

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRUSTEE COUNCIL MEETING
Friday May 31, 1996
1:00 o'clock p.m.

645 G Street, Suite 401
Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

STATE OF ALASKA - DEPARTMENT OF FISH AND GAME: MR. FRANK RUE (Chair)
Commissioner

U.S. DEPARTMENT OF THE INTERIOR: MS. DEBORAH WILLIAMS
Special Assistant to the
Assistant Secretary

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

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

U.S. DEPARTMENT OF COMMERCE - NMFS: MR. STEVE PENNOYER
Director, Alaska Region

STATE OF ALASKA - DEPARTMENT OF ENVIRONMENTAL CONSERVATION: MR. ERNIE PIPER,
for MICHELE BROWN,
Commissioner

TRUSTEE COUNCIL STAFF PRESENT:

1 MS. MOLLY McCAMMON Executive Director
EVOS Trustee Council

2 MR. ERIC MYERS Director of Operations
EVOS Trustee Council

3 MS. REBECCA WILLIAMS Executive Secretary
EVOS Trustee Council

4 MS. GINA BELT U.S. Department of Justice

5 MR. JOHN HARMENING U.S. Forest Service

6 MR. DAVE GIBBONS U.S. Forest Service

7 MR. RAY THOMPSON U.S. Forest Service

8 MR. BUD RICH National Park Service

9 MR. ALEX SWIDERSKI State of Alaska,
Department of Law

10 MR. JOE SULLIVAN State of Alaska,
Department of Fish and Game

11 MR. ROY JONES Washington, D.C.

	PAGE
PUBLIC TESTIMONY	
MS. ELEANOR HUFFINES	14
MS. NICOLE WHITTINGTON-EVANS	17
MR. PAUL ROETMAN	19
MR. JACK HESSION	20
MR. GARY PATTON	37

22 Proceedings recorded by electronic sound recording. Transcript
23 produced by transcription service.

(Tape No. 1 of 1)

(On record at 1:10 p.m.)

MR. PENNOYER: Kodiak and Seward are on the line.

CHAIRMAN RUE: Okay.

MS. McCAMMON: We have here in Anchorage, we have Craig Tillery and Deborah Williams representing the Department of Law and Department of Interior. And Ernie Piper representing Department of Environmental Conservation.

CHAIRMAN RUE: Okay. Molly, would you like to begin taking us through the agenda then?

MR. PENNOYER: Yeah, formally for the record, Molly, we said that before, if you need that, if we're formally starting the meeting, we have three of the Trustee Council members, Phil Janik, Frank Rue, and Steve Pennoyer here in Juneau.

MS. McCAMMON: Thank you, Steve. The first item, I think everyone has an agenda before them, and the first item is approval of that agenda, Mr. Chairman.

MS. WILLIAMS: I move to approve.

MR. PENNOYER: Second.

CHAIRMAN RUE: Okay. It's been moved and seconded that the agenda be approved. Any discussion?

(No audible response)

CHAIRMAN RUE: Any objection?

(No audible response)

CHAIRMAN RUE: The agenda is approved.

MS. McCAMMON: Mr. Chairman, the second item on the

agenda is the report from the Chenega negotiators. And at this⁴
point, I would turn it over to John Harmening and Dave Gibbons
in the Juneau -- at the Juneau site.

1 MR. JANIK: Mr. Chairman, this is Phil Janik. Just
2 as an introduction to this, what we would like the negotiators
3 to do is first describe the restoration values of the Chenega
4 parcel, and then talk about the features of the agreement at
5 hand, the recommendation that may be coming to the Council with
6 regard to a possible purchase this afternoon.

7 So if we could have the restoration values first and
8 then the description of the features of what has been
9 negotiated.

10 MR. HARMENING: Thank you, Mr. Chairman and Trustee
11 Board members. Well, we embarked on this journey over three
12 years -- almost three years ago now, in August. The road's
13 been long and bumpy and often intense. The proposed package
14 that we're bringing before you today we feel has a good
15 probability of being acceptable to the Chenega Corporation.

16 The lands and interest in lands to be acquired
17 generally sustained the highest level of injury, with residual
18 oil still persisting on many of the beaches. Now, Chenega has
19 often been referred to as ground zero, and the national -- or
20 the natural resources which have been used by the residents
21 over (cut out) purposes have yet to still fully recover.

22 The area is characterized by mountains, with the
23 lower slopes adjacent to the lakes and rivers forested with
24 old-growth Sitka spruce and hemlock. There are two parcels in
25 particular that have been identified as having some of the
highest restoration values in Prince William Sound, and these

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

are Jackpot and Eshamy Bays. Jackpot and Eshamy hold important sockeye salmon spawning and rearing habitat. They are key lands for sport fishing, commercial fishing, subsistence, and recreation in Prince William Sound and are of high value for a number of the injured resources.

Eshamy Bay has the highest population of cutthroat in Prince William Sound and is the northern and westernmost extent of the species range. Jackpot Bay has a large colony of pigeon guillemots immediately adjacent to the parcel. In the Eshamy and Jackpot areas are 22 anadromous streams, of which 2, the Jackpot and Eshamy, are major producers of sockeye salmon. The area has two major lake systems, which are also important to the anadromous fisheries of the area.

The Alaska National -- or the National Interest (sic) Conservation Act, or as we know it by ANILCA, §74 -- 704, required within three years after the passing of the bill, which was December of '83, a study with recommendations to the suitability or non-suitability of wilderness within Prince William Sound. The report was completed and was submitted to Congress and has not been acted on as of yet. However, the preferred alternative is contiguous to and surrounds most of the Eshamy and Jackpot areas.

