  
20  
out with \$24 million, and we pointed out to him the arithmetic problems --  
21  
just arithmetic, not philosophy and approach of appraisal, but just  
22  
arithmetic problems -- and that one, as you recall, ended up at \$33 million.  
23  
So we went from 24 to 33 on mathematical errors.

24  
There are mathematical errors in the \$35.3 million in your  
25

47  
current federal appraisal. Okay? Now, Joel's going to run through a few of those with you, just so that you can understand the scope of them and look at the mathematics.

1 I don't -- we don't want to spend a lot of time on that, folks.  
2 We feel that you've got numbers in front of you that allow you to close and  
3 establish the value at \$35.3 million. That lets us close the deal we made  
4 with you last December for \$42 million for Shuyak Island. I'm here today; I  
5 want to close that deal at \$42 million, and I'm simply asking, let's set  
6 35.3 as the value and close the deal today. Thanks.

7 CHAIR WILLIAMS: Okay. Are there any questions of Mr. Selby at  
8 this time? We could either ask Mr. Selby questions now or when the three-  
9 person presentation is over. Would anyone like to ask questions now?

10 (No audible response)

11 CHAIR WILLIAMS: All right. Mr. Selby, if you would stay near  
12 though.

13 MAYOR SELBY: Okay.

14 CHAIR WILLIAMS: Our next witness in Juneau is Joel Bolger. Mr.  
15 Bolger?

16 MR. BOLGER: Thank you.

17 CHAIR WILLIAMS: And if you would please spell your last name  
18 for the record.

19 MR. BOLGER: It's B-o-l-g-e-r.

20 PUBLIC TESTIMONY OF MR. JOEL BOLGER (JUNEAU)

21 I am an attorney for the Kodiak Island Borough. I'd like to go  
22 into a little bit more detail about a couple of the appraisal issues, but I  
23 don't want to bore you with a long speech. I think it's useful just to back  
24 up for a second.  
25

The history is that the Trustee Council passed a resolution last December approving the purchase for 20 percent above approved fair market value, not to exceed \$42 million. And just a few days later the Borough Assembly passed a corresponding resolution agreeing to the same installment payment scheme and agreeing to sell their holdings on Shuyak Island for \$42 million. So in other words, there's a purchase price of \$42 million approved by both parties, which is subject to an approval of the fair market value at \$35 million.

Now, in addition to the points that Mayor Selby mentioned, after Pacific Forest Consultants, Tim Manley, issued his original report, and in response to landowner comments, he came up with a revised estimate of timber value at \$30.6 million. And we met with him in May, along with Mr. Tillery and representatives from the review appraisers for both the state and federal governments. He admitted additional errors in logic, in mathematics; he admitted that he had double-counted certain bulldozer costs. And we expect that if he were asked to go back and look at the question, his timber valuation alone would be more than \$33.8 million, and the resulting total would be in the same range the Mayor mentioned, a \$36.8 million if you rely on the Trustee Council's own land appraisal.

Also, relying on Pacific Forest Consultants' revised report, the Borough's appraiser, Affiliated Appraisers, revised its valuation. If there is a \$30.6 million timber value, then Affiliated Appraisers felt that the total value for land and timber would be \$41.8 million. In other words, our appraiser believes that the land value is closer to \$10.5 million rather than the \$3 million that was submitted by the Trustee Council's appraisal.

Finally, getting to the review appraisal that was just completed by Cascade Appraisal Service, the range that's reported is between



<sup>49</sup>  
\$30,550,000 and \$35,300,000 if you add in the land component from Black, Smith & Richards. Now, we've only had this document since Friday, but I've talked with our appraisal consultant, and we feel that there are some  
1 serious issues concerning the methodology that we could go into if it was  
2 necessary. In other words, we think this is a very conservative review.  
3

The prices are much lower than the same prices reported for the  
4 same period in the Baum (ph) Point review that Mr. Granville did for the  
5 Eyak acquisition. The logging costs are higher than the logging costs which  
6 we have experienced and reported from Seal Bay Timber Company in the very  
7 same neighborhood as this acquisition. And we also believe that Mr.  
8 Granville applied the profit-and-risk ratio-- that's basically traditional  
9 Forest Service approach-- that he applied this incorrectly. And the way  
10 that he did it resulted in a 61-percent return on the investment rather than  
11 a 12-percent return which he assumed.

12 There's other economic issues that I could go through with you,  
13 but my point is that the \$35 million fair market value is more than  
14 adequately supported, both by work that the Trustee Council has previously  
15 done and work that the Borough has previously done. We think it's a very  
16 conservative estimate, and we thank you very much for your consideration of  
17 this acquisition.

18 CHAIR WILLIAMS: Mr. Bolger, I have at least one question, and  
19 perhaps there are more. I understand you only got the appraisal on Friday.  
20 Have you had a chance to go over some of the concerns you raised with the  
21 Forest Service or the State?

22 MR. BOLGER: Not at this point.

23 CHAIR WILLIAMS: Okay. Do you have a list of them or a more  
24 detailed description that you could pass out to the Trustee Council at this  
25

50  
time?

MR. BOLGER: Yes, I do.

CHAIR WILLIAMS: Okay. I think we would all benefit from that.

1

(Pause)

2

MR. BOLGER: I'll just retrieve that and go ahead and pass it  
3 out, if that's okay, Madam Chairman.

4

CHAIR WILLIAMS: Yes. That would be fine. Are there any other  
5 questions of Mr. Bolger? Okay. Mr. Bolger, Mr. Janik has a.....

6

MR. JANIK: Not a question. I just have a comment.

7

CHAIR WILLIAMS: Oh, please. Mr. Janik.

8

MR. JANIK: Just for clarification, so we understand where the  
9 process is at, there has been a review check on the draft appraisal, if I  
10 can refer to it as that for common talk here. What occurred last Friday was  
11 a finalization of the government appraisal. So that is a finished event.  
12 Points of consideration here that we're hearing from a number of these folks  
13 will obviously be taken into consideration, but as far as the estimate of  
14 fair market value by the government, that event is complete, and there is  
15 not another inning of examining the kinds of details that we're speaking of  
16 here.

17

Is that correct as I've stated it?

18

(No audible response)

19

MR. JANIK: Yes.

20

CHAIR WILLIAMS: Well, we can certainly review these.....

21

MR. JANIK: Yes.

22

CHAIR WILLIAMS: .....as the Trustee Council. Very good. Any  
23 other questions or comments for Mr. Bolger?

24

(No audible response)

25

CHAIR WILLIAMS: Okay. We'll call the third witness in this triumvirate, Mr. Larry Landry. And, Mr. Landry, if you could spell your last name for the record.

1

PUBLIC TESTIMONY OF MR. LARRY LANDRY (JUNEAU)

2

Good morning. My name is Larry Landry, L-a-n-d-r-y. I'm a consultant here, and some of you have seen me here before. Not since last December though; it was in this room, but I live in Phoenix, Arizona, whose temperature is slightly close to Juneau's, and came up here today to spend a few minutes, and I appreciate it.

7

I'd like to offer just a little bit of perspective of where I believe we are in the Shuyak process and make a few points. As I've testified before, but not to some of the new state representatives who haven't had an opportunity to hear before, I've been involved in consultanteze (sic), both over 10 years in the government side and over 10 years in the private side. So I've seen both sides.

13

I'd like to start my comments by reading something, just two sentences, out of your November 16th discussion draft on habitat acquisition. And it's on the last page, and it says:

16

"Appraisals provide an opinion of strict economic value and do not consider restoration or biological values. Appraisals are estimates of value based on many assumptions and subject to professional judgments and opinions."

21

As Trustee Janik so -- said so well, they're complicated exercises. But I would like to try and put this complicated exercise that's called Shuyak in perspective and, hopefully, help you all, lead you to what we believe is the right decision. And first of all, we know that you're

25

52  
trying to do what's best, and you've worked very hard on this, and there's  
no E's for effort here, only A's.

But I'd just like to -- I know you have a summary, probably  
1 haven't had to see the whole appraisal, and you've probably seen Mr.  
2 Goossen's two-page letter of review -- review appraisal. I'd just like to  
3 talk through just a few points on value. And we are certainly -- would like  
4 to get it done today and are available, either in this forum or Executive  
5 Session or whatever forum you choose, to spend more time and more detail  
6 discussing this.

7  
8 But number one, I think it's just important to walk through,  
9 just very briefly, the, quote, "low value of \$27 million" because that truly  
10 amazes me. We received a report, as Mr. Bolger said, indicating, from Mr.  
11 Manley, the \$24 million. That's how you get with a land value of \$3 million  
12 to 27. No one wants anything to do with his numbers any more, yet it's  
13 still the low appraisal.

14 The math errors and logic errors and double-counting brings the  
15 timber value of that over \$33 million. We received in March a seven-page  
16 memo from Mr. Manley that brought the timber value to \$30.6 million. We had  
17 a subsequent meeting that a number of us attended in May where another over  
18 \$3 million of counting, logic, mathematical, double-counting errors were  
19 admitted. Then Manley was no good any more, so we went to somebody else.  
20 And that's okay. I mean, that's the right of the process. But now he  
21 suddenly comes back in, without recognition of all the math errors, at the  
22 low.

23 So that's why Mayor Selby so correctly focused on Mr.  
24 Granville's most recent range of timber values and the various range. And  
25 in that, there was a, quote, "a low, a medium or most probable" with Mr.

53  
Granville, "or a higher range." In this complicated exercise, from the most  
probable and, quote, "the high," you're talking about an approximately 5-  
percent difference in this complicated exercise. Okay? So I just want to  
1  
give you a range in these two.

