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1 EXXON VALDEZ OIL SPILL
2 TRUSTEE COUNCIL
3 TRUSTEE COUNCIL MEETING

4 April 18, 1997

5 10:30 o'clock a.m.

6 Fourth Floor Conference Room (Teleconference)

7 645 G Street

8 Anchorage, Alaska

9 TRUSTEE COUNCIL MEMBERS PRESENT:

10 U.S. DEPARTMENT OF COMMERCE - NMFS:	MR. STEVE PENNOYER,
11 (Telephonically)	CHAIRMAN
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: (Telephonically)	Commissioner
17 U.S. DEPARTMENT OF INTERIOR:	MS. DEBORAH WILLIAMS
18 (Telephonically)	Special Assistant to the
19	Assistant Secretary
20 U.S. DEPARTMENT OF AGRICULTURE -	MR. JIM WOLFE FOR
21 U.S. FOREST SERVICE	PHIL JANICK
22 (Telephonically)	Regional Forester
23 STATE OF ALASKA - DEPARTMENT	MS. MICHELE BROWN
24 OF ENVIRONMENTAL CONSERVATION:	Commissioner
25 (Telephonically)	

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1 TRUSTEE COUNCIL STAFF PRESENT:

2 MS. MOLLY McCAMMON

Executive Director

3 MR. ERIC MYERS

Director of Operations

4 MS. TRACI CRAMER

Director of Administration

5 (Telephonically)

EVOS Trustee Council

6 MS. REBECCA WILLIAMS

Executive Secretary

7 MS. SANDRA SCHUBERT

EVOS Staff

8 DR. BOB SPIES

Chief Scientist

9 (Telephonically)

10 MR. STAN SENNER

Science Coordinator

11 MR. ALEX SWIDERSKI

State of Alaska

12 MR. JOE SULLIVAN

State of Alaska, ADF&G

13 MR. DAVE GIBBONS

U.S. Forest Service

14 MS. GINNY FAY

Department of Environmental

15 (Telephonically)

Conservation

16 MR. BRUCE WRIGHT

NOAA

17 (Telephonically)

18 MR. CHUCK MEACHAM

Public Advisory Group

19 (Telephonically)

20 MS. CLAUDIA SLATER

Department of Fish and Game

21 (Telephonically)

22 MR. JEEP RICE

NOAA, Auke Bay Lab

23 (Telephonically)

24 Mr. JIM BOLSINGER

25 (Telephonically)

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P R O C E E D I N G S

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(On record - 10:35)

CHAIRMAN PENNOYER: Then we're convening -- you have to tell me the number, Molly, the meeting of Exxon Valdez Oil Spill Trustee Council.

MS. McCAMMON: April 18th.

CHAIRMAN PENNOYER: And all the Trustee agencies are represented currently, both Federal and State. And, Molly, if you wish to go down and start us through the agenda, I noticed that we have the first item of business is the approval of the agenda. Do you wish to speak on that?

MS. McCAMMON: Mr. Chairman, we have three items on the agenda this morning, one is an executive session to talk about habitat negotiations and strategy, in particular Afognak Joint Venture. The second item is to consider action on a technical budget amendment for Project 97163. And the third item is to discuss the Chenega Shoreline Cleanup Project.

CHAIRMAN PENNOYER: Okay. And your -- the agenda indicates that the first item will be the executive session, so before we talk to that, does anybody have any additions or changes to the agenda they wish to make at this time?

MS. D. WILLIAMS: Mr. Chairman.

CHAIRMAN PENNOYER: Yes, Deborah.

MS. D. WILLIAMS: I just simply want to note

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1 for the record that I have to leave no later than 11:45, so if
2 we can accommodate that, that would be great.

3 CHAIRMAN PENNOYER: Thank you, Deborah, for
4 that notice, I was going to say something similar because Jim
5 Bolsinger's here, we came down from the North Pacific Council
6 to get some budget items out that are supposed to be done this
7 week. So we would appreciate getting out here no later than
8 that time as well if we can.

9 Okay. Does anybody else wish to comment on the agenda.

10 (No audible response)

11 CHAIRMAN PENNOYER: If not, then I assume the
12 next item, Molly, would be to close the public meeting, go to
13 the executive session as you outlined to discuss the Afognak
14 Joint Venture Land Acquisition Project. And do I hear a motion
15 to that effect?