The comprehensive evaluation process that was done by the HPWG folks earlier, there were 11 of the 19 injured resources that were evaluated to come up with the ratings were found on the Chenega lands. These included pink salmon, sockeye, cutthroat, Dolly Varden, bald eagle, black oystercatcher, harbor seal, harlequin duck, marbled murrelet, pigeon guillemot, river otter, recreation, tourism, services,

as well as the wilderness and cultural resources.

6

1 The high-value resources in the Eshamy/Jackpot area
2 are pink salmon, sockeye salmon, cutthroat trout, Dolly Varden,
3 bald eagle, black oystercatcher, harbor seal, harlequin duck,
4 pigeon guillemot, river otter, recreation, tourism, services,
5 wilderness, and subsistence. Eshamy Bay is also one of the
6 highest sockeye salmon-producing rivers in Prince William
7 Sound. Both Jackpot and Eshamy represent the northernmost
8 ranges for cutthroat trout. The Eshamy and Jackpot area has
9 important wintering lakes and support strong populations of
10 Dolly Varden as well as well as 14 documented eagle nests and
11 important feeding areas.

12 The area is an important breeding area and an
13 important over-wintering area for harlequin ducks. There's a
14 large colony of pigeon guillemots adjacent to the parcel.
15 Eshamy has high concentrations of river otters. There are
16 apparently high levels of recreation and increasing potential
17 within the area of being a destination of sport fishing for
18 nearby population areas. As mentioned earlier, the parcel is
19 an inholding within a proposed wilderness area. The areas also
20 have high value for subsistence use for the village of Chenega.

21 One of the things that I think here would be
22 appropriate to go over, what we have done in the past in terms
23 of just general acreages and compare them to where we started
24 out and where we have ended up.

25 Within the original negotiations, about the second
year out, we were into acquiring about 19,500 acres of fee
title land in the Eshamy/Jackpot area. Under the present deal
that we will propose to you today, it will be 37,868 acres of

fee title land, that land being all up north of Dangerous Passage.

1 In the older plan, there were 47,828 acres of
2 conservation easement with public access. Under the new
3 proposal that we are presenting, there's 19,437 acres. Under
4 the old proposal, there was 7,300 acres without public access,
5 and under the new proposal, there is around 3,300 acres that
6 will be of -- there will be no public access on it. This area
7 represents areas of south Chenega Island, which has a some
8 significant cultural implications to the people of Chenega.

9 Under the old proposal, there was almost 70,000 acres
10 involved; under the new proposal, there are a total of 60,605
11 acres that will be -- that we will gain interest in.

12 The specific proposal has -- where we're at right now
13 and what we have come up with and present to you today, it
14 includes all the Chenega lands of Dangerous Passage, which are
15 approximately 37,000 acres, will be purchased in fee title.
16 Out of that land, there will be three sites, or three
17 development sites, retained by Chenega. One development site
18 not to exceed 30 acres will be located in Eshamy Bay, one site
19 not to exceed 5 acres in Jackpot, and one site not to exceed 5
20 acres in Paddy Bay. There will also be 775 acres purchased in
21 fee on Knight Island at Hogan Bay. So that the total fee
22 simple interest to be acquired is 37,868 acres.

23 In conservation easements, all the remaining lands of
24 Knight Island, or approximately 4,205 acres, will have a
25 conservation easement with public access. It will exclude one
specific five-acre site for development in Thumb Bay, and there are some
specific one-and-a-half-acre shareholder homesites yet to be

specifically identified by Chenega.

1 On Chenega Island, everything on the north half in
2 Township 3 North, 8 East; 3 North, 7 East; and 4 North, 8 East,
3 of approximately 12,030 acres, will be in conservation
4 easement. Excluded will be some additional one-and-a-half-acre
5 shareholder homesites to be identified by Chenega. There will
6 be three development sites on the south end of Chenega Island,
7 not to exceed a total of 30 acres. These three sites are in
8 the area where public access has been retained by -- or where
9 access has been retained by the Chenega Corporation and is just
10 on the very south half, or the south third rather.

11 The proposal includes all the lands on Pleaides
12 Islands, Whale Bay, and Fleming Island, which amounts to an
13 additional 3,202 acres. One 5-acre development site has been
14 proposed to be withheld at Whale Bay on Fleming Island. The
15 total Chenega lands encumbered by conservation easements are
16 19,437 acres, with an additional 3,300 acres constituting a
17 timber-only conservation easement.

18 This new deal, one of the things you will note is
19 that -- or LaTouche Island has been dropped off. This island
20 is adjacent to and across from the Chenega village and
21 represents an area that they use and is close to the community
22 of Chenega. In the negotiations, when we came to some
23 difficulties in coming up with the final fees, this was an area
24 that was agreed upon to drop out.

25 Originally, there was an approved appraisal completed
for the Trustee Council which determined that the fair market
value of the fee and conservation easements in the lands to be
acquired was \$8,854,400. This value was based upon the highest

and best use of the lands for recreation. Although the 9
appraisal estimated a value for the timber inventory located on
the land as \$56,000,000, it was concluded by the appraiser that
1 the total production costs to remove the timber could amount to
2 as much as \$53,000,000.

3 Based on this analysis, it is unlikely that an
4 independent party would have currently bid on this timber.
5 Accordingly, the appraisal did not consider the value of the
6 commercial timber rights to be the highest and best use of the
7 land, and it didn't reflect a commodity value for the timber
8 located on the lands.

9 While it isn't reflected in the appraisal, the timber
10 located on the lands does represent a significant economic
11 value to Chenega. In addition, Chenega is the joint venture
12 partner of Koncor Forest Products Company, a Native-owned
13 timber company in Alaska. Chenega has generally pledged its
14 timber assets located on the lands to the partnership in return
15 for an interest of ownership of Koncor. This ownership
16 interest has and continues to generate a substantial net income
17 and cash flow to Chenega.

