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2 TRUSTEE COUNCIL MEETING  
3 Friday, February 23, 1996  
4 1:30 o'clock p.m.

5 U.S. Department of the Interior  
6 1689 C Street, Suite 220  
7 Anchorage, Alaska

8 **TRUSTEE COUNCIL MEMBERS PRESENT:**

9 U.S. DEPARTMENT OF THE INTERIOR: **MS. DEBORAH WILLIAMS (Chair)**  
10 Special Assistant to the  
11 Assistant Secretary

12 STATE OF ALASKA - **MR. CRAIG TILLERY**  
13 DEPARTMENT OF LAW: Trustee Representative  
14 for the Attorney General

15 STATE OF ALASKA - DEPARTMENT **MR. FRANK RUE**  
16 OF FISH AND GAME: Commissioner

17 U.S. DEPARTMENT OF AGRICULTURE - **MR. PHIL JANIK**  
18 U.S. FOREST SERVICE: Regional Forester

19 U.S. DEPARTMENT OF **MR. STEVE PENNOYER**  
20 COMMERCE - NOAA: Director, Alaska Region

21 STATE OF ALASKA - DEPARTMENT **MS. MICHELE BROWN**  
22 OF ENVIRONMENTAL CONSERVATION: Commissioner

**TRUSTEE COUNCIL STAFF PRESENT:**

MS. MOLLY McCAMMON Executive Director  
EVOS Trustee Council

MS. REBECCA WILLIAMS Executive Secretary  
EVOS Trustee Council

MR. ALEX SWIDERSKI Alternate, Department of Law

MR. JAMES WOLFE Alternate, Department of  
Agriculture, U.S. Forest Service

**OTHER PARTICIPANTS:**

MS. GINA BELT U.S. Department of Justice

DAVE GIBBONS U.S. Forest Service

MR. GLENN ELISON U.S. Fish and Wildlife Service

JOHN HARMENING U.S. Forest Service

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(Tape No. 1 of 1)

(On record at 1:30 p.m.)

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2 CHAIR WILLIAMS: Let's go ahead, in the interest of  
3 starting on time, and I believe that we have representatives  
4 from all of the Trustee Council members here.

5 I would like to call to order a meeting of the Exxon  
6 Valdez Trustee Council. It is February 23rd, 1:30. We are  
7 meeting here in Anchorage in my offices. And let me begin by  
8 announcing who is here.

9 We have Craig Tillery, representing the Attorney  
10 General's Office. Myself, Deborah Williams, representing the  
11 Department of the Interior. Steve Pennoyer, representing  
12 National Marine Fisheries Service. Michele Brown, who just  
13 joined us, representing the Alaska Department of Environmental  
14 Conservation. Phil Janik, representing The U.S. Department of  
15 Agriculture, Forest Service. And Frank Rue, representing the  
16 Alaska Department of Fish and Game.

17 Welcome, all Trustees. And we do have public members  
18 and staff members joining us also today.

19 I'll begin by accepting a motion for approval of the  
20 agenda.

21 MR. PENNOYER: So moved.

22 CHAIR WILLIAMS: Moved by Steve Pennoyer.

23 COMMISSIONER RUE: Second.

24 CHAIR WILLIAMS: Seconded by Frank Rue to approve the  
25 agenda. Is there any discussion? Any additions or corrections  
people would like to make to the agenda?

(No audible response)

CHAIR WILLIAMS: Hearing none, do I hear any objection to approving the agenda?

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(No audible response)

CHAIR WILLIAMS: Hearing none, the agenda is approved.

The first item on the agenda is an Executive Session to discuss habitat protection negotiations. I will accept a motion to go into Executive Session to discuss habitat protection negotiations.

MR. JANIK: Phil Janik. So moved.

MS. BROWN: Seconded.

CHAIR WILLIAMS: Moved by Phil Janik. Seconded by Michele Brown. Is there any discussion?

(No audible response)

CHAIR WILLIAMS: Is there any objection to going into Executive Session at this time?

(No audible response)

CHAIR WILLIAMS: Hearing none, we will go into Executive Session to discuss habitat protection negotiations.

Molly, would you like to give an estimate of how long you think this will last so the public members can respond accordingly?

MS. McCAMMON: I would say no more than an hour. At the most. It kind of depends, Frank, on what your schedule is?

COMMISSIONER RUE: I have a 3:00 o'clock meeting.

MS. McCAMMON: Okay.

CHAIR WILLIAMS: Okay. Very good.

MS. McCAMMON: About an hour.

CHAIR WILLIAMS: Okay. If we could go into Executive<sup>5</sup>  
Session. Thank you very much.

(Off record at 1:35 p.m.)

(On record at 2:30 p.m.)

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2 CHAIR WILLIAMS: I will call back to order the  
3 February 23, 1996, meeting of the Exxon Valdez Oil Spill  
4 Trustee Council. We are resuming public session after being in  
5 Executive Session for approximately the last 45 minutes. In  
6 Executive Session, we talk about habitat protection  
7 negotiations and no other matters.