16 MS. D. WILLIAMS: So moved.

17 CHAIRMAN PENNOYER: Second?

18 MR. WOLFE: Second.

19 CHAIRMAN PENNOYER: Thank you. It's been moved
20 and seconded that we go to executive session. Molly, how long
21 do you want to take? I don't suppose we just stay on the line,
22 so.....

23 MS. McCAMMON: You stay on the line, we're
24 going to transfer offices here in Anchorage. I would
25 anticipate about a half an hour.

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1 CHAIRMAN PENNOYER: Before we start it?

2 MS. McCAMMON: Oh, no.

3 CHAIRMAN PENNOYER: Thank you.

4 MS. McCAMMON: No, for the entire executive
5 session.

6 CHAIRMAN PENNOYER: All right, we will then
7 resume or reconvene this session somewhere around 11:10-11:15,
8 so we'll stay on line, but we'll wait now and go to the
9 executive session. You'll let us know when you're ready.

10 (Off record - 10:40 a.m.)

11 (On record - 11:16 a.m.)

12 CHAIRMAN PENNOYER: Then we'll go ahead and
13 reconvene this meeting of the Exxon Valdez Oil Spill Trustee
14 Council. We just concluded an executive session where we
15 discussed the Afognak Joint Venture land negotiations. We're
16 now ready to resume our existing agenda.

17 Molly, I noticed the next item is technical budget
18 amendment Project 97163 APEX. Does somebody want to lead us
19 through that?

20 MS. McCAMMON: Mr. Chairman, this is a request
21 from the principal investigator of Project 97163H, well,
22 actually to transfer funds from that project to Project 97163M
23 for a total of \$29,300.00 to increase the collection of pigeon
24 gillemot data in that project. This is considered a technical
25 amendment, it requires no additional funds.

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1 CONFERENCE OPERATOR: Excuse me, this is the
2 conference operator, I'm adding Traci Cramer on.

3 MS. McCAMMON: Thank you, operator.

4 MS. CRAMER: Molly, Chuck is here also.

5 MS. McCAMMON: Chuck Meacham, thank you.

6 It requires no additional funds, it is viewed purely as
7 a technical amendment. This is recommended and supported by
8 the chief scientist.

9 CHAIRMAN PENNOYER: Okay. Is there further
10 discussion or description on that? Does anybody wish to ask
11 any further questions about this transfer? We got Bruce Wright
12 here who made the request and could speak to it if somebody
13 wishes further information.

14 MS. D. WILLIAMS: Mr. Chairman, I move to
15 approve the request.

16 CHAIRMAN PENNOYER: Is there a second?

17 MR. WOLFE: Second. I have a question.

18 CHAIRMAN PENNOYER: Mr. Wolfe, has a question.
19 Please, Jim.

20 MR. WOLFE: I don't have any problems with
21 what's being proposed but I'm not clear on what we're going to
22 do with the composition analysis work that was proposed. And
23 if it was necessary, I'm assuming we're going to continue doing
24 it, so have we got everything we need in the composition
25 analysis work at this point in time or do we have to get a new

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1 project for new year or what's happening?

2 CHAIRMAN PENNOYER: Bruce, do you wish to
3 answer that question, please?

4 MR. WRIGHT: Yes, Mr. Chairman. Actually that
5 still necessary work. We're proposing in the FY98.....

6 CONFERENCE OPERATOR: Excuse me, this is the
7 conference operator, I'm adding Bob Spies on line.

8 MS. McCAMMON: Thank you, operator.

9 CHAIRMAN PENNOYER: Thank you. Bob, we're in
10 the middle of a discussion about the transfer of funds in the
11 APEX Project and Bruce Wright is going to describe the
12 composition analysis data section. Bruce.

13 DR. SPIES: Thank you.

14 MR. WRIGHT: In FY98 the APEX budget is
15 proposing to pick up in another component of the budget do the
16 approximate composition analysis (indiscernible -
17 interrupted).....

18 CHAIRMAN PENNOYER: With no increase in funds?

19 MR. WRIGHT: No increase in funds. It'll be an
20 internal shift within the APEX budget to just readjust the
21 priorities.