2  
And, as Mayor Selby indicated, there are at least three  
3  
professionals, and some would say that "MAI" means Made As Instructed. I  
4  
don't know if that's exactly true; it's kind of a slap. But I would just  
5  
say that an appraisal is an estimate of value; it's your best guess. And I  
6  
would just like to point out that Mr. Granville says there's 289 million  
7  
board-feet on Shuyak. That's well over two times of what you purchased on  
8  
Seal Bay, just to give you a perspective on this issue.

9  
So we know you have a tough judgment to make in trying to  
10  
determine what is both fair and market, and there are some incredible  
11  
restoration and biological values. Every major environmental group from the  
12  
Rain Forest Coalition, the Sierra Club, the Wilderness Society, et cetera,  
13  
have all written in support of Shuyak. You haven't gotten a lot of recent  
14  
stuff; all of that occurred before last December. But this is really  
15  
pristine and prime land. It's a unique opportunity, and we think it is  
16  
something we -- hopefully you can do today, at the agreed-upon price of \$42  
17  
million -- not agreed-upon, but the suggested negotiated issue of \$42 million  
18  
that we got to last December.

19  
There's been a lot of work; there's been a lot of frustrations  
20  
in the process. But the facts are, folks, we're awful very close to this  
21  
issue, and we have very substantial truth. And I would ask you to seriously  
22  
consider the extra bang for your dollar that gets the Fish Tech Center,  
23  
permanent, long-term research. If ever there was a case of leveraging your  
24  
money for further permanent restoration, this is a unique example of  
25

54  
multiple government cooperation and leveraging money to make everybody win.

With that, Madam Chairman, we're very appreciative of your time.

I would ask you to -- Mayor Selby and Mr. Bolger gave you several reasons to  
1  
get us to fair and market of where we think we should be, and we are  
2  
certainly available for further discussion, either formally or informally,  
3  
as the day goes on. And we would just ask you, because of the construction  
4  
schedule, if there could be a resolution today, it would be most helpful  
5  
because if we want to start construction next spring, we really need to go  
6  
to design drawings right after this meeting if that's at all possible.

7  
We've written you to this in some detail before, and we  
8  
appreciate you putting us on the agenda and giving us the time you have.  
9  
Thank you.

10  
CHAIR WILLIAMS: Thank you, Mr. Landry. Are there any questions  
11  
for Mr. Landry or any questions for Mr. Bolger or Mr. Selby?

12  
(No audible response)

13  
CHAIR WILLIAMS: Thank you very much. Okay. Let us return to  
14  
Anchorage. Is there anyone else in Anchorage who wishes to testify?

15  
ANCHORAGE MODERATOR: Yes, Mr. Charles McKee would like to  
16  
testify.

17  
CHAIR WILLIAMS: Yes, Mr. McKee, if you would please testify;  
18  
spell your name for the record.

19  
(Pause)

20  
**PUBLIC TESTIMONY OF MR. CHARLES McKEE (ANCHORAGE)**

21  
My name's Charles McKee, and for the record, I'm taping this  
22  
also. Now, this is Exxon Valdez Trustee Council teleconference meeting,  
23  
Monday, November the 20th, 1995, and discussing the acquisition and  
24  
appraisal in lieu of restoration.

25

And what I want to point out is the fact that you haven't done your homework. I have here Federal Railroad Administration Office of Safety, Safety Appliance and Pilot Rigs. It's about -- it starts out with --  
1 how this ties in, it starts out with public law, and in regards to safety of  
2 Federal Administration, it was transferred to the Secretary of  
3 Transportation. And how this ties in is common carriers: railroads,  
4 pipelines, roads, even telecommunication, our current monetary system is all  
5 based on common carrier policy, which is supposed to supervise and maintain  
6 public safety.

7  
8 Now, that ties in with the fact that on the front of the book,  
9 it has a symbol of -- ball rotary type symbol. And that in -- ties into  
10 vertical or horizontal train of thought. And so if you want to make an  
11 acquisition, I've been before this body before, and many others.

12 I might add that rather than you tendering for acquisition, I am  
13 kindled in my anger just a little bit by virtue of the fact that I'm still  
14 residing in a van. I'm not in a position to tender any type of assistance  
15 because of the linear projected thought. And I'll read to you a 1944 issue  
16 about American history -- global history, American history -- and it talks  
17 about Texas as well, which is based on Texas. And I might add at least they  
18 had the fortitude to come right out and say it. You know, they're the type  
19 of people that don't beat around; they just tell it like it is rather than  
20 other people hiding the truth.

21 CHAIR WILLIAMS: And, Mr. McKee, after you read your quote, if  
22 you could wrap up your testimony, please.

23 MR. McKEE: Yes.

24 BY MR. McKEE (Resuming):

25 Your linear thought, horizontal thought, is based on keeping

56  
your eyes to the ground and your feet firmly grounded, where your wealth is,  
which is, again, horizontal. I, yesterday, spoke to a woman, woman being a  
direct descendent of Eve. Of course, we all know how and where she was  
1 created from, and who created her. And I says, "I lift the curse of the  
2 Earth and of the women."

3  
4 And my anger is kindled-- I say that to you-- and simply  
5 because I requested \$200 billion, some of which would be to mitigate the  
6 problem that you're trying to make a safe facade about. And it hasn't  
7 occurred, yet it has been spent, \$4 trillion since 1965 on the poor, and  
8 that hasn't been alleviated. And the poor has directly resulted from your  
9 rotary type mentality and your attempt to acquire, through acquisition, with  
10 the basis of public law. The law is nothing but a curse when you lay down  
11 law and then you don't abide by it. Public safety, common carriers, and  
12 then you continue to manufacture the same thing that you set laws down to  
13 prevent.

14 CHAIR WILLIAMS: Mr. McKee, thank you very much for your  
15 comments. Are there any questions or comments for Mr. McKee?

16 (No audible response)

17 CHAIR WILLIAMS: Thank you again, Mr. McKee, for joining us  
18 today.

19 I'd now like to turn to Homer. Is there anyone else who wishes  
20 to testify in Homer?

21 HOMER MODERATOR: Yes, there is someone else who'd like to  
22 testify in Homer.

23 CHAIR WILLIAMS: Please, if they could approach the microphone  
24 and spell their last name.

25 PUBLIC TESTIMONY OF MS. BARBARA SEAMAN (HOMER)



My name is Barbara Seaman. I'm President and an internal Director of the Kachemak Heritage Land Trust -- can you hear me for starters?

CHAIR WILLIAMS: Yes, we can, and if you could please spell your  
1 last name.

2 MS. SEAMAN: All right. My last name is S-e-a-m-a-n.

3 CHAIR WILLIAMS: Thank you.

4 BY MS. SEAMAN (Resuming):

5 And you may already know that we've long been involved in  
6 documenting the values of Overland Park, including the public support that  
7 is so obvious here, for the acquisition and preservation of this parcel. We  
8 hope that the Trustees also will reflect, or at least acknowledge, the  
9 values described by the public support that's documented. It would be  
10 unfortunate, to say the least, if some of these parcels were lost due to  
11 mobile efforts that just reflect appraisals.

12 I'd like to also express KHLT's support for the Baycrest parcel,  
13 which is nearby Overlook, and also Lowell Point in Seward. I'm also  
14 wondering if you can answer a question, if there will be a negotiation  
15 process with the landowners or if the appraised value is its (cut out)  
16 offer.

17 Thanks for the opportunity to comment, and I'll let you answer.

18 CHAIR WILLIAMS: Thank you very much. Who would like to answer  
19 that question? Ms. McCammon?

20 MS. McCAMMON: Madam Chair, the proposed recommendation under  
21 consideration today is to make an offer for acquisition of these parcels  
22 based on the appraised value.

23 CHAIR WILLIAMS: Very good. Does anyone have any questions or  
24 comments for Ms. Seaman?

25

(No audible response)

CHAIR WILLIAMS: Thank you very much for joining us today, Ms. Seaman. I'd now like to turn to Kenai. Is there anyone else who wishes to  
1 testify in Kenai?

2 MS. ZIRUL: Ms. Williams, this is Diana Zirul. There's nobody  
3 else here who'd like to testify.

4 CHAIR WILLIAMS: Thank you again, Ms. Zirul. Seward. Is there  
5 anyone else who would like to testify in Seward?

6 MR. ANDERSON: Yes. My name is Brandon Anderson. I'd like to  
7 testify.

8 CHAIR WILLIAMS: Good. If you could please spell your last  
9 name, Mr. Anderson.

10 MR. ANDERSON: A-n-d-e-r-s-o-n.

11 CHAIR WILLIAMS: Please proceed.

12 **PUBLIC TESTIMONY OF MR. BRANDON ANDERSON (SEWARD)**

13 Okay. I'd just like to make some brief comments in support of  
14 the acquisition of the Grouse Lake parcel in Seward. Speaking as a resident  
15 of Seward, and I think that this particular parcel has a great deal of  
16 potential as far as recreational value. And as Mr. Luttrell who spoke  
17 before me mentioned, there's-- this is an area that has a great deal of  
18 scenic and recreational potential and currently has been somewhat abused,  
19 and we have an opportunity now to make this area something that can be a  
20 great asset to the area, not only to the people of Seward but to people of  
21 the entire Southcentral Alaskan area.

22 This particular lake is also used as a stocking area for various  
23 salmon species, also an indigenous population of fish there. The Department  
24 of Fish and Game lists this as a destination for fishing in their  
25



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cruise specifically has not been done as promised by the Trustees the year  
before.

And it's my understanding that the reason for this is that it  
1 was put in the hands of a subordinate who is not perhaps as assertive as he  
2 could have been with the appraiser. I'd like to have the Trustees put this  
3 check cruise in the hands of the highest level of the U.S. Forest Service.  
4 Specifically, I'd ask that Phil Janik take over his responsibility as the  
5 Trustee representing the U.S. Forest Service to ensure that this Eyak check  
6 cruise is done at the earliest possible time.