8 The next item on our agenda is small parcels. Molly?

9 (Pause - Side comment)

10 CHAIR WILLIAMS: What?

11 MR. TILLERY: There was a public member.

12 CHAIR WILLIAMS: Yes, I know.

13 MR. TILLERY: Did she disappear, or.....

14 MS. McCAMMON: Yeah.

15 MR. TILLERY: .....do we know where she went to?

16 MS. WILLIAMS: I didn't see her when I went into the  
17 hall, and I haven't seen her since.

18 MS. McCAMMON: Madam Chair, I sent out to all of you,  
19 late this morning, a status report on the Small Parcel Program.

20 And I hope the folks in Juneau got copies of it. But at your  
21 request, you asked for an update on the response to the offers  
22 that were made in December. And of the 22 small parcels that  
23 action has been taken on so far, the owners of 11 of the  
24 parcels had accepted the offers at appraised value. The offers  
25 on 10 other parcels in the Kenai Natives Association package  
are still under various stages of review.

1 And then three parcel owners have rejected the  
2 offers. Two of those have come back with a counteroffer at an  
3 above-appraised value price, and one parcel, the Deep Creek  
4 parcel, the Ninilchik Native Association has said it's not for  
5 sale at this time.

6 As a result of this status report, there are actually  
7 three action items that are before you today. One of them is a  
8 request for authorization for the Department of Interior to  
9 offer to purchase the two allotments in Three Saints Bay, KAP  
10 105 and 142 at the appraised value of \$168,000.

11 In addition, the Salamatof parcel, the landowner  
12 raised a number of questions about appraisal. The appraisal  
13 was revised as a result of their comments; it has been reviewed  
14 and approved by all of the review appraisers. That has  
15 increased the value by \$220,000 from the original appraisal.  
16 And so the request is for the additional authorization to  
17 increase the fair market price by \$220,000. This would raise  
18 it from a total price of \$2.32 million up to \$2.54 million.

19 And then the third item, at the end of the report,  
20 we've received an additional 10 nominations since Mid-July of  
21 last summer for small parcel acquisition. Two of these are  
22 being purchased by the U.S. Forest Service, either as part of  
23 the Valdez Duck Flats acquisition and one other, as part of --  
24 using federal restitution funds.

25 The remaining six are listed in Table 3. Of these,  
one of the parcels, the Patson Parcel, which is Kenai 1034 on  
the Kenai River near Soldotna, the Department of Natural  
Resources has recommended that it be considered a parcel  
meriting special attention and that an appraisal go forward

with this parcel. This has been concurred with by the Department of Fish and Game to move forward -- to request authorization to move forward on this parcel.

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So those are the three action items before you, today.

CHAIR WILLIAMS: All right. Before we go to each of the action items in turn, is there anything else any other Trustee member would like to add on small parcels?

(No audible response)

CHAIR WILLIAMS: Okay. Let's go to each of the items then. As Molly said, the first one is a request for authorization for the Department of Interior to offer to purchase two native allotments in Three Saints Bay, KAP 105/142, at the appraised value of \$168,000. Do I hear a motion to that effect?

(No audible response)

CHAIR WILLIAMS: Motion?

COMMISSIONER RUE: So moved.

CHAIR WILLIAMS: Been moved by Frank Rue. Second?

MR. TILLERY: Second.

CHAIR WILLIAMS: Okay. Second by Craig Tillery. Is there discussion on the motion?

(Whispered comments)

CHAIR WILLIAMS: Forest Service, do I hear some questions you may have?

MR. JANIK: No.

CHAIR WILLIAMS: Okay. Any discussion on this motion?

(No audible response)

CHAIR WILLIAMS: Glenn, would you like to tell us just a little bit more about these parcels? Glen Elison is here.

1 MR. ELISON: I'd be happy to, Deborah. Can you folks  
2 in Juneau hear me, or Frank?

3 COMMISSIONER RUE: Yeah, I hear you.

4 CHAIR WILLIAMS: Can you push that microphone down  
5 just a little closer.

6 COMMISSIONER RUE: I hear you.

7 MR. ELISON: All right. There are two parcels that  
8 are related, both Native allotments, a total of 88 acres.  
9 They're right at the head of Three Saints Bay in a particularly  
10 scenic wilderness area. It's an area important for subsistence  
11 from, largely, the folks in Old Harbor. The Pestikof (ph)  
12 parcel, which is a 48-acre piece, is -- got values for pink  
13 salmon.

14 It's a very historic site, there are a lot of  
15 archaeological resources in the area, including on these  
16 parcels. The area, as I mentioned, is prime for wilderness.

17 I think that that's a concise summary. If you want  
18 more detail specifically, I can add those. Those are the key  
19 resources, as far as EVOS is concerned, that are being restored  
20 with these parcels.

21 COMMISSIONER RUE: What do these three parcels hook  
22 up with, or do they stand by themselves?

23 MR. ELISON: They are part of the lands acquired from  
24 Old Harbor. They're an integral part of that coastline and  
25 reflect all the values that the Old Harbor lands had.

CHAIR WILLIAMS: Okay. Any further discussions or

questions?