22 CHAIRMAN PENNOYER: Jim, does that answer your
23 question?

24 MR. WOLFE: Yeah.

25 CHAIRMAN PENNOYER: You comfortable with it?

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1 MR. WOLFE: Yeah, I'm okay as long as the work
2 is going to get done. I know we talked about this one time
3 before when authorized the project and if doesn't get finished
4 it seems like we might have wasted a lot of money, so I guess
5 the key point was that we finish the work we started if haven't
6 already, so.....

7 CHAIRMAN PENNOYER: Okay.

8 MR. WOLFE: And then I guess the other question
9 I have is this added money to the pigeon gillemot work, does
10 this -- how big of an overrun is this going to put us into with
11 that project? Is this like a 10 percent over or something? Or
12 five percent? How much is the original project for the pigeon
13 gillemot?

14 MR. WRIGHT: Well, actually the Katchemak Bay
15 site is a site's that has seen -- in FY96 we kind of bootlegged
16 some of the work with it because it was a project that was
17 identified as having potential so we went out and looked at
18 some of the nesting sites to see if, in fact, we should be
19 doing some work in a site other than Prince William Sound. And
20 the investigators thought so.

21 The FY97 proposal wasn't on line -- had already been
22 approved and so we wanted to go out in the -- we would like to
23 go out in the field and do that work in Katchemak Bay but the
24 funds weren't there to support it. And so this would help pick
25 up an additional site and a comparison site to the two Prince

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1 William Sound pigeon gillemot sites.

2 MS. McCAMMON: Mr. Chairman, I think the point
3 is that the transfer of funds is over \$25,000.00, which
4 according to the financial operation procedures must come back
5 before the Council.

6 CHAIRMAN PENNOYER: Okay.

7 MR. WOLFE: That was part of my point. Only I
8 was wanting to understand why the project had gone up and I
9 think I understand that we added a new site to what we're
10 investigating or collecting data on. And so I guess it's been
11 cleared through the other reviews process. The chief
12 scientist, I assume, was involved in that.

13 MS. McCAMMON: That's correct.

14 CHAIRMAN PENNOYER: Dr. Spies has recommended,
15 Ms. McCammon said, this transfer to go ahead.

16 MR. WOLFE: Yeah.

17 CHAIRMAN PENNOYER: Are there further questions
18 on the project and the request? We had a motion, it's been
19 seconded that this transfer go forward. Is there any
20 objection?

21 (No audible responses)

22 CHAIRMAN PENNOYER: Okay. Thank you, then
23 that's a passed motion.

24 Can we go on to the next item then, which is a
25 discussion of the Chenega Shoreline Cleanup Project. And,

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1 Molly, do you wish to lead that up for us?

2 MS. McCAMMON: I'll start this, Mr. Chairman.

3 I think all of you should have gotten yesterday a packet of
4 information which included a cover memo from me, copies of all
5 of the letters that were received through the environmental
6 assessment process. A copy of the environmental assessment on
7 the project itself. And then this morning you should have had
8 faxed to you copies of letters that have come in in the last
9 day from the Eyak Corporation, Tatitlek Corporation, Chugach
10 Alaska Corporation, from Representatives Gene Kubina and
11 Senator Georgianna Lincoln from the City of Valdez and City of
12 Cordova, all in support of going forward on this project.

13 Just to go through the memo really quickly. Through
14 the environmental assessment process comments were to be
15 received on Monday, April 7th. Five comments were received
16 from staff at the Department of Fish and Game, Department of
17 Natural Resources, U.S. Fish and Wildlife Service, USGS
18 Biological Resources Division and NOAA Hazardous Materials
19 Division in Seattle. They did raise questions about the
20 toxicity and the effectiveness of PES-51 and recommended that
21 cleanup be delayed until additional testing of PES-51 is
22 conducted.

23 Following the receipt of these I had the staff at the
24 Department of Environmental Conservation, who has the lead on
25 this project, staff at the Forest Service, who has the lead on

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1 the environmental assessment, the chief scientist, the science
2 coordinator, in addition, the folks at the NOAA Auke Bay Lab
3 look at this. And I have gone through the three major issues
4 that were raised in the comment letters. I want to make clear
5 that this is not -- that the memo that I sent to you should not
6 be considered a rebuttal to the comments that were presented by
7 the agencies. I think there were a number of questions that
8 were raised.