18 In order to sell the land with the timber locate on
19 the lands as part of the Trustee Council Habitat Protection
20 Program, the Koncor partnership agreement requires Chenega
21 withdraw from the partnership, thus requiring Chenega to forego
22 the stream of income from the potential value increase in
23 Koncor. Chenega has indicated that it can only justify a sale
24 through its shareholders if they're fully compensated for all
25 their economic values associated with these timber assets, and
which they would have to forego as a result of the sale.

Chenega has also asserted that the appraised market 10
value does not fairly compensate it for the lands, which
represent the majority of the land selections received pursuant
to ANCSA. Because the purpose of ANCSA include providing local
residents both the opportunity to maintain their traditional
way of life and their economic viability and self-sufficiency
from these lands conveyed, Chenega has indicated it will only
sell the lands if these objectives are maintained and achieved.

Generally, it is the federal and state government
practice to acquire lands and interests at appraised fair
market value. However, Chenega has firmly rejected the Trustee
Council to acquire lands at the appraised value. Lacking a
means to otherwise acquire the lands in the absence of the
usually agreed-to price, the Trustee Council and the
negotiators have been faced with the choice of foregoing the
acquisition or negotiating an acquisition price in excess of
the appraised value.

Recognizing the above-discussed benefits for
restoration as well as substantial public support for the
acquisition, it is concluded that the latter option is
preferable. The negotiators have been working with Chenega in
an attempt to reach a mutually agreed-upon price in excess of
the appraised value that is reasonable.

Based on these negotiators (sic), the negotiators
recommend to offer to purchase lands from Chenega for a total
price of \$34,000,000 in one lump sum payment or, alternatively,
a total sum of \$36,000,000 paid as follows: \$20 million at
closing, \$3 million in one year later, and \$13 million in two
years later.

The negotiators believe this offer represents a reasonable price given the substantial benefits for the restoration of the injured natural resources and related services in one of the most heavily damaged areas. And the fact that there is some incremental value from the land due Chenega Corporation in the future out years, depending on the timber market and the present cash flow enjoyed by the Corporation from their joint venture, which they will have to forego.

It was our perception in negotiating this proposal that Chenega will have to be adequately compensated if we are to consummate a deal. Consequently, the proposal as stated above is -- we recommend be accepted by the Trustee Council.

MR. PENNOYER: Mr. Chairman?

CHAIRMAN RUE: Yes.

MR. PENNOYER: Just a point of clarification before we go on here. Mr. Harmening did use the word "offer" in his presentation when he referred to the numbers. That, at this point, represents, as I know was intended, a recommendation to the Trustee Council, not a formal offer. It's the Trustee Council that will decide to do that or not.

Thank you, John.

CHAIRMAN RUE: Thank you, John. At this point, we've heard the presentation. Are there questions from Council members?

(No audible response)

MS. McCAMMON: None here in Anchorage.

CHAIRMAN RUE: Okay. Molly, are we going to ask for public comments, then, on this?

MS. McCAMMON: I think this is an appropriate time to
hear public comment.

1
2
3
CHAIRMAN RUE: Okay. That'd be great if there are no
questions then. How many -- Molly, how many sites do we have
on line for public comment?

4
5
6
MS. McCAMMON: We have Seward and Kodiak, I believe,
on line at this point. I'm not sure if anyone there is --
wants to testify. And we have a number of people here in
Anchorage who would like to testify.

7
8
9
10
CHAIRMAN RUE: Okay. Why don't we -- I'll ask
around. Seward and Kodiak need to let us know if there --
could you let us know if there are people in Seward and Kodiak
who would like to testify?

11
12
KODIAK MODERATOR: Kodiak has no one to testify.
Thank you.

13
14
CHAIRMAN RUE: How about Seward?

15
SEWARD MODERATOR: Seward has observers only.

16
17
CHAIRMAN RUE: Okay. So is there anyone here in
Juneau?

18
(No audible response)

19
20
CHAIRMAN RUE: No, I don't think so. So really, the
public is in Anchorage. Molly, would you like to ask them, the
people there, to come up and testify?

21
22
23
24
MS. McCAMMON: Yeah. Mr. Chairman, with your
permission, I'll just go through the list here. We have
Eleanor Huffines, representing the National Outdoor Leadership
School.

25
CHAIRMAN RUE: Okay. That'd be great. Eleanor?

MS. HUFFINES: Is it better to come near the

MS. McCAMMON: Yes, right here.

CHAIRMAN RUE: Eleanor, could you spell your last name for the record, please?

MS. HUFFINES: Sure. It's H-u-f-f-, as in Frank, -i-n-e-s, as in Sam.

PUBLIC TESTIMONY OF MS. ELEANOR HUFFINES

And as Molly said, I work for the National Outdoor Leadership School, which is a wilderness education program that's been operating kayaking courses on Prince William Sound since 1972. And I'm also speaking on behalf of AWRTA, the Alaska Wilderness, Recreation, and Tourism Association, and I'm a Board member for that organization.

And originally, I'll say this is a very chaotic time of year for most outfitters and guides, but so I'm not -- no, there are not many of us here, but it's important to recognize that there are over 30 businesses in our organization that operate in Prince William Sound that have expressed, through me, some concerns and some excitement for this acquisition.

And I'm not -- you know, I will say that, one, we'd like to -- I'm here to support the habitat acquisition and to further emphasize what an important tool we think it is in all of Prince William Sound in an oil spill area. And I think our one concern over the years has been Prince William Sound and actual extensive damage. And the presentation a few minutes ago outlined all the injured resources, and the value of those resources, and so I won't reiterate that, and just give you my perspective, as a recreationalist and an outfitter and guide, what the value of the Chenega land has to offer.