(No audible response)

1 CHAIR WILLIAMS: All right. Let us take a vote on  
the motion. All in favor, indicate by saying aye.

2 ALL TRUSTEE COUNCIL MEMBERS COLLECTIVELY: Aye.

3 CHAIR WILLIAMS: Opposed?

4 (No audible response)

5 CHAIR WILLIAMS: The motion passes.

6 The next action item is to have the Council accept  
7 the revised appraisal at Salamatof. And I need to see the  
8 figures in front of me. And that is with revised appraisal of  
9 \$1,810,000 for one parcel and -- let me see, the values are --  
10 for Parcel 1 -- yeah, and \$730,000 for Parcel 2, which  
11 represents an increase of \$220,000 from the original appraisal,  
12 and this is a result of a revised and approved appraisal.

13 Do I hear a motion to accept this revised appraisal  
14 amount as the basis of our negotiations -- or the basis of our  
15 offer?

16 MR. PENNOYER: I'll move that for discussion  
17 purposes.

18 CHAIR WILLIAMS: Okay. It's been moved by Mr.  
19 Pennoyer. Do I hear a second?

20 COMMISSIONER RUE: Second.

21 CHAIR WILLIAMS: Okay. Second by Mr. Rue.

22 MR. PENNOYER: Deborah, what is the total appraisal  
23 value, then, now that we're looking at?

24 MS. McCAMMON: 2.54.

25 CHAIR WILLIAMS: 3.54? Two-point --

MS. McCAMMON: 2.54.

CHAIR WILLIAMS: Excuse me, 2.54.

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MR. PENNOYER: That's as opposed to the 2.320 we had before?

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MS. McCAMMON: Yes.

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CHAIR WILLIAMS: Yes.

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MR. PENNOYER: And the revised appraisal was based on what, again?

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CHAIR WILLIAMS: Glenn, do you want to review what the concerns were and what the revised appraisal's based on?

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MR. ELISON: The revision is primarily attributed to a reduction in the cost of -- the estimated cost of developing roads to develop the property for its highest and best use, which is resale for small lot development. And that \$220,000 is -- principally covers that change in the estimated cost. So to restate it, it's simply a change in the estimated price to develop the land, the price being reduced for construction.

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CHAIR WILLIAMS: As the Council remembers, when we had our meeting in Juneau, this is an extraordinary piece of land, of course, right on the river and, you know, very, very valuable for habitat and for river restoration.

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MR. PENNOYER: And this revision in appraisal will get us where we what to go with the purchase?

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CHAIR WILLIAMS: Well, that's another question. Glenn?

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MR. ELISON: The indications we have from Salamatof are that they want considerably more than the appraised value, so this obviously moves us in the right direction significantly. I don't know, if presented with an offer, what their reaction truly would be. They are well aware of other

large parcel owners that are pushing to have the offers increased; they may just be testing the waters. I really can't say until we get to the point where there's an offer in front of them.

MR. PENNOYER: Okay. Thank you.

CHAIR WILLIAMS: Any further discussion on the motion?

(No audible response)

CHAIR WILLIAMS: Okay. Let us go ahead and take a vote. All in favor of the motion, indicate by saying aye.

ALL TRUSTEE COUNCIL MEMBERS COLLECTIVELY: Aye

CHAIR WILLIAMS: Opposed?

(No audible response)

CHAIR WILLIAMS: The motion passes.

The third action item is the designation of the recently nominated parcel, the Patson Parcel KEN 1934 on the Kenai River, as a parcel meriting special consideration. Do I hear a motion to that effect?

MS. BROWN: So moved.

CHAIR WILLIAMS: Been moved by Ms. Brown. Is there a second?

COMMISSIONER RUE: Second.

CHAIR WILLIAMS: Second by Frank Rue. Any discussion on this motion?

COMMISSIONER RUE: What does this action, then, lead us to next?

MS. BROWN: An appraisal.

MR. PENNOYER: Doing the appraisal?

CHAIR WILLIAMS: Yes. Doing an appraisal.

MR. PENNOYER: Is Frank -- Fish and Game supported this, but the letter from DNR is not -- doesn't lead to a lot of detail on what the merits are. Do you want to expound for a second on those?

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COMMISSIONER RUE: Steve, this is Frank. Actually, I have just gotten some of the information myself on this parcel. So I'm not.....

MS. McCAMMON: I have a little bit.

(Simultaneous Speech)

MS. McCAMMON: I have a little bit for you, Steve. The parcel has wetlands, which are intended to provide an undeveloped riparian buffer and, I guess, what's called a water recharge area. It was ranked as an 18, which is low on the ranking list, but it's right under the cutoff between lows and moderates. All of the other ranked 18 have ended up being parcels meriting special concern.

It has pink salmon, Dolly Varden, and recreation/ tourism benefits. It apparently has a year-around spring that flows through the property. It has not had any intensive recreational use and, therefore, provides an opportunity to manage potential human use in the future without having it already degraded to some fashion.

MR. PENNOYER: Okay. Thank you.

MS. McCAMMON: That's the primary benefits.

CHAIR WILLIAMS: Mr. Tillery?