9 In discussion with staff it appears that there are
10 responses to the questions that were raised, whether they will
11 be satisfactory to the agencies that have raised those
12 questions I can't really tell you at this moment.

13 The one element that I do want to especially emphasize
14 is this recommendation that the project be delayed and that one
15 test beach be done before the rest of the project go forward.
16 When we first started looking at this project Chenega came to
17 us with a request to cleanup something like 20 or 30 beach
18 sites around their village and the areas that were important to
19 them. At that time we gathered together all of the experts and
20 the agencies at a workshop and basically honed that down to
21 eight priority beaches. So it's a very small subset from their
22 original recommendation. It really went down considerably.

23 The beaches total two miles, which is less than half
24 percent of one percent of the total beaches that were surveyed
25 during the oil spill process. That doesn't include the beaches

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1 that weren't surveyed as part of the oil spill process. The
2 actual beach total of those beaches that would be cleaned up
3 would probably be about one mile, because of those two miles
4 the eight sites, not the entire beach would have -- would be
5 treated. So we're looking at one mile of actual beach that
6 would be treated.

7 In talking to the chief scientist and the to the
8 science coordinator, and Stan Senner is here and Dr. Spies is
9 on line, and they can talk about this in more detail if you'd
10 like. It was their view that doing one beach as a test site
11 with one beach as control would not provide the kind of rigor
12 that I think people would like if they were to have a test
13 occur. That if you weren't going to have a test it would have
14 to be a lot more expansive and if that were the case it would
15 also be more expensive. And so it would be up to the Council
16 whether they would be interested in contributing more funds to
17 this project.

18 I do have Stan and Dr. Spies on line, I don't know how
19 the Council would like to kind of conduct the discussion here.

20 CHAIRMAN PENNOYER: Okay, thank you, Molly.
21 Jeep Rice is here from the Auke Bay Lab as well in this office.
22 Well, let's just start -- first of all, can you tell me now the
23 stage at which we're at is -- preparation of an EA or whatever
24 for to let the project go forward. And the Forest Service has
25 the -- I don't know who's actually preparing the EA.

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1 MR. WOLFE: Forest -- well, I'll Dave speak.

2 MS. McCAMMON: The EA is being prepared by the
3 Forest Service. Under the process right now it went through an
4 initial scoping session where letters were sent out to, I
5 believe, about 100 individuals and groups asking for comments.
6 Out of that total, I can remember -- how many responses were
7 received from the scoping?

8 UNIDENTIFIED: Twelve.

9 MS. McCAMMON: Twelve responses were received
10 from the scoping. The issues that were raised in the initial
11 scoping session were addressed in the environmental assessment.
12 The environmental assessment then went out to about 30
13 different people, those who responded during the scoping
14 session and others. And they were given a period of time to
15 respond to the environmental assessment. Five comments were
16 received.

17 Under the process now, just going on through it, those
18 comments, letters, would be responded in an appendix in the
19 environmental assessment and then the environmental assessment
20 would go to the chief Federal person, in this case Phil Janik,
21 with a recommendation or whatever, for a finding of no
22 significant impact which would be up to him to sign. After
23 that -- if that were to happened then the two regulatory
24 permits that are required, one is a variance from the
25 Department of Environmental Conservation, it's not actually a

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1 permit. It's a water quality variance from DEC and then also a
2 tide lands permit would need to be obtained from the Department
3 of Natural Resources.

4 CHAIRMAN PENNOYER: Okay. Dave is indicating
5 to me that the actual sign off on the FONSI is all three
6 Federal agencies; is that correct, Dave?

7 MR. GIBBONS: That's correct, Steve.

8 CHAIRMAN PENNOYER: So.....

9 MS. McCAMMON: It's my understanding that
10 there's no legal requirement that all three Federal agencies
11 sign the FONSI, but what we have talked about is having --
12 because this is potentially controversial, is having similar to
13 the way it was done with the SeaLife Center and the Restoration
14 Plan, having the three Federal agencies sign it and then a
15 letter of concurrence from the three State Trustees. But it's
16 my understanding it's not a legal requirement.