We are -- at NOLS are fortunate enough to have a permit with Chenega currently, and have had the opportunity to go down and -- and just spend some time on that land. And I could point out where we go, 'cause that will illustrate -- and let me know if I'm too far away for them to hear me -- the importance of the land. By recovering the injured resources, you also allow the outfitters and guides that have been displaced by the oil spill to travel south and west in Prince William Sound.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

And this area traditionally has offered the most remote, most positive wilderness experience for 25 years of students, and for a number of reasons. One, because of the mountain resources that have been listed, and two, because of the distance from Whittier and Valdez and Cordova. But what you encounter when you're an outfitter and guide, if you don't have a permit, is you come around perhaps an island, you have to go, and there's nowhere to stop. And that creates a pretty significant safety problem. And you can't come out to Knight Island, traditionally, because of Knight Island Passage and some of the tour boats and cruise operators, and the length of the crossing.

And so from a recreational perspective, the Chenega lands offer a really significant piece of the puzzle in order to sustain that area for guiding and outfitting. So it's -- but I don't want to emphasize the value of the land just from an economic business perspective, but also just the quality of the resources that we experience and our students experience when we're down there. And while we are permitted, I still feel like, as an AWRTA business member, that the value of the

land is important for all Alaskans and not just those who are 15
fortunate enough to have an individual relationship with
Chenega.

1 So I reiterate our support from AWRTA and from NOLS
2 for the acquisition. And any information people are interested
3 in knowing about specific parcels from my camping experience
4 over 25 years down there, I'm happy to offer that at another
5 time. So thank you.

6 CHAIRMAN RUE: Thank you. Were there any questions
7 from Council members of Ms. Huffines?

8 (No audible response)

9 CHAIRMAN RUE: No. Any in Anchorage?

10 MS. McCAMMON: No.

11 CHAIRMAN RUE: Okay. Thank you very much.

12 MS. McCAMMON: Next we have Nicole Evans.

13 PUBLIC TESTIMONY OF MS. NICOLE EVANS

14 Hello. My name is Nicole Evans, and I'm here to
15 testify on behalf of the Alaska Center for the Environment and
16 also the Alaska Rain Forest Campaign. And I am glad to be here
17 on this day and hope that a positive deal will be able to go
18 through.

19 I want to state that both the Alaska Center for the
20 Environment and the Rain Forest Campaign strongly support the
21 efforts of the Trustee Council to acquire Chenega lands. These
22 are some of the highest ranked parcels, as has already been
23 said today, in the spill region, and we feel very strongly that
24 this would be a good-faith effort in trying to mitigate some of
25 the injuries that many people that we are in contact with on a
regular basis have felt since the spill.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I think the public has demonstrated very strong support for acquisition of these lands in past comments and also in recent comments that have been made and phone calls, certainly, that I've received. Many people are waiting for a deal of a large-parcel acquisition to occur within the spill region.

The Rain Forest Campaign and the Alaska Center for the Environment view this as a win/win scenario. It's a win for the Native corporation, who is a willing seller in this case, it's a win for the environment, and it's a win for the general public, particularly recreationists, subsistence users, sport fishers and hunters, and commercial fishers, among many others. The fish and wildlife habitat that will be protected as a result of this potential transaction will serve to maintain some of Prince William Sound's most important resources.

Lastly, I would like to say that Chenega lands represent a unique and priceless treasure which reach much beyond the monetary valuation of the land. And I want to make that point very strongly. There's a lot involved in these deals, and we recognize that. And for those of us in the conservation community, we feel strongly that some of the intrinsic values which cannot be reflected within, say, the appraisals of the land need to be recognized. And it's fair to, I believe, go ahead and pay a price above the appraised value. And I just want that to be on the record. Thank you.

CHAIRMAN RUE: Thank you, Ms. Evans. Any questions for Nicole?

(No audible response)

CHAIRMAN RUE: None in Juneau.

17

MS. McCAMMON: Next we have Paul Roetman.

1 CHAIRMAN RUE: Paul, could you spell your last name
2 for us?

3 MR. ROETMAN: Sure. It's R-, like in Roger, -o-e-t-
4 m-a-n.

5 PUBLIC TESTIMONY OF MR. PAUL ROETMAN

6 And I'm with the Prince William Sound Economic
7 Development Council based in Valdez. And we're a regional
8 development corporation that is involved in many levels, from
9 small business to working on municipal projects to working on
10 Sound waste management plans, like an EVOS-funded project that
11 that is.

12 But we are here today to support the proposal on the
13 table. A few weeks ago, we sent a letter of support
14 encouraging both EVOS and Chenega Corporation to reach an
15 agreement, and we do support the proposal that is currently on
16 the table. We see this as a good value. We see it as a good
17 economic benefit for Chenega, and I think it's also mutually
18 beneficial.

19 We've heard some quality-of-life issues and also the
20 economic benefit to existing tour operators in the area, but
21 then also the Chenega Corporation to move forward with their
22 own subsistence use and also projects that they may have
23 underway. So we encourage the follow-through with this
24 proposal. And I'd be happy to answer any questions.

25 CHAIRMAN RUE: Are there any questions for Paul?

(No audible response)

CHAIRMAN RUE: There are none from Juneau.

testify is Jack Hession.

PUBLIC TESTIMONY OF MR. JACK HESSION

1 Thank you. My name is Jack Hession. I'm with the
2 Sierra Club in Alaska. I'm here pinch-hitting.....

3 (Interruption at the door)

4 BY MR. HESSION (Resuming):

5pinch-hitting for Pam Brody, who is on vacation, but we
6 have consulted on this matter.