MR. TILLERY: I'd just note that DNR has someone available by phone if any further information -- the ranger from that area is -- we have a number; they're available.

COMMISSIONER RUE: And this is Frank Rue. I can

get Mark Kuwada or someone to give you more information on it 13  
also.

1 MS. McCAMMON: The motion would be just to go forward  
2 with an appraisal; it would not be to take any action on it.  
3 It's no commitment other than that.

4 MR. PENNOYER: Sounds good.

5 CHAIR WILLIAMS: Any further discussion?

6 (No audible response)

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

9 ALL TRUSTEE COUNCIL MEMBERS COLLECTIVELY: Aye.

10 CHAIR WILLIAMS: Opposed?

11 (No audible response)

12 CHAIR WILLIAMS: Motion passes.

13 That takes us to the next item on the agenda, Eyak  
14 Core Parcel Lands. Phil?

15 MS. McCAMMON: Before we.....

16 CHAIR WILLIAMS: Oh.

17 MS. McCAMMON: Before we leave small parcels.....

18 CHAIR WILLIAMS: Ms. McCammon, you have something  
19 else?

20 MS. McCAMMON: Yeah. There was one other item we  
21 just wanted to bring to the attention of the Council, and  
22 that's on Termination Point. The Council has included  
23 Termination Point in its authority to go forward with an  
24 appraisal, and that was done last February.

25 However, when we started looking the cost of an  
appraisal, since there's commercial timber on the parcel, which  
is right outside of Kodiak, and there was still some concern

about the title of this parcel, we kind of made a decision last<sup>14</sup>  
spring not to go forward until the whole title issue was  
clarified.

1           Since that time, Alex Swiderski, with Department of  
2 Law, and the landowner have been meeting and believe that they  
3 have worked out some kind of a solution that would allow us to  
4 go forward with the appraisal and then, if the Council chose to  
5 approve the purchase, to actually make some kind of a  
6 commitment.

7           And, Alex, maybe you could describe that in a little  
8 more detail.

9           MR. SWIDERSKI: What we would propose -- this is Alex  
10 Swiderski. What we would propose to do is move ahead with the  
11 appraisal. It would not be as expensive -- obviously, it is  
12 timber, and it would be more expensive than some of these  
13 appraisals. It would not be like the other -- the large parcel  
14 appraisals in that it's road accessible from Kodiak, so it  
15 should be fairly modestly priced.

16           And completing the appraisal, if we are able to, the  
17 Council approves, we would make an offer to Lesnoi, the owner  
18 of the property, contingent upon their being able to establish  
19 clear title to the property by prevailing in the ongoing  
20 litigation. If they fail in the litigation, which attacks  
21 their very existence, the offer would be withdrawn. And  
22 because they would not end up owning the land, the land would  
23 presumably go back to the Department of Interior, Bureau of  
24 Land Management.

25           During that interim period, from the time there is an  
offer and an acceptance, we have discussed holding the funds in

an interest-bearing escrow account. And then at such time as the litigation is resolved, if Lesnoi prevails, the funds would be conveyed to Lesnoi and the land would be conveyed to the State. And if not, the funds would be returned to the Trustee Council coffers, and the land -- I'm not sure what would happen to the land at the point, but presumably, it would be returned to the United States.

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And I don't think that the Council needs to take any action particularly, but before moving ahead with the authorization that the Council provided a year ago, we wanted to bring this to your attention.

MR. PENNOYER: Alex, we're not able to hear you.

MS. McCAMMON: What part?

MR. SWIDERSKI: What, all of it?

MR. PENNOYER: Well, just the last minute or so.

MR. SWIDERSKI: Okay. I think the Council, a year ago, authorized the appraisal, so there's no need for further authorization. On the other hand, because of the cloud that has existed on title, and continues to exist on the title to the land, it certainly, I think, is appropriate to bring to your attention and to not proceed with an appraisal if there is an objection to proceeding with the appraisal at this time.

MR. PENNOYER: What's the risk that we're looking at here of there being a problem with getting the title cleared up?

MR. SWIDERSKI: Well, the risk is that -- the financial risk is that if we were to conduct an appraisal and then learn that Lesnoi did not have title to the property, the Council would have expended funds for an appraisal that it

would not need to have expended.

1 I'm not in a position to evaluate the merits of  
2 litigation. I do know that there has been a great deal of  
3 political attention to this, and Lesnoi represents to me that,  
4 if necessary, they would be able to -- they have the ability to  
5 go to Congress and persuade Congress to fix the problem by  
6 recognizing Lesnoi and recognizing their right to this parcel  
7 of land.

8 MR. PENNOYER: Yeah. Given the price of appraisals,  
9 I think we ought to be cautious.

10 CHAIRMAN RUE: Yeah.

11 CHAIR WILLIAMS: How much do we assume this will cost  
12 to appraise?

13 MR SWIDERSKI: I don't know. I mean, I would imagine  
14 it's in the five to fifteen thousand dollar range.

15 CHAIR WILLIAMS: Craig?

16 MR. TILLERY: The concern I had before on going  
17 forward with the appraisal, even though it was authorized, was  
18 that we could appraise the land, spend that money, and then  
19 this thing could sit there going through the courts for five  
20 years; the appraisal becomes stale, and we have to reappraise  
21 it.