17 MR. WOLFE: That's correct.

18 CHAIRMAN PENNOYER: Okay, then the time table
19 on this then, you got the EA and it's -- the final EA has been
20 prepared, in effect, Dave, so the time table on this is in
21 front of us now.

22 MR. GIBBONS: The EA has been prepared and
23 released and comments received back.

24 MS. McCAMMON: It would probably take another
25 three to four days to respond officially and fully to comments

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1 that were received, incorporate them into the final EA and have
2 to put together and actually have it available for signing.

3 CHAIRMAN PENNOYER: And, Molly, the alternative
4 here that's being discussed is what? Full -- do an expandment,
5 do an EIS and expandment? I mean what is the process on the
6 alternative that has been suggested?

7 MS. McCAMMON: I think there are two
8 alternatives for you, one is if there is sufficient level of
9 discomfort with the project in its entirety is not to go
10 forward with the project at all. I think that's a definite
11 alternative before you.

12 CHAIRMAN PENNOYER: Okay.

13 MS. McCAMMON: The other alternative that has
14 been suggested by some of the staff is to do one test beach and
15 I -- in consultation with the staff here, my recommendation is
16 not to do one test beach, but to go forward with the full eight
17 beaches.

18 CHAIRMAN PENNOYER: I guess given the size of
19 the area and the resources involved, even the eight beaches is
20 practically at a level of test anyhow, but if you were going to
21 go within that, are there alternatives and what are the costs
22 of them and actually what does that mean? If we went forward
23 with a test, if we can decide with it is, at some cost, what is
24 that, what are we doing then? Are we doing a full EIS with a
25 test to back it up? Are we doing it relative to before we

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1 issue an EA, what is the actual.....

2 MS. McCAMMON: Mr. Chairman, I would suggest
3 Stan Senner has been working on that question for the last two
4 days and so I'd like to turn it over to Stan.

5 CHAIRMAN PENNOYER: Stan, please.

6 MR. SENNER: Mr. Chairman, I'm not sure about
7 the EIS part of your question, but in terms of a test the key
8 point that I think we would make, and Dr. Spies should feel
9 free to jump in here, is that one would want to look at
10 multiple beaches where you're carrying out the treatment as
11 well as control beaches or sites for each of the test beaches.
12 And then design with those a rigorous sampling program for
13 chemical and biological effects.

14 CHAIRMAN PENNOYER: Stan, my question about EIS
15 was probably neap (sic) in naivety, but basically I was just
16 sort of asking where we go from here? And if, in fact, you
17 were to do something like that, like of the eight do four and
18 four, or something like that, which seems to be the level of
19 the thing you're talking about. Not that it's -- the question
20 may be in terms of costs that's required whether we want to go
21 forward with the project. But what is the cost of doing
22 something like that?

23 MR. SENNER: The cost now of the monitoring or
24 the EIS?

25 CHAIRMAN PENNOYER: Well, no, the cost to the

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1 -- well, I don't know what we ended up talking about in the
2 EIS. You left me confused on that topic. But if we do the
3 test project and we actually did a sample, a significant
4 sample, four, five and left the others untreated and did a
5 measure between them, what are we talking about overall on the
6 cost of this project by the time we're done?

7 MR. SENNER: Okay, Mr. Chairman, if you
8 approached all eight beaches as a test situation you would
9 probably add on the order of \$1,000,000.00 to the project.
10 Right now the project total is about 1.9 million, effectively
11 this would be a \$3,000,000.00 project if you approach all eight
12 beaches as a test situation. If you divide it -- if you start
13 cutting closer than that and say, for example, test four in the
14 first year and see what your results are a year later and then
15 two years later come back and do a second round of treatment,
16 then your costs may well go above the \$3,000,000.00 level
17 because you've got some additional mobilization in there. Any
18 way you cut is it's adding a million, possibly more to the
19 project.

20 CHAIRMAN PENNOYER: Okay, thank you. Do any of
21 agencies that commented on this wish to comment on this time?
22 Frank, do you want to.....

23 MR. RUE: Yeah, go ahead I can. I guess sort
24 of my thought, I'll give you the summary here, it that as
25 Trustees I think we need to have a high standard of what we're

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1 up to. You know, I think there's been a lot of questions about
2 whether this is toxic or not and I think we could discuss the
3 details of that here.