7 We're very pleased to see the Council begin
8 acquisition in Prince William Sound. We're delighted to see
9 you back over in that region finally. I'll be brief.

10 Chenega is an area well known to many of our members.
11 I'm personally familiar with it. I believe it's outstanding
12 for a number of reasons. And as we've heard here today, it has
13 high restoration value, superb fish and wildlife values, and it
14 complements the College Fiord/Nellie Juan Wilderness Study
15 area.

16 Overall, it's an excellent acquisition proposal, and
17 we urge you to proceed full speed ahead. Thank you very much.

18 CHAIRMAN RUE: Okay. Thank you, Jack. Are there
19 questions of.....

20 (No audible response)

21 CHAIRMAN RUE: There are none from Juneau.

22 MS. McCAMMON: Is there anyone else here in Anchorage
23 who would like to testify at this time? That's all who signed
24 up.

25 (No audible response)

MS. McCAMMON: I believe that's all, Mr. Chairman.

CHAIRMAN RUE: Okay. Thank you very much. We've 19
heard public testimony. What's the will of the Council?

1 MS. McCAMMON: Mr. Chairman, could I just interrupt
2 for one quick second here? I would like to note that in the
3 packet that the Council had on May 2nd, there were a number of
4 letters also included in -- commenting on this proposal. One,
5 a letter in support from Representative Finkelstein, letters
6 from the Prince William Sound Economic Development Council, a
7 letter of support from Cordova District Fishermen United, from
8 the Alaskan Wilderness Sailing Safaris, and also from the
9 Prince William Sound Seiners Association.

10 I also would like to make note that we have received
11 a resolution and, most recently today, a letter from the
12 Chenega Bay IRA Council in opposition to this acquisition. And
13 in -- kind of in response to their views on it, I would like to
14 note for the record that what the Council is considering today
15 is an offer to Chenega Corporation. As part of Chenega's
16 follow-up, they will be going to a shareholder vote on this
17 proposal. It's my understanding it would take a two-thirds
18 vote to support this proposal for it to go forward. So there
19 will be a vote on it by the membership of Chenega Corporation.

20 CHAIRMAN RUE: Okay. Thank you, Molly. I think
21 that's important to know.

22 MS. WILLIAMS: Mr. Chairman, I would move to have the
23 Trustee Council adopt the resolution of the Exxon Valdez Oil
24 Spill Trustee Council regarding the Chenega acquisition.

25 MR. JANIK: Second.

CHAIRMAN RUE: Okay. It's been moved by Ms. Williams
and seconded by Mr. Janik that we move to accept the

recommendation. Is there discussion? Yes. Mr. Janik.

20

MR. JANIK: Yes. I would like to (cut out) in support of the (cut out).

1 COURT REPORTER: Mr. Janik, you're cutting out.
2 Could you please get closer to the telephone?

3 MR. JANIK: Thank you. I'll speak up. How's that?

4 COURT REPORTER: Better. Thank you.

5 MR. JANIK: Since completion of the Oil Spill
6 Restoration Plan in September of '94, the Trustees have put
7 significant emphasis on habitat protection and acquisition
8 within the oil-spill-impacted area, with one of the key areas
9 being private lands in Prince William Sound. Chenega lands in
10 Prince William Sound were among the lands sustaining the
11 highest level of injury. We've heard that mentioned several
12 times. And Chenega certainly deserves that kind of emphasis.

13 And as we've also heard already today, many have
14 called these lands "ground zero" for the oil spill. The
15 majority of these lands are located next to the Port Nellie
16 Juan Wilderness Study area, and in terms of compatibility,
17 those lands being managed by the Forest Service, the
18 acquisition of the Chenega Lands as proposed would fit very
19 nicely into that management scenario.

20 Two areas of exceptional value are the Eshamy and
21 Jackpot Bays, again, this has been echoed earlier, containing
22 anadromous streams, one of which is the highest-producing
23 sockeye salmon system in Prince William Sound, importing --
24 important -- excuse me -- wintering habitat for Dolly Varden,
25 harlequin ducks, and pigeon guillemots, and other habitat
important to the full recovery of injured resources.

1 Corporation for nearly three years now, and very -- I am
2 personally very pleased to see a mutually agreeable negotiation
3 coming to bear here. And I believe that this offer represents
4 a reasonable and fair price for the Chenega Corporation, as
5 well as the public for which the Trustee Council is acting on
6 in behalf with regard to restoration of injured natural
7 resources and related services.

8 So I would just like to really encourage the Council
9 members to look at this motion that's on the floor in a
10 favorable fashion.

11 CHAIRMAN RUE: Okay. Are there any other questions
12 or discussion from Council members?

13 MR. TILLERY: Mr. Chairman?

14 CHAIRMAN RUE: Yeah. Mr. Tillery.

15 MR. TILLERY: Just a couple of things on this
16 resolution that I -- at least I want to have in front of me,
17 which is different from this one that's with the agenda.

18 MS. McCAMMON: The May 31st is the most recent one.

19 MR. TILLERY: Well, this is the one that was faxed to
20 me just before we came over here; it had some changes. I'm
21 assuming we're working off of this one?

22 CHAIRMAN RUE: Does it have May 30th on the top?

23 MR. TILLERY: Well, it's got May 31st, but it's
24 different than the May 30th one, right. This is May 31st.
25 What is it? Okay. Then you've.....