22 What's new now is that if the Council thinks that it  
23 would probably be willing to enter into a deal -- once we do an  
24 appraisal, we get a number, we would be willing to enter into  
25 an arrangement contingent upon their getting clear title, then  
that takes care of that concern because we can go ahead and  
enter into the deal. We can base it on the existing appraisal.

And that's why I think the situation -- if they're

agreeable to that and we think we're agreeable to that, then I<sup>17</sup>  
think it's worth the risk of going forward and doing the  
appraisal now. Because one thing, you gets this land kind of  
locked up. Right now, they have the right to move forward with  
whatever they want to do, and this will, in essence, be kind of  
putting -- we're sort of renting it or buying it, or least  
we'll be putting something.....

MS. McCAMMON: First option.

MR. TILLERY: .....an option on it, yeah. So that --  
to my way of thinking, I think it's worth going ahead and doing  
the appraisal. It's a relatively small amount; it's only a  
thousand acres; and it is on the road system in Kodiak.  
There's no helicopters involved and that sort of thing. I  
think we should move forward with it.

Now, if the Council believes they would be willing to  
enter into this kind of contingent deal. If you don't, then I  
don't think we should do it at present.

CHAIR WILLIAMS: Alex, did you, or Craig, did you  
talk to Barry Roth about this, by any chance?

MR. SWIDERSKI: Yes.

CHAIR WILLIAMS: And he was okay?

MR. SWIDERSKI: Yeah. Well, he was comfortable with  
the concept of it, and I don't think he saw a legal problem  
with it.

CHAIR WILLIAMS: Okay. Again, I don't think we have  
to take an action because we've already authorized the  
appraisal. The question's just whether any Trustee Council  
member has a strong objection in going forward at this point.

(No audible response)

CHAIR WILLIAMS: Okay. Hearing no strong objection,<sup>18</sup>  
I think we can go forward at this point.

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COMMISSIONER RUE: I have a quick question on small  
parcels.

CHAIR WILLIAMS: Yes, Frank.

COMMISSIONER RUE: On several of the ones that we've  
acquired, such as Kobylarz and Coal Creek and Girves, kind of a  
question. Before we accept title, will we make sure that  
there -- the language in the title protects the habitat values  
that we purchased it to protect? That's happening? Is that  
the standard?

CHAIR WILLIAMS: Craig?

MR. TILLERY: It's hard. What we've done in the  
large parcels is we've put restrictive covenants. We've given  
conservation easements to the other government, and we've put  
restrictive covenants in the deeds. That's because the  
landowners, being fairly large corporate entities, have an  
interest, and they're selling us this land because they want it  
to remain pure or pristine, whatever. And the other government  
has an interest.

In the small parcels, we really don't think it's been  
generally worth the trouble of having these conservation  
easements in the other government. And to put a covenant in  
the deed and ask, you know, an 80-year-old landowner, you know,  
to think that he's going to enforce it at a later date is not  
very realistic. So it's pretty hard to tie it down through the  
deed process.

MS. McCAMMON: But has it been tied down sufficiently  
through the resolution process? For adopting.....

MR. TILLERY: Well, it's in the resolution process, 19  
but it's not -- I don't know. None of these are tight like the  
large parcels.

1 CHAIR WILLIAMS: I didn't know that. I thought we  
2 had this discussion. That's very -- that's, to me, very  
3 disconcerting because, clearly, these are very valuable pieces,  
4 and what we wouldn't want to see happen is the State  
5 legislature saying, 'Yee haw. The hit will take \$4.6 million  
6 out of our budget deficit. We'll sell these.'

7 Is there anything now that prohibits the legislature  
8 or DNR from selling these for commercial development?

9 MR. TILLERY: They couldn't sell.....

10 MR. SWIDERSKI: Well, I guess they could sell them,  
11 and we would be -- I mean, we've always been perfectly willing  
12 to have a covenant that you can't sell, but the United States  
13 is unwilling to do that.

14 (Pause - Side comment)

15 MR. TILLERY: We've been through this on all the  
16 parcels. We've tried to have that, and you guys say -- you  
17 take a position that you can't put a restriction on alienation.

18 MR. WOLFE: Deborah, this is Jim. You know, I guess  
19 this does raise the question of how do we ensure that we're --  
20 the properties -- I know they're small, but how do we ensure  
21 they're going to be managed, for the long-term, for restoration  
22 purposes without something? And maybe that's what Frank was  
23 getting at.

24 CHAIR WILLIAMS: Oh, it is, and I was proceeding  
25 blithely under the assumption we were putting some protections  
on these.

MS. McCAMMON: I thought that's why we had all that language in the resolution to that effect.

MR. WOLFE: That's right.

COMMISSIONER RUE: I guess I would like to make sure we.....

MR. SWIDERSKI: There's language in the resolution, but that is.....

MS. BROWN: That's not legal protection.

MR. SWIDERSKI: .....the protection.....

(Simultaneous speech)

MS. McCAMMON: But that's not binding?