7  
8 It would be a real shame if we have a break-through in the Eyak  
9 negotiations and then what kills the deal is the lack of a check cruise.  
10 And then it would be entirely the Trustees' fault that the deal wouldn't go  
11 through. So the mechanics for the appraisal have to be completed before the  
12 appraisal figure can be determined. And it's also my understanding -- and  
13 I'd like a verification on this -- that the check cruise can be completed  
14 regardless of the status of the negotiations with Eyak.

15 So my understanding at this time, there's really no excuse for  
16 not getting this check cruise and resulting appraisal done, other than the  
17 fact that it's now winter; we might have to wait till next spring. But I'd  
18 like to know the status of this check cruise and what can be done about  
19 hastening it.

20 Thank you for the time to testify.

21 CHAIR WILLIAMS: Thank you, Ms. Ott.

22 Mr. Janik, would you like to give a status report to the public  
23 on Eyak, please?

24 MR. JANIK: Yeah, I'll just make a general comment, then I'm  
25 going to ask Jim Wolfe here to check his knowledge out on the check cruise

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that's being referred to. But to my knowledge, we have acquired all of the  
available data, which is now in the hands of the government appraisers to  
put together and continue to move forward with this.

1  
As far as the specific check cruise information, Jim, you want  
2  
to comment on that, in terms of what you know of that?

3  
MR. WOLFE: Well, I think what Rickie is referencing here is a  
4  
concern that we get out and do some additional check cruise and complete the  
5  
cruise, really, on Eyak other lands before winter set in. But that was  
6  
never activated because we never reached agreement on what we were trying to  
7  
acquire at Eyak because of the development rights question. And we tabled  
8  
that on the basis that the corporation was doing a land management plan, and  
9  
once they finished that land management plan, then we would take into them,  
10  
with the folks at Eyak, and see if we could move towards some agreement on  
11  
lands that everyone wished to acquire and/or sell, or easements,  
12  
conservation easements, in the case of the Eyak, primarily.

13  
That's still on the table, and we're still -- they're moving  
14  
forward with their plan. In the meantime, we have gathered up all of the  
15  
timber cruise information from our contract cruiser, and we are reviewing  
16  
that data to see what additional supplemental cruise work would be required.  
17  
But we have not completed that yet. It is our plan and our hope that we  
18  
will be able to finish an appraisal once we agree on what it is we're  
19  
appraising, yet this spring -- or this winter or spring, without additional  
20  
work, using what information we have available at this time.

21  
MR. JANIK: This is Phil Janik again. Just to refer back to  
22  
some of the review that our Executive Director gave, the very purpose of  
23  
meeting with Nancy Barnes recently, and as was mentioned, that was Craig  
24  
Tillery, Molly McCammon, and myself, is to, again, sit down and begin  
25

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discussing with Eyak exactly what our opportunities are for moving forward.

And part of that will definitely deal with a more definitive commitment and description with regard to what we will be doing with respect to appraiser --  
1 appraisals, excuse me.

2 CHAIR WILLIAMS: Very good. Any other questions or comments on  
3 this topic, or questions or comments for Ms. Ott?

4 (No audible response)

5 CHAIR WILLIAMS: Thank you. Before we go to the next witness,  
6 I've had a request.

7 Barry Roth, are you still on the phone?

8 MR. ROTH: Yes, I am.

9 CHAIR WILLIAMS: Barry, could you tell us where you are, i.e.,  
10 your telephone number? And we also sent a fax to your office; we're not  
11 sure whether you've received it. But if you could begin by telling us (a)  
12 whether you received the fax, (b) if not, where we should send a fax, and  
13 (c) at what phone number we can contact you.

14 MR. ROTH: Okay. I'm down at Sakura's office right now; (202)  
15 208-4678 is the phone number. The fax number is 208-4684, and -- 'cause I  
16 have not received a fax yet, and I will be here till 5:15.

17 CHAIR WILLIAMS: Okay.

18 MR. ROTH: 1:15 your time.

19 CHAIR WILLIAMS: Thank you. Okay. Let us go back to the public  
20 testimony. Is there anyone else in Homer who would like to testify at this  
21 time?

22 (No audible response)

23 CHAIR WILLIAMS: Homer, are you still on the line?

24 HOMER MODERATOR: Yes, we are still on line. We have two more  
25

63  
people to testify.

CHAIR WILLIAMS: Very good. If the -- one of the witnesses could come to the microphone and please state their last name and spell it.

1

PUBLIC TESTIMONY OF MR. RICHARD TYLER (HOMER)

2

My name is Richard Tyler, T-y-l-e-r. I'm a resident of Homer; I've stayed forever, it seems like. And I just want to say that starting next year, the President of Transportation is planning a big project, with federal monies I guess, to upgrade the highway into Homer, past the lookout going up at the top of the hill; has plans to be all relandscaped. And that's the lookout point that looks down over the parcel here in Homer that we're so concerned about, Overlook Park.

9

So it'd be kind of a shame to have all this work done and then not have any -- as to what they're looking down on at this. Thank you.

11

CHAIR WILLIAMS: Thank you, Mr. Tyler. Are there any questions or comments for Mr. Tyler?

13

(No audible response)

14

CHAIR WILLIAMS: Thank you again for testifying. Is there anyone else in Seward who would like to testify at this time?

16

SEWARD MODERATOR: There is no one else at this time. Thank you.

18

CHAIR WILLIAMS: Thank you. We'll go back to Cordova. Is there anyone else in Cordova who would like to testify at this time?

20

CORDOVA MODERATOR: No, thanks.

21

CHAIR WILLIAMS: Thank you. That leaves us with Homer. If we could have the last witness, please, in Homer.

23

(Pause)

24

MS. BOLLENBACH Yes. I've got one. But can you hear me?

25

64

CHAIR WILLIAMS: Yes, we can. If you could please state your name and spell your last name, please.

MS. BOLLENBACH: My name is Amy Bollenbach; that's spelled B-  
1 like boy, -o-l-l-e-n-b-a-c-h.

2 CHAIR WILLIAMS: If you could proceed, please.

3 MS. BOLLENBACH: Yes.

4 PUBLIC TESTIMONY OF MS. AMY BOLLENBACH (HOMER)

5 I'm testifying in favor of the parcels by Overlook Park, Parcel  
6 12, Parcel 12, Seacrest. I just wanted to say that for a long time, Homer  
7 has -- or the public in Homer (cut out) Overlook Park for over 12 years, that  
8 area. And the other thing I wanted to say is that our local marine  
9 biologist has said that that area of the tidal flats is the tidal life of  
10 Kachemak Bay, or it was. They -- our biologists monitored (cut out) about  
11 foresight and Kachemak Bay since the oil spill, and (cut out) has declined,  
12 but it still has a great variety of intertidal and subtidal life. And good  
13 as -- as for if there was (cut out) for, I think, various types of intertidal  
14 life.

15 So I'm just saying it's a wonderful place. And there are status  
16 reports, sea otters, harbor seals, harlequin ducks type of organism --  
17 subtidal organisms are listed on the (cut out), all of those are in the  
18 Overlook Park area. Thank you very much.

19 CHAIR WILLIAMS: Thank you so much. Does anyone have any  
20 questions or comments for Mrs. Bollenbach?

21 (No audible response)

22 CHAIR WILLIAMS: Thank you again for taking time out of your  
23 schedule to testify today.

24 Is there anyone else here in Juneau who wishes to testify at  
25



65  
this time?

(No audible response)

CHAIR WILLIAMS: I believe that completes our public testimony,  
1  
unless there is anyone at any sites who has -- comes since announcing that  
2  
all witnesses have presented their testimony. Is there anyone else who  
3  
wishes to testify at this time?

4

(No audible response)

5

CHAIR WILLIAMS: Again, we wish to thank, very warmly, the  
6  
public who testified today. We appreciate your speaking to the Council  
7  
about these important issues, and we will now close the public testimony  
8  
segment of the Trustee Council meeting today.

9

Trustee Council members, we have two options, I believe -- or  
10  
three options. One is to go back to the policy statement that we were  
11  
reviewing before the public testimony. Another is to go into Executive  
12  
Session. And I guess a third option is to do a break before either of those  
13  
two options. Which would the Trustee Council prefer to do?

14

(Pause)

15

CHAIR WILLIAMS: Where's our lunch?

16

(Laughter)

17

MS. McCAMMON: It's being obtained.

18

CHAIR WILLIAMS: Okay. Enroute. Very good. Commissioner Rue?

19

COMMISSIONER RUE: The subject of Executive Session is?

20

CHAIR WILLIAMS: The subject of the Executive Session is small  
21  
parcels and Shuyak.

22

COMMISSIONER RUE: Thank you.

23

CHAIR WILLIAMS: Would you like to take a break? Yes, Mr.

24

Pennoyer.

25

MR. PENNOYER: Well, how long is it going to take to finish that policy discussion? Maybe we could wrap that up and then.....

CHAIR WILLIAMS: All right.

1 MR. PENNOYER: .....take a break and then have lunch and start  
2 the Executive Session.

3 CHAIR WILLIAMS: Sounds like a good plan. Is everyone in  
4 agreement with that?

5 (No audible response)

6 CHAIR WILLIAMS: Let's do that. Let's go back to the policy  
7 statement, then we'll take a break, and then we'll go into Executive  
8 Session. Ms. McCammon?

9 MS. McCAMMON: Madam Chair, we're on page 2, Post-Acquisition  
10 Surveys. It was the indication of our working group that none should be  
11 required for any of these closings. However, post-acquisition posting and  
12 marking was an issue, and the group recommended that the following general  
13 guidelines be used in determining when post-acquisition posting and marking  
14 would be necessary:

15 The most likely scenario would be to delineate for the public  
16 different uses within conservation easements. For example, if one area was  
17 unrestricted public access, but perhaps another was restricted and there was  
18 no commercial activities or it was limited in some fashion. Since these  
19 represent rights that would be retained by the landowner, any posting and  
20 marking should be at the landowner's discretion and expense.