(Pause - Side comments)

MR. TILLERY: Well, anyway, the May 31st draft, I'd
just like to clarify something that's -- to make sure that the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
In Exhibit A to that, where it describes the interest, it talks about the fee simple, and it describes those, then it describes conservation easements lands, which are sort of the other lands. As I understand it, on the fee simple lands, there will also be a conservation easement to the non-acquiring government. And I just wanted to make sure that that is correct and clarify that.

I'd also note that up in the top of that it talks about the exact description and locations and so forth will be determined by the United States and Chenega prior to the execution of any purchase agreement, that the State should -- would certainly be included in that. And with those two understandings, somebody should tell me if those are incorrect.

(Pause)

CHAIRMAN RUE: It looks like that you are correct, that those would be -- should be included in Exhibit A.

MS. WILLIAMS: Mr. Chairman, I have a few comments.

CHAIRMAN RUE: Okay. Go ahead.

MS. WILLIAMS: First of all, I would like to thank the Chenega Corporation for negotiating in such good faith and for being such good trustees of this land. And it has been a privilege to have been associated with Chenega Corporation during this period. Chenega exhibited creativity, flexibility, patience, and the attributes that I think have resulted in this transaction being as successful as it is.

I feel it is, as was represented by some of the comments, a win/win proposition. I believe that Chenega Corporation is not only able under this transaction to retain

some important land for itself and important land for recreation on some of the sites that we're acquiring, it will provide Chenega an excellent land base opportunity for the future but also, of course, a substantial amount of money for the lands that they are selling, and interest in lands that they are selling, that will allow Chenega to prosper and its shareholders to prosper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

As, of course, the Department of Interior, we certainly acknowledge the letters that we have received from the IRA, but we anticipate that those views will be discussed vigorously as Chenega and its shareholders decides whether to adopt this transaction. Having looked at this transaction as long as we have, of course, we hope that Chenega Corporation adopts this and that the members of the IRA, when they fully understand and review the transaction, will also agree that this transaction is an excellent opportunity and provides an excellent future base for Chenega Corporation and its shareholders.

But we will, in most acknowledgement of the IRA, I think, it is the acknowledgement that the shareholders will approve this by two-thirds. And we believe that that is the opportunity to allow the IRA to express their views to the other shareholders, and that the ultimate decision is with the Chenega shareholders.

I would like to talk for a moment about the price. All of the Trustee Council members know, but I'd like to share with the public that these were very intense negotiations. And we, of course, started out with the appraised price, but it was evident that this -- we could not achieve a willing seller/

1 willing buyer transaction at the appraised price. And I 24
2 believe that the price that is reflected in this agreement is a
3 fair price and is the very lowest price that we could achieve
4 with a willing seller/willing buyer.

5 I think it necessarily reflects the timber values on
6 the Chenega land. And as the appraisal reflected, there's over
7 \$50 million of timber on this land. The appraisal, of course,
8 reflected high cost for that, but nonetheless, there is fifty-
9 six, I believe, million dollars of timber on this land. And of
10 course, that timber, I believe, not only helps justify the
11 price that we did reach in the negotiations, but also, of
12 course, contributes to the habitat values of the Chenega land.

13 I am pleased, as I'm sure all the other Trustee
14 Council members are, to approve a land transaction in the
15 Prince William Sound. This is something that we have all been
16 anxious to do. We all recognize the very substantial impacts
17 that the spill had on Prince William Sound. And it really is a
18 very happy day, I believe, for, certainly, the Department of
19 Interior, and if I may be so bold as to speak for the Trustee
20 Council, to be able to approve a major land transaction in
21 Prince William Sound in recognition of the damage that the
22 Sound occurred (sic) and the great desire to achieve
23 restoration benefits in the Sound.

24 So -- and again, I want to close with thanking
25 Chenega for your patience, for your, I think, fair
negotiations, and it has been a privilege doing business with
you, and we look forward to celebrating the completion of this
transaction.

CHAIRMAN RUE: Thank you very much, Ms. Williams.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PENNOYER: Mr. Chairman, thank you. I'd just like to briefly add my seconding of the approval of this -- voting for approval of this nego- -- this deal offer. I know this has been a difficult negotiation; like Ms. Williams, I appreciate all the parties that have participated in getting us to this stage. This is a acquisition in Prince William Sound.

It happens to be land that has probably some of the highest restoration values of any land we've looked at so far in this whole process for purchase, and I believe that the values of restoration are quite aside perhaps from the discussion of how much it costs to get timber off the land.

So I believe that -- and knowing some of these areas myself personally, I believe that this is a very, very valuable acquisition in the process that we are undertaking, and I support it.

CHAIRMAN RUE: Other Council members? Has everyone spoken who wishes to speak on the resolution?

(No audible response)

CHAIRMAN RUE: I would certainly add my second to all the comments that have gone before. I haven't lived through the difficult negotiations the way some of you have, but certainly I appreciate all the goodwill and hard work that went into it. (Cut out) approving this but sending it on to Chenega for their consideration. So I certainly would support that, too.

MS. WILLIAMS: Mr. Chairman, if I may add two more thoughts. One, I would like to thank our negotiating team, the Trustee Council's negotiating team, for their hard and

1 excellent work. Again, I am confident that they reached the 26
2 most equitable deal that could be reached under the
3 circumstances, and I commend them for their efforts and
4 diligence.

5 And finally, I'd just like to say that to the extent
6 you can be confident of anything in working in jobs such as
7 we're working on, I'm confident that history will look back
8 upon this deal very favorably, and that the Trustee Council and
9 Chenega and the public will be praised for having acquired this
10 extraordinary land and achieved the restoration benefits that
11 will be achieved for this price.

12 CHAIRMAN RUE: Thank you very much. Molly, I think
13 it would be appropriate for us to have a roll call vote.

14 MS. McCAMMON: All right. Mr. Chairman. The motion
15 has been made. I can call the roll here. Craig Tillery for
16 Department of Law?