MS. BROWN: That's not legally binding.

MR. SWIDERSKI: No. It's not binding, no. I mean, it's not finally legally binding.

MR. WOLFE: I sort of feel pressed for time today, and I'm not sure if we can resolve it, but it sure is an important -- for me, it's a significant issue on some of these parcels.

CHAIR WILLIAMS: Yeah, it is.

MR. TILLERY: It's more significant to me on something like Termination Point or KNA. I mean, the Tulin property and some of those are not as -- some of the smaller ones I'm not as concerned with. On the big ones, it's.....

MR. WOLFE: We should each get to pick our favorite.

MR. TILLERY: Well, it's my.....

MR. WOLFE: I like Coal Creek a lot.

MR. TILLERY: Well, it's the size and the potential usage of them, I would say. Like Termination Point, a timber parcel.

COMMISSIONER RUE: Right. But right on the Kenai River, the values at risk may be just humongous. So.....

MR. SWIDERSKI: That's right.

CHAIR WILLIAMS: Well, if we could have Alex and Barry and Gina and Craig, or some combination of folks, think about this some more. When questions have -- have these actually, at some point, been sort of accepted by the State? Maybe there's something in the acceptance or something. If you could be as creative as possible, I'd sleep better.

(Side comments)

COMMISSIONER RUE: You're asking that before we take.....

CHAIR WILLIAMS: Yeah. Before we take them.

COMMISSIONER RUE: We get a resolution to this issue?

CHAIR WILLIAMS: Right. Well, thank you for bringing that up, Frank.

COMMISSIONER RUE: Does that require a motion or anything to direct.....

CHAIR WILLIAMS: Yeah. Yeah. Go ahead and make a motion.

COMMISSIONER RUE: I guess for the sake to make -- I mean, I don't want to do something that's impossible, but I would move that before we accept title to the small parcels, we decide how to ensure -- or whether to ensure -- whether there's a mechanism to ensure that the parcels are maintained for the purposes of restoration.

CHAIR WILLIAMS: Do I hear a second to that motion?

MS. BROWN: Second.

MR. PENNOYER: Second.

CHAIR WILLIAMS: Seconded by Michele first, Steve,  
but thank you. Any further discussion on the motion?

(No audible response)

CHAIR WILLIAMS: Okay. All in favor, indicate by  
saying, aye.

ALL TRUSTEE COUNCIL MEMBERS COLLECTIVELY: Aye.

CHAIR WILLIAMS: Opposed?

(No audible response)

CHAIR WILLIAMS: Motion passes. Thank you, Frank.

(Side comment)

CHAIR WILLIAMS: All right. Anything else on small  
parcel?

(No audible response)

CHAIR WILLIAMS: What I think we might do because of  
Frank's 3:00 o'clock commitment, let's move very quickly to  
technical amendment to Shuyak resolution because we need a vote  
on that. And if someone can explain that very quickly so that  
we could vote on that, and then we can go back to Core Lands.  
Who wants to do that?

MS. BROWN: Alex. Craig?

CHAIR WILLIAMS: Craig? Alex? Craig?

MR. TILLERY: The -- we're getting -- we're coming  
close to closing on the Shuyak deal. The Kodiak Island Borough  
is going to be using the money from that to move forward with  
the Fish Technology Center. They're in the process of taking  
contracts out; they would like to have the money sooner rather  
than later.

In the original proposal -- in the original  
resolution, we asked the Department of Justice and the

Department of Law to get the money from the court, conditioned upon certain things happening. There were some conditions that had to be fulfilled, and there had to be a certification from the Executive Director that the conditions had been fulfilled.

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What that means is that we go through that process, we get that done, then we take the ministerial task of asking the court for the money, and that takes another two to three weeks. It just sort of depends on how things work out in the schedules of the vario- -- of the court works out.

What -- rather than working on one track and doing this thing sequentially, what we're asking to do is, like we've already done AKI and Old Harbor once, is to move on parallel tracks, allow us to go ahead and do the -- and get the money from the court now. It would go into the State trust fund where it essentially would earn more interest than if it stayed in the court registry. But we wouldn't expend it or close until all of those conditions and certifications had been made.

So the money would still stay where it could be retrieved if the deal didn't go through or if the certif- -- conditions were never fulfilled or so forth, but it would allow us to move this thing forward two or three weeks, which would be an accommodation to the Borough and I think would, in essence, push forward some of things the Council wants to do.

CHAIR WILLIAMS: Okay.

MR. TILLERY: And that's what this resolution does.

CHAIR WILLIAMS: Do I hear a motion to accept the resolution?

MR. TILLERY: I move.

CHAIR WILLIAMS: So moved by.....

CHAIR WILLIAMS: . . . .Mr. Tillery. Seconded by Ms. Brown. Discussion on the motion? Alex? Gina?

1 MS. BELT: I think the Trustee Council members should  
2 just simply be aware that DOJ is still looking at this  
3 resolution and means for getting the money available early and  
4 clearing up any concerns we have about doing that.