21 Number two, any provision differing from this should be  
22 disclosed to the Trustee Council at the time of closing for their approval.  
23 So again, this becomes a negotiable item, but it would have to be something  
24 subject to the Council's approval. And any costs would be noted at that  
25

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time, if known.

CHAIR WILLIAMS: Any questions or comments about this item?

(No audible response)

1  
CHAIR WILLIAMS: All right.

2  
3 MS. McCAMMON: On page 3, at the top, Restoration Costs, the  
4 seller is required to comply with all federal and state laws and regulations  
5 prior to the sale of their land, such as the Forest Practices Act. In some  
6 cases, this may require future monitoring and possible follow-up efforts on  
7 the part of the seller. Any additional restoration work above and beyond  
8 compliance with existing laws and regulations should be addressed within the  
9 negotiation process, if possible and, at the very least, should be  
10 identified at the time of closing if known.

11 One particular example that came up during the FY '96 work plan  
12 was a proposal to do some work on Dolly Varden streams that are within the  
13 area that we're negotiating with Tatitlek to purchase. That's-- it was a  
14 restoration proposal, and the recommendation that I had at the time was to  
15 take this up through the negotiation process, but at least to identify it as  
16 a possible restoration need.

17 Normal agency management costs are not considered part of  
18 restoration. An expansion of the definition of "normal agency management"  
19 currently in the restoration plan is being drafted and will be presented to  
20 the Council at the December 11th meeting. We've had a draft that's been done  
21 internally; it will be circulated to the agency staff this week for their  
22 review and comment, and then presented to the PAG and then to the Council on  
23 December 11th.

24 CHAIR WILLIAMS: Any questions or comments about this? I know,  
25 when reviewing some of the small parcels, there are a couple of small

68 parcels where we talked about some restoration activities. I'll be  
interested, and Molly or the sponsors of small parcels, if you could say,  
you know, what you think about, you know, those restoration activities vis-  
1 a-vis this policy statement, I'd appreciate it. All right.

2 MS. McCAMMON: Large Parcel Resolutions and Offers. This was a -  
3 - at the request of Commissioner Rue to clarify that the Trustee Council has  
4 authorized the Trustee agencies to make a number of offers to landowners for  
5 purchase of various interests in lands at fair market value, to be  
6 determined by a government-approved appraisal and not to exceed a certain  
7 funding level. The funding totals used in these resolutions are caps, not  
8 targets. They were provided as placeholders for planning purposes only and  
9 do not reflect any entitlement on the part of the seller. And this should  
10 be clearly reiterated in all negotiations.

11 CHAIR WILLIAMS: Commissioner Rue?

12 COMMISSIONER RUE: Yeah. Could you explain the logic for  
13 needing a placeholder? 'Cause, I mean, I can imagine a scenario where we go  
14 ahead and negotiate, and as we finish negotiations, part of that is the  
15 negotiator's checking in to make sure there's cash available to do the  
16 deals, rather than establishing caps or expectations. So if you could  
17 explain the original rationale for the placeholders.

18 MS. McCAMMON: Madam Chair, this goes back to a year ago when, I  
19 think, the Council was trying to lay out basically a plan for the habitat  
20 protection part of their efforts and ensure, first of all, that there was  
21 geographic distribution within the spill area and, secondly, ensure that  
22 there was sufficient cash to make all of the deals happen as they came  
23 about. And if we assume that all of those deals came about last year,  
24 within a few months of December 2nd, in November, then it was very -- it was  
25

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imperative that we have some estimate, for planning purposes, to figure out  
whether there was going to be sufficient resources for that.

So it was a planning exercise for cash flow and also, I think,  
1 to give an indication to the public that the Council supported a geographic  
2 distribution of habitat protection throughout the spill area.

3 COMMISSIONER RUE: Just it seems to me we could authorize staff  
4 to proceed with negotiations and keep any cap confidential. Is that  
5 something that we could-- I mean, it seems to me, does that have to be made  
6 public?

7 CHAIR WILLIAMS: Mr. Tillery?

8 MR. TILLERY: I think that's certainly true, and I think that's  
9 probably what we'd do if we were going to do any more of these, but I kind  
10 of think we-- the horse left the barn.

11 COMMISSIONER RUE: I'm sure the horse is out of the barn on  
12 these. I'm just wondering for the future if in fact.....

13 MR. TILLERY: I think it was a product of the peculiar timing  
14 and circumstances.

15 COMMISSIONER RUE: I see. All right.

16 CHAIR WILLIAMS: That's correct.

17 COMMISSIONER RUE: Okay.

18 CHAIR WILLIAMS: Any other comments on this issue?

19 (No audible response)

20 CHAIR WILLIAMS: Ms. McCammon?

21 MS. McCAMMON: The next section, Use of Fair Market Value  
22 Appraisals, actually was added following the series of articles that  
23 appeared in the Anchorage Daily News about the Council's appraisal process,  
24 use of appraisals, particularly in the Kodiak acquisitions, and it's to  
25

70  
clarify the practice of you -- or the purpose of the government-approved appraisals. Federal agencies are required to offer no less than fair market value for land being acquired by the United States.

1 Fair market value appraisals are developed using government-  
2 approved U.S. standards. The appraisal provides the basis for any offer the  
3 Trustee Council makes. Appraisals provide an opinion of strict economic  
4 value and do not consider restoration or biological value. Appraisals are  
5 estimates of value based on many assumptions and subject to professional  
6 judgments and opinions.

7 And I think, for the record, that one of the things that's  
8 probably important to reiterate here today is that the Council's willingness  
9 to go above appraised value on the large parcels has been primarily because  
10 of the difficulty in the appraisal process and the lack of -- for the most  
11 part, of any comparables, any comparable sales, to provide a real accurate  
12 description of what the economic value of those lands are, especially if  
13 they don't have timber on them.

14 With the small parcel, the small parcels, on the other hand, it  
15 is the expectation of the Council that there -- in most cases, there will be  
16 sufficient comparables to give greater confidence that the appraised value  
17 does accurately reflect the market value and what values landowners would be  
18 willing to accept.

19 CHAIR WILLIAMS: In reviewing the package today, I think we've  
20 all had our own internal thoughts about the distinction between restoration  
21 value and appraised value and why we feel very comfortable with the offer we  
22 made on Kodiak and so forth. But it was underscored, as I was reviewing the  
23 package today, the difference, because appraised value, of course, will go  
24 up with development: roads, sewers, fill, and so forth. And that, of  
25

71  
course, is in direct opposition to restoration value.

So if you think about a Kodiak deal, of course, one thing that made that deal of such high restoration value was that the people of Kodiak  
1 protected and preserved that property. They could have gone in there and  
2 put in roads, sewers, fill, and so forth to try and up the appraisal value,  
3 but what an ironic exercise that would have been. That would have  
4 diminished the restoration value.

5  
And so I do think when we look at restoration value,  
6 particularly on the large parcels, we should reward those people who have  
7 maintained the land in a pristine value because that is what brings  
8 restoration benefits to this effort, and not shackle this process with the  
9 economic confines of appraisal value when we reach a final deal. But again,  
10 it just struck me as particularly poignant in thinking about this, how  
11 directly contrary the interests sometimes of economic appraised value are to  
12 the interests of restoration.

13 Any other questions or comments on this item?

14 (No audible response)

15 CHAIR WILLIAMS: Okay. Ms. McCammon?

16 MS. McCAMMON: Well, the next item, Madam Chair, is Appraisal  
17 Logistics, and again, following our further review, the following actions  
18 have been taken in order to more efficiently manage the appraisal process:

19 The Forest Service has designated Dave Gibbons and Jim Wolfe as  
20 the primary contacts for the appraisal contract, and those are the folks  
21 that I deal with directly on the appraisal contract now. All work with the  
22 contractor and agreements on scheduling will be confirmed in writing. Any  
23 changes will be noted by the contractor in writing.

24 The Forest Service liaison will provide the Executive Director

25

72  
with biweekly status reports on the appraisal work and negotiations; any  
delays will be identified. And the Executive Director will provide the  
Trustee Council with monthly, at a minimum, status reports and will notify  
1 them of any changes in the schedule.

2 CHAIR WILLIAMS: Questions or comments on this item?

3 (No audible response)

4 CHAIR WILLIAMS: I think this looks like an excellent plan, and  
5 again, we want to thank the Forest Service for having taken on such a  
6 tremendous responsibility in this appraisal process.

7 (Pause)

8 CHAIR WILLIAMS: Ms. McCammon?

9 MS. McCAMMON: And finally, Madam Chair, the 96-126 budget,  
10 there were some revisions to this budget that were handed to me last week.  
11 In all honesty, I did not have time to review them. I think, based on our  
12 discussion today, we'll be going back and looking at those budgets once  
13 again, and we'll have a revised budget to bring to you on December 11th.

14 CHAIR WILLIAMS: And so we don't know what that revised budget  
15 may look like at this time?

16 MS. McCAMMON: No. At this time, you have approved a budget for  
17 96-126, but we're taking another look at it, and it could be less, it could  
18 be more. But we'll have it back to you.

19 CHAIR WILLIAMS: Questions or comments on this item?

20 (No audible response)

21 CHAIR WILLIAMS: All right. Ms. McCammon, how would you like to  
22 proceed, then, with this? Would you like the Trustee Council members to  
23 give you thoughts they have over the next week or so? Would you like to  
24 assume that you're going to finalize this and bring this to the December  
25



73 meeting with a little -- reflecting a little bit of the discussion we have?

MS. McCAMMON: Madam Chair, what I would propose is that we put this -- reformat this and put it in a more of a policy paper format, and then  
1 circulate it to all the agencies for final review, and then bring it back  
2 for adoption at the December 11th meeting.