17 MR. TILLERY: I vote in favor.

18 MS. McCAMMON: Deborah Williams, Department of
19 Interior?

20 MS. WILLIAMS: I vote in favor.

21 MS. McCAMMON: Steve Pennoyer, National Marine
22 Fishery Service?

23 MR. PENNOYER: Yes.

24 MS. McCAMMON: Ernie Piper, Alaska Department of
25 Environmental Conservation?

MR. PIPER: Yes.

MS. McCAMMON: Phil Janik, Department of Agriculture,
Forest Service?

MR. JANIK: Yes.

Game.

CHAIRMAN RUE: Yes. The motion passes unanimously.
1 And I look forward to that being transmitted to Chenega.....

2 MS. McCAMMON: Did you want to make a comment?

3 CHAIRMAN RUE:(indiscernible). All right.

4 MS. McCAMMON: Mr. Chairman? Chuck Totemoff from
5 Chenega Corporation would like to make a few comments here.

6 CHAIRMAN RUE: That'd be great.

7 MR. TOTEMOFF: Thank you, Molly, Mr. Chairman,
8 Trustees. I would agree with all the comments here that -- and
9 I can also testify that it's been a long, hard three years
10 getting this far. And I asked Molly not to pinch me when I
11 showed up at the morning meeting a while ago for fear that I
12 might wake up.

13 MR. JANIK: Would you mind please speaking up? Some
14 of us can't hear in Juneau here.

15 MR. TOTEMOFF: Okay. But anyway, I would sincerely
16 like to thank members of the Trustee Council negotiating team
17 and the staff. We've had some rough times, but I think
18 everybody stayed at the table, negotiated in good faith, and
19 put their best foot forward as far as being professional, and I
20 think it resulted in a fair deal. It was the best deal
21 possible, I think, that we could have arrived at.

22 And I think we recognized this -- that this week and
23 decided that these terms were probably the best we were going
24 to get -- we were going to get. And now you've just passed the
25 resolution of the offer. I've scheduled a meeting for next
week, next Friday, for -- for my Board to consider this. And I

think I'm prepared to recommend that this go forward as 28
written. We will, of course, have to review it internally, but
I think the parameters of the deal are quite acceptable.

1 I'd also like to thank, on the national level, the
2 Alaska Delegation, especially Don Young, who helped a lot. I
3 think you seen a letter from him at the last meeting.

4 Secretary of Interior Bruce Babbitt was in full support of
5 this. Also from the State level we had Governor Tony Knowles.

6 We had a meeting with him when we went down to Juneau; he was
7 in support of this deal also. We'd like to thank him. We'd
8 also like to thank our Representatives from Prince William
9 Sound area, Senator Georgeanne Lincoln and Representative Gene
10 Kubina.

11 Most importantly here on my side, I'd like to thank
12 my Chenega Corporation and subsidiary Board of Directors who
13 have supported me throughout this entire process. And they
14 still do. There's numerous other groups that have voiced their
15 support of this transaction: the environmental groups, fishing
16 advocates, proponents in the Cities of Valdez and Cordova, and
17 a vast majority of my shareholders support this transaction.

18 Just in closing here, we do look forward to bringing
19 this to closure. There's -- we recognize there's a few more
20 things to clean up, but by far and large, this transaction is
21 going to be complete in our mind. Thank you very much.

22 CHAIRMAN RUE: Thank you very much. I know that,
23 certainly, from the Department of Fish and Game's perspective,
24 it's very important (cut out) with Chenega and the Corporation
25 feels that (cut out) deal in their interest.

COURT REPORTER: Chairman Rue?

CHAIRMAN RUE: Yes.

29

COURT REPORTER: You're cutting out. We're losing you.

1 CHAIRMAN RUE: All right. It probably doesn't
2 matter. I was just adding my thanks to those of the others.
3 So were there any other comments that anyone would like to make
4 at this point before we move on to the next agenda item?

5 MS. McCAMMON: No, Mr. Chairman.

6 CHAIRMAN RUE: Okay. Thank you.

7 (Pause - Applause)

8 CHAIRMAN RUE: All right. Are we -- Ms. McCammon,
9 are we now at the fifth agenda item?

10 MS. McCAMMON: Yes, Mr. Chairman. This item concerns
11 Prince William Sound shoreline residual oiling reduction. And
12 this is a follow-up to a report that was given to the Council
13 on May 2nd. At that time, if you'll recall, the Department of
14 Environmental Conservation gave a report on a conference that
15 was held last fall concerning oil that was still remaining on a
16 number of beaches in Prince William Sound.

17 At that time -- since that time, we've been looking
18 at the report extensively, and I would like to recommend that
19 the Council consider follow-up on that report and basically ask
20 me to put together a plan and a budget for implementing the
21 recommendations that came from that report of that conference.

22 And I do have Ernie Piper with Department of
23 Environmental Conservation who could speak a little bit further
24 to that subject.

25 MR. PIPER: Mr. Chairman, as you know, this is the
result not just of a report that we delivered to the Trustee

Council earlier this month, but it's also the product of a longtime request from residents of Chenega Bay. And I know personally, from standing on some of these shorelines, I go back to one in 1990 at a point where the response organization had reached a conclusion that it was no longer cost-effective nor technically possible to continue cleanup at a particular site.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

And I remember the tears from a friend of mine on that shoreline who's from Chenega Bay, and I can tell you that this is not a request or a feeling that's taken very lightly in the village at all. It's very heartfelt.

But at the time of the response, you'll recall that had reached the limit of cleanup under the regulations that existed at the time. The request to continue cleanup from Chenega to remove residual asphalt and tar and other oil -- residual oiling has persisted right on through the years.