5 As you probably know, one of the things we have to do  
6 is waive title standards, and at this point, we're a little  
7 reluctant to go to the court before that's done. But we also  
8 want to assure ourselves that there is a mechanism for getting  
9 the money back in the -- what I believe is the unlikely event  
10 that there is some condition unfulfilled.

11 MR. WOLFE: Gina, you're cutting out on us. Is  
12 Justice going to be okay with this provision or. . . .

13 MS. BELT: The long and short of it, Jim, is that I  
14 think, between Alex and Craig and Barry and me, next week we  
15 should probably be able to resolve this issue.

16 MR. WOLFE: Okay.

17 MR. SWIDERSKI: And I think that that means Justice  
18 is okay with the resolution and moving ahead with the  
19 resolution.

20 MR. TILLERY: But they may still come back and say,  
21 'We refuse to go get the money.'

22 MR. SWIDERSKI: Right.

23 MR. TILLERY: I guess I would like to make it clear  
24 that the sense of the resolution is that obtaining the waiver  
25 of title standards is one of the things that has to be done  
before we get the money. We're not trying. . . .

MR. SWIDERSKI: And then the.....

MR. TILLERY: .....to bypass that.

1 MR. SWIDERSKI: Right. And that's -- I mean,  
2 that's.....

3 MR. TILLERY: The sense of that.

4 MR. SWIDERSKI: .....explicitly in -- it's in the  
5 resolution in that it references the purchase agreement.....

6 MR. TILLERY: Yeah, and it somehow.....

7 MR. SWIDERSKI: .....which requires that.

8 MR. TILLERY: I just want to make sure that we don't  
9 have to come back and have another meeting to do another  
10 resolution to say that. It's in here. It's intended that that  
11 covers that.

12 CHAIR WILLIAMS: Molly?

13 MS. McCAMMON: Madam Chair, I mean, if Justice's  
14 concern that was expressed was a concern about being able to  
15 get the money back, if you go to the court for the money, the  
16 court gets -- the money gets put into the State account. If,  
17 for some reason, this deal doesn't go forward, does the State  
18 have the mechanism to actually transfer it back to the CRIS  
19 account, or would you merely leave it there and then deduct any  
20 future work plan.....

21 MR. TILLERY: We could do either.....

22 MS. McCAMMON: .....expenditures.....

23 MR. TILLERY: .....and typically we.....

24 MS. McCAMMON: .....off of it?

25 MR. TILLERY: .....would leave it in there and deduct  
future expenses from it, as we and the federal government have  
done on many occasions.

MS. McCAMMON: Have done in the past?

MR. TILLERY: Yes.

MS. McCAMMON: So there really.....

MR. TILLERY: This is a.....

MS. BELT: Well, that was explained to me about an hour before this meeting, and I want to look at the financial operating procedures again to assure myself that's the case. So I don't think there's an issue on that.

MS. McCAMMON: Okay.

MS. BELT: But there is this other issue about the title waiver.

MS. McCAMMON: Okay. And actually, the interest in the State account is comparable to the interest in the CRIS account, so it's about the same. It would be earning interest about the same amount in either account.

CHAIR WILLIAMS: So, Gina, do you recommend any modifications to the resolution as written now?

MS. McCAMMON: You may not have the most recent version. Just.....

MR. SWIDERSKI: Well, Gina's.....

MS. BROWN: Well, I think Alex just gave it to me.

(Pause - Whispered comment)

MS. BELT: Alex, I thought we had talked about some language to the effect that no funds may be expended until the conditions were satisfied. Right now, it says the funds may be paid to KIB at the time of closing.

MS. McCAMMON: And only after the terms and conditions were met.

MR. SWIDERSKI: Right. But that -- doesn't that

capture the language, after the terms and conditions.....

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MR. PENNOYER: Yeah, it's covered in the.....

MR. SWIDERSKI: .....in paragraphs (a) through (d) of  
1 the resolution and (a) through (c) and the purchase agreement?

(No audible response)

MR. SWIDERSKI: Maybe I misunder-.....

MS. BELT: Well, I guess without having seen the  
2 financial operating procedures, I'd have to take it on faith  
3 that you couldn't -- that you can use it, you could use the \$8  
4 million for other purposes than this transaction.  
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MR. SWIDERSKI: No.

MS. McCAMMON: No.

MR. SWIDERSKI: We could use up to \$25,000.....

MS. McCAMMON: No.

MR. SWIDERSKI: .....of it.

MS. BELT: Oh. Okay.

MR. SWIDERSKI: For other authorized activities.

MS. BELT: Okay.

MR. SWIDERSKI: But beyond that, you would need  
8 specific authority from the Council to use it.  
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MS. McCAMMON: Right.

MS. BELT: Okay. And so that's why I thought earlier  
11 today you were suggesting that this sentence that starts at the  
12 very bottom of page 1, "The funds may be paid to KIB...." be  
13 changed to, "No funds may be expended by the State until...."  
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MR. SWIDERSKI: We talked about that. I didn't.....

MS. BELT: Okay.

MR. SWIDERSKI: .....realize that you actually wanted  
17 me to include that. We can make.....  
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MS. BELT: Oh. I thought you had proposed the change, so.....