3 CHAIR WILLIAMS: All right. Any questions or comments on that?  
4 Commissioner Rue?

5 COMMISSIONER RUE: Madam Chair, I would just like to compliment  
6 the staff and the agencies who worked on putting this together. It helped  
7 me, who had a number of questions about the process, and I think the plan  
8 that Ms. McCammon put forward is a good one.

9 CHAIR WILLIAMS: We thank you, Commissioner Rue, for  
10 precipitating this process.

11 Mr. Janik, did you have a question or comment?

12 MR. JANIK: No.

13 CHAIR WILLIAMS: Anything else? Ms. McCammon, anything else  
14 before we take our break and then go into Executive Session?

15 MS. McCAMMON: Nothing further.

16 CHAIR WILLIAMS: Who would like to move to go into Executive  
17 Session?

18 MR. PENNOYER: So move.

19 MR. TILLERY: Second.

20 MS. McCAMMON: For the purpose of?

21 CHAIR WILLIAMS: Yes.

22 MR. PENNOYER: For the purposes of discussion of habitat  
23 acquisition and possibly Shuyak, or both.

24 CHAIR WILLIAMS: Okay. It's been moved by Mr. Pennoyer and

25

74  
seconded by Mr. Tillery that we go into Executive Session after taking a  
short break for purposes of discussing habitat acquisition, specifically  
small parcels, and Shuyak. Is there any op--- yes, Ms. McCammon?

1 MS. McCAMMON: Oh, Madam Chair, just for technical purpose, we  
2 have to disconnect the entire teleconference, but could we clarify who we  
3 have to add back on in a separate call?

4 CHAIR WILLIAMS: Yes. Let's.....

5 MS. EVANS: I will call the LIO in Anchorage, who monitors these  
6 teleconferences, and make sure that they know when we're ready to come back  
7 into session so that folks can be notified and call back in.

8 MR. PENNOYER: Madam Chair, do we have an estimate of time so  
9 that people on the teleconference know when to come back, or anybody want to  
10 take a guess at that?

11 CHAIR WILLIAMS: That's always risky.

12 MR. PENNOYER: Executive Director?

13 MS. McCAMMON: An hour?

14 CHAIR WILLIAMS: Oh, I think more than an hour. I would  
15 say.....

16 MR. PENNOYER: One to two hours?

17 CHAIR WILLIAMS: .....two, two and a half. Just to be on the  
18 safe side. Two, two and a half?

19 MS. EVANS: Barry wants to be on?

20 CHAIR WILLIAMS: Two, two and a half?

21 MR. PENNOYER: Madam Chair, if you put it too long, they may not  
22 come back and we may have already started. So it's better to indicate  
23 something like an hour and a half to two and a half, and then the.....

24 CHAIR WILLIAMS: Okay.

25

MR. PENNOYER: .....people can take their chances if they don't get back in time.

MS. EVANS: So what I would suggest to the teleconference sites  
1 is check with the LIO in Anchorage at about an hour and a half and see what  
2 our estimates are. And I'll keep Barbara there, who is the teleconference  
3 moderator today, up to date on when we should be coming back on line.

4 CHAIR WILLIAMS: Good. Excellent. We have a motion on the  
5 floor. Is there any objection to going into Executive Session pursuant to  
6 the terms of the motion?

7 (No response)

8 CHAIR WILLIAMS: The motion passes. Thank you. Let's take a  
9 five-minute break, and then we will go into Executive Session.

10 (Off record)

11 (Whereupon, the regular session of the Exxon Valdez Oil Spill  
12 Trustee Council was recessed for a short break at 12:18 p.m. and  
13 then convened in Executive Session)

14 (Tape Change - Tape No. 3 of 3)

15 (Whereupon, the Executive Session of the Exxon Valdez Oil Spill  
16 Trustee Council was adjourned at 4:18 p.m., and the regular  
17 session was reconvened at 4:20 p.m.)

18 (On record)

19 CHAIR WILLIAMS: Who else is on line, please?

20 TELECONFERENCE MODERATOR: Okay. I have Homer and your office  
21 here in Anchorage. I have not had time to send out my outside message; I'll  
22 be doing it momentarily, so maybe it'd be nice if you can give them about  
23 three or four minutes to call in.

24 CHAIR WILLIAMS: If you could do that quickly, please.

25

TELECONFERENCE MODERATOR: Yes.

(Off record)

(On record)

1 CHAIR WILLIAMS: Do we still have Anchorage on?

2 ANCHORAGE MODERATOR: Yes, you have Anchorage.

3 CHAIR WILLIAMS: And Homer?

4 (No audible response)

5 CHAIR WILLIAMS: Do we have Homer on still?

6 (No audible response - Pause, side conversations)

7 CHAIR WILLIAMS: Okay. I think we will resume our Trustee  
8 Council meeting of November 20th, 1995. Welcome back, everyone. We have  
9 completed our Executive Session, and we are ready to go back into regular  
10 session. During the Executive Session we discussed only the two items that  
11 we presented in our motion, the small parcels and the Shuyak acquisition.

12 I would like to call the meeting back to order. We'll begin  
13 with the Small Parcel Proposed Acquisition presentation. Ms. McCammon, if  
14 you could please walk us through the small parcels.

15 MS. McCAMMON: Thank you, Madam Chair. Last February the  
16 Trustee Council authorized me to oversee preliminary negotiations for  
17 acquisition of up to 30 small parcels to protect habitat resources and  
18 services injured by the oil spill.

19 As a result of our efforts over the last few months, I have  
20 before you today a recommendation to make an offer to purchase at appraised  
21 value 16 parcels and to contribute \$4 million towards acquisition of the  
22 Kenai Native Association package, which is an acquisition exchange package.  
23 And what I'd like to do right now is go through parcel by parcel and  
24 briefly touch on the restoration benefits of those parcels that are being  
25

77  
recommended to go forward at this time.

In Prince William Sound there are two parcels that are recommended for offers to be made to purchase at appraised value. The first one is Prince William Sound 17, Ellamar Subdivision. This is located on Virgin Bay about two miles north of Tatitlek. Public ownership of this parcel will protect habitat for pink salmon, Pacific herring, intertidal/subtidal organisms, sea otters, and recreation/tourism by preventing further construction on the lots that constitute this parcel.

Acquisition will also ensure public access to the shore lands for camping and preserve the option to enhance public recreational opportunities, for example, by installing mooring buoys or similar facilities. The key habitat and attributes of this parcel include pink salmon, herring, intertidal/subtidal organisms, and sea otters, and recreation/ tourism.

I should note that the Public Advisory Group did note that residents of Tatitlek use Virgin Bay for subsistence and recommended in favor of this acquisition overall.

CHAIR WILLIAMS: And it's my understanding, Ms. McCammon, that the pieces we'd be buying here are contiguous and that this would be phase one of a potentially two-phase process?

MS. McCAMMON: That's correct. The original acquisition proposal before the Council was to purchase all of the undeveloped lots within this subdivision. Upon further consideration, what you have before you is a proposal for phase one to purchase.....

(Pause)

MS. McCAMMON: I'm looking if this is seven or eight lots to count here. Block 10, Lots 5 through 11 and Lot 30 of the subdivision,

78  
which are all contiguous.

CHAIR WILLIAMS: Thank you. Any further questions on Ellamar Subdivision from the Trustee Council?

1

(No audible response)

2

CHAIR WILLIAMS: Okay. Hayward parcel.

3

MS. McCAMMON: The second parcel is Prince William Sound 52, the  
4 Hayward parcel; nine and a half acres, ranked moderate; appraised at  
5 \$150,000. This parcel is located on the very edge of the Valdez duck flats  
6 within the Valdez city limits. Public ownership of this parcel will protect  
7 habitat for intertidal and subtidal organisms, harbor seals and sea otters  
8 by preventing further development of the site.

9

Acquisition will also create an opportunity to return the site  
10 to its natural condition by removing the three gravel pads that are on the  
11 site. This would allow periodic flooding of this part of the duck flats and  
12 reestablish native vegetation. The key habitats and attributes are  
13 intertidal/ subtidal organisms, harbor seals, and sea otters, and also it  
14 provides nesting, molting, and staging habitat for 52 species of marine  
15 birds: 8 of waterfowl, 18 species of shore birds, and numerous other  
16 passerines and raptors, most particularly, Hudsonian godwits.

17

The potential threat to this parcel is through significant  
18 development, and the proposed management is to acquire it to preserve its  
19 ecological, natural, physical, and scenic values. This was strongly  
20 supported by residents of Valdez and also members of the Public Advisory  
21 Group.

22

CHAIR WILLIAMS: And it's my understanding, Commissioner Rue,  
23 that the Alaska Department of Fish and Game would be doing the gravel  
24 removal operations?

25

COMMISSIONER RUE: Madam Chair, that's correct. I think we would-- if the parcel is purchased, we would look for a way to remove those pads.

1 CHAIR WILLIAMS: Thank you. Any further questions or comments  
2 on the Hayward parcel?

3 (No audible response)

4 CHAIR WILLIAMS: Ms. McCammon?

5 MS. McCAMMON: The recommendation is to defer action on this  
6 time for Horseshoe Bay and Jack Bay in Prince William Sound until a new  
7 appraisal is done, and also to defer action on (indiscernible) Spit.

8 Moving on to the Kenai River parcels, there are five that are  
9 recommended to go forward with offers to purchase at appraised value:

10 Kenai 10, the Kobylarz Subdivision, 20 acres, ranked moderate,  
11 appraised at \$320,000. This is located at Mile 14 of the Kenai River on the  
12 big eddy, which is a very popular fishing area on the Kenai River and  
13 subject to wetland and stream bank trampling and habitat degradation. The  
14 restoration benefit is that public ownership will protect habitat for pink  
15 salmon, Dolly Varden, sockeye salmon, and recreation/tourism by preventing  
16 the loss of wetlands to development.