My Department has had two major concerns about those requests. The first was environmental, the more harm than good issue. We were concerned that more work would make -- cause disruption to the shorelines that wasn't necessarily warranted.

Second one was the persistence. There was a strong expectation that the oil would weather away and that doing more work at that point would just be a slight acceleration of a process that was already underway.

We have since gone back and looked at this very carefully, including the residual oiling conference last November. We've had extensive consultation with the residents of Chenega Bay about what the problems are and what might be done about them. At the residual oiling conference, you will

recall that we satisfied the major concerns that my department³¹ had. Principally the more harm than good issue was resolved because it was a fairly limited area.

1 And the persistence issue has turned out to be more
2 persistent than we had originally thought. There's -- the
3 oiling has reached a very stable state, and it's not likely to
4 go away due to natural removal, unless it's under a long, long,
5 long term. The other thing the conference did was identify the
6 primary issues, which has allowed us to clearly establish a
7 link to restoration for a cleanup effort.

8 And I would like to move that the Trustee Council ask
9 the Executive Director to work with my department, the Forest
10 Service, and the residents of Chenega Bay to prepare a budget
11 and work plan for the high-priority sites identified in the
12 residual oiling workshop report in southwest Prince William
13 Sound, to report back to the Trustee Council as soon as
14 possible, and to proceed with that plan upon final approval of
15 the Trustee Council.

16 MS. WILLIAMS: Second.

17 CHAIRMAN RUE: Okay. Mr. Piper has made a motion,
18 and Ms. Williams has seconded it. Is there any discussion of
19 the motion by members of the Council?

20 (No audible response)

21 CHAIRMAN RUE: Okay. I certainly think it sounds
22 like a very good idea. Mr. Pennoyer.

23 MR. PENNOYER: Just a question. Is this -- what's
24 the timing on this? Date-certain, when would it be.....

25 MR. PIPER: What we would propose is the work would
be done next summer.

CHAIRMAN RUE: Budget and the work plan done as soon³²
as possible.

MS. McCAMMON: And the initial planning.

CHAIRMAN RUE: Right.

MR. PENNOYER: Thank you.

CHAIRMAN RUE: Okay. Any other questions?

(No audible response)

CHAIRMAN RUE: Okay. Hearing none, why don't -- is
there any objection?

(No audible response)

CHAIRMAN RUE: Hearing no objection, the motion
passes. Good. All right. The final agenda item is Executive
Session on habitat protection and budget. Is there any
other -- any other discussion the Council would like to have on
any item before we go into Executive Session?

MR. PATTON: I would like to make a comment, if
possible.

CHAIRMAN RUE: Yeah. Is that.....

MS. McCAMMON: Mr. Chairman, we have a public person
who would like to make a comment.

PUBLIC TESTIMONY OF MR. GARY PATTON

Yes, this is Gary Patton from the Government of the
Katalla Chilkat Tlingit. And I believe it was the last
teleconference meeting you had here -- in March, was it? When
the Council.....

MS. McCAMMON: The last one was in May.

MR. PATTON: Or in May.

BY MR. PATTON (Resuming):

And I had brought up the fact of the SARA amendments

of the Clean Water Act, and I'm just wondering what has been 33
determined from that after I had brought that up, what the
Interior has found on that -- on those SARA amendments.

1 And I believe I'd also given a copy of The United
2 States v. Alaska at that time, too, where the State, all it
3 possesses is a quitclaim deed based on the treaty accession,
4 and that the jurisdiction would lie at the tribal level. And
5 under the SARA amendments, the tribes would be sitting on the
6 Exxon Valdez Oil Spill Council instead of the way it is. I
7 don't think there's really any representation of the tribes
8 sitting here.

9 I'm just wondering what the Interior -- I mean, if
10 there's -- if there seems to be a -- some problem here, an
11 oversight, because the Genocide Treaty and the Genocide Act are
12 in place, and all oversight will have to fall into compliance
13 with the Genocide Treaty. And I think that's got to come to
14 light here.

15 I wonder if Deborah Williams can respond to the SARA
16 amendments, what she's found on those for me.

17 MS. WILLIAMS: No, I'm not prepared to do that at
18 this time.

19 CHAIRMAN RUE: Thank you very much for your comments.
20 All right. Well, without any other items by Council members?

21 (No audible response)

22 CHAIRMAN RUE: Okay. Then we will now go into.....

23 MR. PATTON: Okay. When.....

24 MS. McCAMMON: We need a motion.

25 MR. PATTON: When can I -- can I get a response back
sometime, or another, over what I've just brought up?

CHAIRMAN RUE: I would ask Ms. Williams to address that issue.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. WILLIAMS: I -- we'll work with the Department of Justice on it further.

CHAIRMAN RUE: Thank you. Do I hear a motion that we go into Executive Session?

MR. JANIK: For the purpose of discussing habitat protection and budget.

MR. PENNOYER: Second.

CHAIRMAN RUE: Moved by Mr. Janik, seconded by Mr. Pennoyer that we go into Executive Session. Any discussion?

(No audible response)

CHAIRMAN RUE: No, hearing -- any objection?

(No audible response)

CHAIRMAN RUE: Hearing none, we'll go into Executive Session. Why don't we take a five-minute break and then we'll come back in about (cut out).

(Side conversations)

MS. McCAMMON: We do have to disconnect also, and we will.....

MS. WILLIAMS: The conference operator will call them.

MS. McCAMMON:and the conference operator will call you back.

CHAIRMAN RUE: Thank you.

COURT REPORTER: Off record.

(In recess at 2:10 p.m.)

(Whereupon, the proceedings in the above-entitled

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25