MR. SWIDERSKI: We can certainly do that.

1 CHAIR WILLIAMS: Okay. If we make that change, Gina,  
2 you'll feel comfortable with the resolution? Okay.

3 MS. BELT: I'm not a party to the resolution but.....

4 CHAIR WILLIAMS: Right.

5 MS. BELT: .....yeah, I'm having.....

6 CHAIR WILLIAMS: Okay. Okay. We will -- and, Alex,  
7 you feel comfortable making that change; correct?

8 MR. SWIDERSKI: Sure.

9 CHAIR WILLIAMS: Okay. Okay. The change -- I don't  
10 know if everyone has it in front of them, but it's at the  
11 bottom of page 1, at least in the most recent draft, the  
12 sentence that starts with, "The funds may be paid to the KIB at  
13 the time closing.....," that will be struck, and it will say  
14 something like, "The State cannot...."

15 MR. SWIDERSKI: No funds may be expended.

16 CHAIR WILLIAMS: "No funds may be expended by the  
17 State until after the terms," and then we kick into the --  
18 okay. All right.

19 Friendly amendment to the motion, I assume, to the  
20 people who made and seconded the motion? Any further  
21 discussion about the resolution?

22 (No audible response)

23 CHAIR WILLIAMS: We'll take a vote. All those in  
24 favor of the resolution as amended, indicate by saying aye.

25 ALL TRUSTEE COUNCIL MEMBERS COLLECTIVELY: Aye.

CHAIR WILLIAMS: Opposed?

CHAIR WILLIAMS: Okay. Thank you. Let's then go back to Eyak Core Lands. Phil?

1 MR. JANIK: Yes, Madam Chair. What I would like to  
2 do is simply, for the record -- the public record, describe  
3 what actions will be in motion here over the next several days  
4 in terms of preparing a Trustee Council offer to Eyak  
5 Corporation for purchase of Eyak Core Lands.

6 In Executive Session, and that discussion in the  
7 Executive Session took place as a result of a recent meeting  
8 that occurred between Board members of Eyak Corporation and  
9 several of the Trustee members and the Executive Director  
10 regarding the mutual desirability of reinitiating discussions  
11 on possible purchase of the Eyak Core Lands by the Council.

12 Conceptually, that was discussed during the Executive  
13 Session, and what is going to be happening over the next few  
14 days is that there will be a formal offer prepared that will be  
15 ready for presentation to Eyak Corporation sometime next week.

16 (Side comment)

17 MR. JANIK: Yeah, obviously subject to presentation  
18 and approval of the Council members.

19 The conceptual nature of the discussion during the  
20 Executive Session will now get further refined in preparation  
21 of that offer and submission back to the Council with the  
22 specifics and conditions of the offer as well as the actual  
23 dollar amount. And again, sometime next week is the target  
24 date for preparation completion and presentation to the Council  
25 of that paperwork.

Madam Chair, I don't know if there's any more we can

say about this at this time, other than that the Council is very interested in pursuing a purchase, as long as that purchase meets the conditions, of course, in the judgment of the Council, as being reasonable and appropriate.

CHAIR WILLIAMS: Very good, Mr. Janik. Any further discussion about Eyak Core Lands?

(No audible response)

CHAIR WILLIAMS: All right. Anything else that the Council wishes to raise at this time?

MR. SWIDERSKI: Molly, do you want to.....

MS. McCAMMON: I need more information.

MR. SWIDERSKI: Okay.

MS. McCAMMON: We'll do it next week.

Madam Chair, the only thing I would like to note is that the long-term investments for the reserve account were made a week ago Thursday.

CHAIR WILLIAMS: Good.

MR. TILLERY: (Laugh) Congratulations.

CHAIR WILLIAMS: Yes, congratulations. Anything on the audit, Ms. McCammon, you'd like to.....

COMMISSIONER RUE: Madam Chair?

CHAIR WILLIAMS: Yeah.

COMMISSIONER RUE: If you don't mind, I have to.....

CHAIR WILLIAMS: Yes.

COMMISSIONER RUE: .....go to another.....

CHAIR WILLIAMS: Mr. Rue, that's fine.

MR. PENNOYER: Madam Chair, I do too.

CHAIR WILLIAMS: Okay, Mr. Pennoyer. Thank you.

MR. PENNOYER: Thank you.

CHAIR WILLIAMS: And we'll talk to you Tuesday or Wednesday. All right. I will entertain a motion to recess this meeting of the Trustee Council until next Tuesday or Wednesday, at which time we will address Eyak Core Land issues in more detail. Do I entertain a motion to recess?

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MR. JANIK: Phil Janik. So moved.

MS. BROWN: Second.

CHAIR WILLIAMS: Thank you, Phil. Second by Ms. Brown. It's been moved and seconded to recess until next Tuesday or Wednesday. All in favor, indicate by saying aye.

ALL TRUSTEE MEMBERS COLLECTIVELY: Aye.

CHAIR WILLIAMS: Thank you very much. Have a good weekend everyone.

MR. JANIK: You too.

(Whereupon, the proceedings in the above-entitled matter were recessed at 3:09 p.m.)