17 Acquisition will also create an opportunity for public agencies  
18 to manage use of the stream banks to minimize habitat degradation. The key  
19 habitats and other attributes are pink salmon and Dolly Varden, sockeye  
20 salmon, and recreation/ tourism. The proposed management would be by the  
21 Department of Natural Resources jointly with Fish and Game through an inter-  
22 agency land management agreement.

23 CHAIR WILLIAMS: Are there any questions about the Kobylarz  
24 Subdivision?

25

(No audible response)

CHAIR WILLIAMS: All right.

MS. McCAMMON: The next parcel is Kenai 34, the Cone parcel, 100  
1 acres, ranked high, to be managed jointly by Fish and Game and DNR. The  
2 appraised value is \$600,000. This is located on the Kenai River flats south  
3 of Beaver Loop Road. The restoration benefits are that public ownership  
4 will protect fish habitat, intertidal habitat, and the recreational values  
5 associated with fish and wildlife on this parcel by preventing development  
6 on this parcel.

7  
8 At one time, the City of Kenai proposed to rezone 500 acres of  
9 adjacent City-owned wetlands from a rural residential classification to  
10 conservation if the Trustee Council acquired the property. And we would be -  
11 the State would be pursuing that with the City.

12 Key habitats and other attributes include intertidal/ subtidal  
13 organisms, pink salmon and Dolly Varden, sockeye salmon migrations, and  
14 recreation/tourism. It also provides support and habitat for a variety of  
15 other fish and wildlife not injured by the spill.

16 CHAIR WILLIAMS: Thank you. Any Council questions on the Cone  
17 parcel?

(No audible response)

18 CHAIR WILLIAMS: All right.

19 MS. McCAMMON: The next parcel is Kenai 54, the Salamantof  
20 parcel, 1,377 acres. And I should note here that although this exceeds the -  
21 kind of the limit of the small parcel program, which is generally accepted  
22 as under 1,000 acres, there were two separate submissions that were later  
23 combined for administrative purposes. And that's the basis of it exceeding  
24 the 1,000 acres.  
25



It's ranked moderate. The sponsor is Fish and Wildlife Service.

Upon acquisition, this would be incorporated into the Kenai National Wildlife Refuge. It's valued at \$2,320,000. It's one of the largest undeveloped privately owned parcels on the Kenai River, encompassing two miles of river bank between River Miles 26 and 28 upstream of the Soldotna Airport. Lands on the parcel are composed of well-drained forested uplands that slope gently toward the river and large areas of associated riparian wetlands. Most of the parcel is undisturbed except for extensive foot trampling along the stream bank.

Public ownership will protect habitat for pink salmon, sockeye salmon, Dolly Varden, bald eagle, river otter, and recreation/tourism by preventing future development including roads, residential subdivisions, and intensive private recreational use. Acquisition will also allow public agencies to mitigate impacts from unregulated access of the parcel. Key habitats and other attributes include pink salmon and Dolly Varden, bald eagles, river otter, and recreation/ tourism services, and sockeye salmon.

CHAIR WILLIAMS: Are there any questions or comments on the Salamantof parcel?

(No audible response)

CHAIR WILLIAMS: I'd just like to add that, of course, I'm familiar with this parcel, and I think it's extremely valuable, so I'm pleased to see it on the list.

MS. McCAMMON: The next parcel is Kenai 148, River Ranch. This is 146 acres, ranked moderate; appraised value at \$1,650,000. It's located near Mile 32 on the Kenai River. It's one of the larger privately owned properties on the river, developed primarily as a horse and cattle ranch. Topography is generally flat, and native vegetation has been cleared for hay

82  
fields. Riparian vegetation along portions of the Kenai River have been manually cleared or trampled by livestock.

Public ownership will protect habitat for pink salmon, Dolly Varden, and recreation/tourism by foreclosing the possibility that the parcel will be more intensively developed. Removal of livestock will further protect habitat by allowing the reestablishment of riparian vegetation. Acquisition will also allow public agencies to manage public access and thereby minimize associated bank damage. Key habitats and other attributes include habitat for pink salmon and Dolly Varden, sockeye salmon, and recreational/tourism services.

8  
CHAIR WILLIAMS: Ms. McCammon or Commissioner Rue, do we know who's going to be responsible for removing the cattle and horses should we purchase this?

11  
MS. McCAMMON: I assume the landowner.

12  
COMMISSIONER RUE: I assume their owned -- we don't buy the horses, I hope.

14  
(Laughter)

15  
COMMISSIONER RUE: Moose we'll take.

16  
(Laughter)

17  
MR. PENNOYER: You get the moose, though. Okay.

18  
COMMISSIONER RUE: Yeah.

19  
CHAIR WILLIAMS: Okay.

20  
COMMISSIONER RUE: I assume they'd be removed.

21  
CHAIR WILLIAMS: All right. I think that would be a nice thing to make certain of because I don't know if we want EVOS members out there with guns pointed at the head of these cattle.

24  
MR. PENNOYER: Frank will do a roundup.

25

CHAIR WILLIAMS: Okay. Any further questions or comments on River Ranch?

(No audible response)

1

CHAIR WILLIAMS: Okay. Girves parcel.

2

MS. McCAMMON: The Girves parcel is Kenai 1006, 110 acres. This is a parcel meriting special concern. Although it ranked low on the scale that the Council used, it was just below the cutoff point between moderate and low, and it had several outstanding values that weren't totally captured by the ranking system.

7

Public ownership of the parcel will protect fish habitat by allowing public agencies to manage public use of the stream banks. Acquisition will also enhance recreation by providing additional public land for fishing and other recreational uses. Appropriate action would be taken to protect or restore stream bank vegetation that is important fish habitat.

12

Key habitats and other attributes include habitat for pink salmon and Dolly Varden, sockeye salmon, and for recreation/tourism services. Potential threats is that the primary threat to habitat results from stream bank fishing. The landowner reports that significant erosion of stream banks, as much as five feet in one season, has occurred because of intensive trespassing use by river guides and tourists.

18

(Pause)

19

MS. McCAMMON: The next acquisition on the Kenai River includes three parcels that were submitted under the Small Parcel Program: Kenai 1004 and Kenai 1002 and 03. Kenai 1004 is the Stephanka tract, which is 803 acres, one mile below the outlet of Skilak Lake on the Kenai River. This was one of the highest-ranked parcels entered through the process.

24

Public ownership of the parcel will preserve the wilderness

25

84  
qualities of the area and allow for improved public access to the river and  
the adjacent wilderness area for primitive recreational activities.

Acquisition will also protect archaeological sites and key habitat for pink  
1 salmon, Dolly Varden, bald eagles, and river otters from the adverse effects  
2 of future development of this site.

3  
4 The owners of this parcel have made it very clear that they are  
5 not willing to sell this parcel by itself. It is part of a negotiated  
6 package between the Kenai Natives Association and Fish and Wildlife Service.  
7 This package totals more than 15,000 acres and is appraised at more than  
8 \$10 million total. The proposal is to have the Trustee Council contribute \$4  
9 million towards that package.

10 This would-- and to ensure that this package would include, at  
11 the very least, Stephanka tract and then also the two Moose River Tracts  
12 Kenai 1002 and 1003, which have important habitat for bald eagles, sockeye  
13 salmon, recreation, tourism, and wilderness.

14 CHAIR WILLIAMS: Very good. Any questions or comments about the  
15 KNA parcels?

16 (No audible response)

17 CHAIR WILLIAMS: Again, I'd just like to commend the small  
18 parcel process for having these in the process. They, I think, will provide  
19 outstanding restoration value. Ms. McCammon?

20 MS. McCAMMON: Moving on to the other Kenai Peninsula parcels,  
21 Kenai 12, Baycrest, 90 acres, a parcel meriting special concern. This is  
22 located about four miles west of Homer, has three-quarters of a mile of  
23 shoreline along Kachemak Bay. There is road access to the parcel from the  
24 Sterling Highway and up Pioneer Road to the beach. There are no structures  
25 on the site.

Public ownership of this parcel will protect intertidal habitat by preventing the filling of wetlands that would result from construction of roads, driveways, and houses. Acquisition would also preserve opportunities for the public to continue using the area, especially the intertidal zone, and could facilitate access to Overlook Park and to the intertidal zones of both parcels.

Key habitats and other attributes include intertidal/ subtidal organisms, recreation and tourism services, and also a variety of other fish and wildlife.

CHAIR WILLIAMS: Any questions about Baycrest?

(No audible response)

CHAIR WILLIAMS: Okay.

MS. McCAMMON: I should also mention, for the record, that support for acquisition of this parcel was expressed by the City Council of Homer, Kachemak Bay State Park Citizens Advisory Board, Kachemak Heritage Land Trust, and one other individual.

CHAIR WILLIAMS: Thank you. Coal Creek.

MS. McCAMMON: Kenai 19 Coal Creek moorage, 53 acres, ranked high; appraised value \$260,000. This parcel is located at the confluence of Coal Creek and the Kasilof River and is part of the Kasilof River flats.

Public ownership will protect fish habitat and intertidal habitat by preventing the filling of wetlands that would result from construction; enable agencies to better protect cultural resources and to manage use of the stream banks to minimize habitat degradation; and preserve opportunities for the public to continue using the area. Acquisition will also preserve the option to enhance public recreational opportunities.

Key habitats and other attributes include pink salmon and Dolly

86  
Varden, sockeye salmon, intertidal/subtidal organisms, archaeological  
resources, and recreation/tourism, as well as a variety of other fish and  
wildlife. This was supported by the Kenai Peninsula Borough and by the Cook  
1 Inlet Aquaculture Association.

2 CHAIR WILLIAMS: Thank you. Any questions or comments about  
3 Coal Creek?

4 (No audible response)

5 CHAIR WILLIAMS: Tulin parcel?

6 MS. McCAMMON: Kenai 29, the Tulin parcel, 220 acres, ranked  
7 parcel meriting special concern. This parcel runs for approximately 1.4  
8 miles from the Sterling Highway west of Cook Inlet where it fronts the  
9 shoreline for 3,500 feet. Most of the rest of the parcel averages about  
10 one-quarter mile in length. This parcel contains and runs parallel to  
11 Diamond Creek, which is not an anadromous stream. The parcel is dominated  
12 by a mixed spruce and birch forest association.

13 Public ownership of this parcel will protect bald eagle habitat  
14 and preserve recreational opportunities by preventing further development of  
15 the subdivision on the parcel. Acquisition would also create the  
16 opportunity to enhance recreational opportunities through, for example,  
17 improving and maintaining the road for access to the beach. This parcel  
18 provides key access and results -- in addition, results in a buffer from  
19 further development. Key habitats and attributes include bald eagles and  
20 recreation/tourism.

21 CHAIR WILLIAMS: Any questions or comments?

22 (No audible response)

23 CHAIR WILLIAMS: Overlook Park, please.

24 MS. McCAMMON: Kenai 55, Overlook Park, 97 acres, ranked  
25

87  
moderate. This parcel is locally known as Overlook Park because it is  
situated below and is visible from the Sterling Highway scenic overlook.

The parcel is located between state lands on the north and Baycrest on the  
1 east. It is accessible only by foot down the steep bluff from the highway  
2 or by walking along the shoreline three and a half miles west from Bishop  
3 Beach. There are no structures, roads, or any other human development on  
4 this site. The uplands consist of a mixed association of spruce, birch,  
5 cottonwood, small open meadows, bogs, and freshwater ponds.

6 Public ownership of this parcel would protect  
7 intertidal/subtidal habitat and ensure public access by foreclosing the  
8 possibility that it would be subdivided and developed in the future. Key  
9 habitats and other attributes include intertidal/subtidal organisms and  
10 recreation/tourism.

11 There appears to be some residential development potential for  
12 this property in the area between the tidelands and the bluff. Support for  
13 acquisition of this parcel was expressed by the City Council of Homer,  
14 Kachemak Bay State Park Citizens Advisory Board, Kachemak Bay Conservation  
15 Society, Kachemak Heritage Land Trust, and 22 individuals, mostly residents  
16 of Homer.

17 CHAIR WILLIAMS: Thank you. Any questions or comments about  
18 Overlook Park?

19 (No audible response)

20 CHAIR WILLIAMS: And we do appreciate all the public comment on  
21 that parcel. Deep Creek?

22 MS. McCAMMON: Kenai 1001, Deep Creek, 91 acres, ranked high.  
23 This parcel is located about three miles south of Ninilchik immediately  
24 adjacent to the Deep Creek State Recreation Area. It has a half-mile of  
25

88  
frontage on Cook Inlet and road access from the Sterling Highway.

Public ownership will protect intertidal and estuarine habitat by preventing future development and by managing access to the intertidal area. Acquisition will also create an opportunity to enhance public access through ma- -- to the Deep Creek State Recreation Area through maintenance of the parking area on a small part of the uplands. Key habitats and other attributes are intertidal/ subtidal organisms and recreation/tourism services.

Because of its proximity to a heavily used recreation area and access from the highway, the upland portion has considerable development potential.

(Pause)

MS. McCAMMON: Kenai 1005, Ninilchik, 16 acres located immediately adjacent to the Ninilchik State Recreation Area. The Ninilchik River bisects this parcel.

Public ownership of this parcel will allow for managed access to the Ninilchik River and the Ninilchik State Recreation Area, and thereby protect habitat. Dolly Varden and pink salmon resources that were injured by the spill may be fished in this part of the Ninilchik River. So the two key resources there are pink salmon and Dolly Varden.

This parcel has potential for residential or recreational development; however, its primary threat to restoration results from uncontrolled access to the Ninilchik River, which damages habitat by trampling stream banks and denuding them of vegetation.

CHAIR WILLIAMS: Any questions or comments on Deep Creek?

(No audible response)

CHAIR WILLIAMS: Thank you. Ninilchik?



MS. McCAMMON: I did Ninilchik.....

CHAIR WILLIAMS: Excuse me.

MS. McCAMMON: .....while you had your head turned.

1

(Laughter)

2

CHAIR WILLIAMS: The Cooper parcel?

3

MS. McCAMMON: Kenai 1009, Cooper parcel, 30 acres,

4

approximately two miles upstream of the mouth of the Ninilchik River, which

5

flows through the middle of the parcel. Most of the property is classified

6

as riparian habitat.

7

Public ownership would protect habitat for pink salmon and Dolly

8

Varden by foreclosing the potential for future development of the site and

9

allowing agencies to better manage stream bank fishing on the parcel.

10

Acquisition will also allow for managed access to the Ninilchik River and

11

thereby protect habitat.

12

The potential threat is for -- from possible residential or

13

recreational development. However, its primary threat to restoration

14

results from uncontrolled access to the river, which damages habitat by

15

trampling stream banks and denuding them of vegetation.

16

CHAIR WILLIAMS: Thank you. Any questions about the Cooper

17

parcel?

18

(No audible response)

19

CHAIR WILLIAMS: Grouse Lake?

20

MS. McCAMMON: Kenai 1014, Grouse Lake, this is 64 acres,

21

approximately seven and a half miles north of Seward on the Seward Highway

22

on the west shore of Grouse Lake. This parcel is the only level access area

23

around Grouse Lake and Grouse Creek. It is heavily forested, and the lake

24

and streams have clear water.

25

Public ownership will protect habitat for pink salmon, sockeye salmon, Dolly Varden by preventing further development of the site.

Acquisition will further benefit the restoration of sockeye by ensuring  
1 continued access to Grouse Lake for Fish and Game sockeye salmon stocking  
2 program. Public ownership will also allow the Forest Service to replace and  
3 enhance recreational uses, such as sport fishing and wildlife viewing that  
4 rely on natural resources that were injured in the spill.

5  
6 Key habitats and other attributes include pink salmon, Dolly  
7 Varden, sockeye salmon, recreation/tourism, and bald eagles and river  
8 otters.

9 CHAIR WILLIAMS: Thank you. Any questions or comments about  
10 Grouse Lake?

(No audible response)

11 CHAIR WILLIAMS: Finally, Lowell Point.

12 MS. McCAMMON: Kenai 1015, Lowell Point, 19.4 acres, located one  
13 mile south of the Alaska SeaLife Center in Seward. This parcel is vegetated  
14 in part by hemlock and spruce and has approximately 700 feet of Resurrection  
15 Bay frontage. This parcel serves as the gateway to Resurrection Bay for  
16 small boat operators and kayakers and also has a hiking trail to Caneshead  
17 State Recreation Area.

18 Public ownership of this parcel would ensure public access to  
19 Resurrection Bay and the State Park. Acquisition will also provide a buffer  
20 area between subdivisions to the north, and it's an important public access  
21 route to nondeveloped areas. Key habitats and other attributes include  
22 benefits for recreation/tourism. The intertidal area is primarily sand and  
23 gravel beach and is valuable for access to Resurrection Bay and for  
24 educational field trips. Although it is not considered key habitat for  
25

91  
intertidal biota because it lacks dense sea grass beds, clam beds, mussel  
beds, and high diversity, it is used extensively by schools for tide pool  
field trips.

1  
2 Potential threat is from its development potential as a  
3 residential subdivision. The tract of land to the north is already  
4 subdivided. A road right-of-way exists to the west of this parcel, and the  
5 site is served by electrical and telephone service. There are currently  
6 plans to develop it.

7 This site received extensive public comment. Many of the  
8 letters were written by students, parents, and teachers from Inlet View  
9 Elementary School in Anchorage and Homestead School and Fire Lake Elementary  
10 School, both in Eagle River. All three schools sponsor field trips to  
11 Lowell Point. Individuals from Seward, other communities in the Kenai  
12 Peninsula, and Anchorage also voiced support for acquisition.

13 CHAIR WILLIAMS: Thank you, Ms. McCammon. I believe those are  
14 the 16 parcels, then, in consideration.

15 MS. McCAMMON: That's correct.

16 CHAIR WILLIAMS: Would any Trustee Council member like to make a  
17 motion at this time? Let me say that I believe there -- Rebecca, as we  
18 speak, is xeroxing up a modified resolution that has been authored primarily  
19 by Mr. Tillery and Mr. Swiderski, with some modifications. And I think,  
20 though, we can go ahead and make a motion, if anyone chooses to do so, and  
21 then refer to the resolution when it returns to the room. Would anyone like  
22 to make a motion at this time?

(Pause - Side comments)

23 MR. PENNOYER: Madam Chair?

24 CHAIR WILLIAMS: Yes. Mr. Pennoyer?

25

MR. PENNOYER: I'm sorry. You want a motion, other than the resolution, which contains all these pieces, or separately, or what exactly.....

1 CHAIR WILLIAMS: I guess a.....

2 MR. PENNOYER: .....are you asking for?

3 CHAIR WILLIAMS: .....motion to adopt the resolution.

4 (Pause)

5 CHAIR WILLIAMS: Oh, here it comes. Good. Would any Trustee  
6 Council member like to make a motion to adopt the resolution?

7 COMMISSIONER RUE: Madam Chair?

8 CHAIR WILLIAMS: Yes. Commissioner Rue.

9 COMMISSIONER RUE: I will move to adopt the resolution which is  
10 now being passed around by Rebecca.

11 CHAIR WILLIAMS: Is there.....

12 MR. PIPER: Second.

13 CHAIR WILLIAMS: Thank you. It's been moved by Commissioner Rue  
14 and seconded by Mr. Piper to adopt the resolution that has just been  
15 distributed among the Trustee Council members, with handwritten insertions  
16 by Mr. Swiderski. It is a six-page resolution. And, Commissioner Rue,  
17 would you like briefly to describe the resolution?

18 (Laughter)

19 COMMISSIONER RUE: Madam Chair, thank you for the honor.

20 Basically, the resolution identifies the parcels which the Executive  
21 Director, Ms. McCammon, has just described to us as parcels which have met  
22 our criteria and where the owners have indicated an interest in selling.  
23 The appraisals have been done, and as I understand it, it speaks to  
24 widespread public support. And we resolve that an offer of purchase be made  
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93  
to these owners at the appraised value. And if then accepted, would be -- we  
would then accept these parcels.

Let me see. It also includes a -- it specifically lists the  
1 parcels with the appraised values, and it also lists the \$4 million purchase  
2 of the Kenai Natives Association lands as described in the Attachment B.  
3 And let me see. Basically, it also sets out the terms of -- that we would --  
4 under which we would accept the parcels, including no timber harvesting,  
5 road development, or alteration of the land, as well as satisfactory  
6 hazardous and material surveys and compliance with NEPA.

7 I believe -- (clearing throat) excuse me, I'm losing my voice --  
8 that that summarizes the basic intent of the resolution. If other members  
9 of the Council would like to add any.....

10 CHAIR WILLIAMS: Excellent summary, Commissioner Rue. Excellent  
11 summary. It has been moved and seconded that the Trustee Council adopt the  
12 resolution which is before us and which was just summarized by Commissioner  
13 Rue, the maker of the motion. Any further discussion of this motion and/or  
14 the resolution?

15 (No audible response)

16 CHAIR WILLIAMS: Let me just say that I commend the Trustee  
17 Council staff, the negotiators and all the members of the Trustee Council  
18 for -- and all the agency members who have worked on this. This was a --  
19 this has been a very labor-intensive process, and starting from the initial  
20 call for parcels to the appraisal of the parcels -- or the ranking of the  
21 parcels for restoration value and the appraisal of the parcels, and thank  
22 you for all your efforts. I think we have a group of 16 parcels here which  
23 have outstanding restoration values, and I certainly hope we'll be  
24 successful in their acquisition.

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Any other comments? Mr. Tillery?

MR. TILLERY: I would like to make a comment 'cause I have been involved in this pretty heavily over the last month and a half, two months. And I would like to particularly commend the appraisers for the Forest Service, the Fish and Wildlife Service, and the State appraisers. In the last week alone, those guys have put in tremendous amounts of hours, and they have really cut through and gotten the job done on these when time was really getting pretty short, the state and federal review appraisers. And I really would like to note that.....

CHAIR WILLIAMS: Thank you.

MR. TILLERY: .....and commend them.

CHAIR WILLIAMS: Thank you, Mr. Tillery. And I believe that's shared by all of the Council members. Any other questions or comments?

(No audible response)

CHAIR WILLIAMS: All right. Yes, Ms. McCammon?

MS. McCAMMON: Madam Chair, I would also like to note the efforts of Veronica Christman in preparing these restoration benefits reports for all of the small parcels and putting together my report, basically. She did.....

CHAIR WILLIAMS: Yes.

COMMISSIONER RUE: .....excellent work there. And then also note that there are the recommendation to defer action on a number of parcels means that our work has not ended, and we will be coming back to you again with additional recommendations.

CHAIR WILLIAMS: Precisely. There are some excellent small parcels that, for one reason or another, could not be included in this group, but we look forward to revisiting them.

Any other questions or comments on the motion?

(No audible response)

CHAIR WILLIAMS: All right. It has been moved by Commissioner  
1 Rue and seconded by Mr. Piper that we adopt the resolution of the Exxon  
2 Valdez Oil Spill Trustee Council regarding small parcels, which is before us  
3 at this time. All in favor, please indicate by saying aye.

4 (Unanimous affirmative response)

5 CHAIR WILLIAMS: All opposed?

6 (No audible response)

7 CHAIR WILLIAMS: The resolution passes. Thank you very much.  
8 Ms. McCammon, if you could please talk about Shuyak.

9 MS. McCAMMON: Shuyak. As you will recall, on December 2nd of  
10 last year, the Council passed a resolution authorizing purchase of certain  
11 lands owned by Kodiak Island Borough on Shuyak Island, approximately 26,000  
12 acres of land, for fair market value, subject to a government-approved  
13 appraisal, not to exceed \$42 million.

14 Since that time, there has been extensive review of the  
15 appraisal, and I believe that Mr. Tillery has a motion as -- since the State  
16 is the lead negotiator, Mr. Tillery has a motion to present to the Council  
17 for their consideration.

18 CHAIR WILLIAMS: Mr. Tillery?

19 MR. TILLERY: Thank you, Madam Chairman. At this time, I would  
20 like to move that we authorize the negotiators to offer to the Kodiak Island  
21 Borough \$42 million for the purchase of fee simple title for the Kodiak  
22 Island Borough interest in its land on Shuyak Island, comprising  
23 approximately 25,665 acres, to be paid over seven years at a schedule to be  
24 agreed upon by the parties. The negotiators would work with the Kodiak  
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Island Borough to, as quickly as possible, arrive at a purchase agreement  
and come back to the Council with a resolution and a purchase agreement for  
its approval.

1 MR. PENNOYER: Second.

2 CHAIR WILLIAMS: It's been moved by Mr. Tillery and seconded by  
3 Mr. Pennoyer that we offer KIB \$42 million over a payment schedule to be  
4 agreed to between the two parties, and that, very quickly, a resolution and  
5 purchase agreement be arrived at and represented to the Trustee Council. Is  
6 there any discussion on the motion? Mr. Pennoyer.

7 MR. PENNOYER: Madam Chair, I'd just like to note that this is a  
8 very high restoration value package. The price and cost per acre is  
9 relatively low. It's something we're all, I think, very interested in.  
10 We're acquiring an ecosystem, in essence, with the lands already in State  
11 management there as park. We're not going to have to worry about ancillary  
12 activities on adjacent parcels causing problems in terms of reaching our  
13 restoration goals. And I think this is a very important action. Thank you.

14 CHAIR WILLIAMS: Thank you. Yes. Commissioner Rue.

15 COMMISSIONER RUE: Madam Chair, I would second Mr. Pennoyer's  
16 comments. I agree that this is a highly valuable piece of land. I  
17 appreciate the Borough's willingness to work with the Trustee Council to  
18 come up with an agreement, and I hope we can get it done quickly.

19 CHAIR WILLIAMS: Very good. And I would like to commend Kodiak  
20 Island Borough for working with us so patiently. I'd also like to commend  
21 the Borough for their commitment to use some of this money, on completely  
22 their own volition, to build a Fish Tech Center, which I think will be a  
23 tremendous asset to the community. And Kodiak Island Borough has been  
24 generous enough to talk in terms of \$6 million contribution to that  
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enterprise, which I think, again, is very significant for the community and  
for the state.

I'd like to thank the negotiating team for working on this  
1 effort. And I would just like to underscore Mr. Pennoyer and Commissioner  
2 Rue's comments that this area has tremendous restoration value and has  
3 received a lot of public support. And I think this is money very well spent  
4 for restoration.

5 Any other questions or comments on the motion?

6 (No audible response)

7 CHAIR WILLIAMS: All right. All in favor of the motion indicate  
8 by saying aye.

9 (Unanimous affirmative response)

10 CHAIR WILLIAMS: Opposed?

11 (No audible response)

12 CHAIR WILLIAMS: The motion passes. Thank you. Is there any  
13 other business to bring before the Trustee Council today?

14 (No audible response)

15 CHAIR WILLIAMS: Hearing none, do I-- I will entertain a motion  
16 to adjourn.

17 COMMISSIONER RUE: So move.

18 MR. PENNOYER: So moved.

19 CHAIR WILLIAMS: Moved by Commissioner Rue, seconded by Mr.  
20 Pennoyer. All in favor, indicate by saying aye.

21 (Unanimous affirmative response)

22 CHAIR WILLIAMS: Opposed?

23 (No audible response)

24 CHAIR WILLIAMS: Thank you. Oop. Excuse me. Yes, Ms.

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MS. McCAMMON: I just wanted.....

MR. TILLERY: I guess my question would be if we might get a  
1 deal -- an arrangement worked out, get some papers worked out pretty quickly  
2 with the Borough. Is it possible we would want to recess this meeting  
3 rather than adjourn it so that we could be called back into a  
4 teleconference? It's kind of hard otherwise to get people together during  
5 the.....

6 CHAIR WILLIAMS: That's a very good.....

7 MR. TILLERY: .....this time of year.

8 CHAIR WILLIAMS: .....point. I will accept a motion to recess.

9 COMMISSIONER RUE: I'll withdraw my motion.

10 MR. PENNOYER: Do you want to mention the panel tonight  
11 following?

12 MS. McCAMMON: Also, if your plane is delayed and you can't get  
13 out of here tonight, the Darkened Waters exhibit is at the State Museum, and  
14 they are having a panel discussion about the spill tonight. And all the  
15 Trustees are invited to attend, as well as the members of the general  
16 public.

17 CHAIR WILLIAMS: Thank you. Okay. I'll entertain a motion to  
18 recess.

19 MR. TILLERY: I so move.

20 MR. PENNOYER: Moved again.

21 CHAIR WILLIAMS: Moved by Mr. Tillery, seconded by Mr. Pennoyer.  
22 All in favor, indicate by saying aye.

23 (Unanimous affirmative response)

24 CHAIR WILLIAMS: Opposed?

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(No audible response)

CHAIR WILLIAMS: Thank you. We will recess until we have a purchase agreement and resolution for KIB. Thank you very much, everyone.

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(Whereupon, the teleconference meeting of the Exxon Valdez Oil Spill Trustee Council was recessed at 4:57 p.m., to be reconvened at the call of the Chair at a later date for the above-mentioned purpose.)