4 Just sort of some of the other summary points. I think
5 we also have to look at this -- I think we all support the idea
6 of trying to clean up these beaches, we've obviously all
7 supported that idea. But I think we also have to look at what
8 we do is going to have a precedential value. For instance, we
9 had a contingency plan here around the Juneau area that wanted
10 to put PES-51 all over the Mendenhall Refuge as part of a
11 contingency plan if there were an oil spill. So people will
12 look at what we do and the rigor that we do it with and say, if
13 that was good enough for you it's darn well good enough for us.
14 And I think we need to keep that in mind. So that's why we've
15 been recommending that we do some -- we do a pilot, we do a
16 test prior to full application as a general approach.

17 I'm also -- I'm kind of curious whether hot water
18 injection has been seriously considered?

19 MR. SENNER: Mr. Rue, this is Stan. The only
20 comment I've got on that, and perhaps there are others that
21 would want to, but that the hot water treatment during the
22 prior the response -- or the initial response to the oil spill
23 is what has gotten the most criticism in subsequent years and
24 essentially the concept of cooking the intertidal fauna and
25 flora. And representatives of DEC or others may want to add an

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1 additional comment but, again, it's the hot water that has had
2 the greatest criticism and there is also concern that hot water
3 in and of itself, in fact, will not do the job with respect to
4 these particular beaches at Chenega and that some chemical
5 agent is going to be required to loosen things up and to get it
6 to float.

7 MR. RUE: I guess, my concern -- you know, I
8 think we ought to hold ourselves to a high standard if we're
9 going to put a chemical on the beach and that we ought to be
10 certain of what we're doing and not just sort of dismiss
11 concerns. And that's why I would propose -- I mean, that's why
12 we've proposed that we proceed fairly cautiously and at least
13 know what we're doing and learn something from what we're
14 doing.

15 MS. D. WILLIAMS: Mr. Chairman.

16 CHAIRMAN PENNOYER: Yes, Deborah.

17 MS. D. WILLIAMS: I concur with Commissioner
18 Rue's comments.

19 CHAIRMAN PENNOYER: How do we take Commissioner
20 Rue's comments and translate them into action? What is it
21 going to do? Jim, do you have -- I'm not proposing, I'm just
22 trying to expand on the concept that Commissioner Rue has
23 proposed. Jim, do you have a comment?

24 MR. WOLFE: I just have a question for Frank,
25 if I could, please.

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1 CHAIRMAN PENNOYER: Okay, go ahead, Jim.

2 MR. WOLFE: Frank, I think we did a test using
3 PES-51 before and maybe we didn't do an adequate analysis of
4 that work, but what would propose that we do this time that's
5 different than what we did last time? Already did.

6 MR. RUE: Yeah, I think we would suggest a more
7 rigorous test of.....

8 MR. WOLFE: The sampling and analysis work?

9 MR. RUE: Right, exactly.

10 CHAIRMAN PENNOYER: Frank, are you suggesting
11 -- first of all, of course, on the number of beaches that are
12 proposed and the areas are very -- five acres of area, it's
13 very small compared to the total amount of area anyhow. Are
14 you proposing we do a sub-sample of those and test them or just
15 test what would be done if the beaches were treated? I'm not
16 clear on where we're going with this.

17 MR. RUE: I guess what I would suggest is have
18 Stan and Dr. Spies sit down with the various agencies and come
19 up with a protocol that would get us some information that we
20 would feel confident about. And he said his initial analysis
21 was, that would be about \$1,000,000.00 with eight beaches as --
22 you know, a control on each of eight beaches, and a test site
23 on each of beaches this spring, then have them come back to us
24 with what that would look like fairly quickly. Sounds like
25 we've already done the preliminary work on coming up with that.

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1 MS. McCAMMON: That would be a million dollars
2 in addition to the 1.9 million that's already been approved.

3 MR. RUE: Right.

4 MS. McCAMMON: And those are rough estimates
5 just on some preliminary analysis.

6 MR. RUE: I don't have -- you know, I'm not a
7 research scientist, so I don't have a test protocol set up in
8 my mind, but I would suggest that we have people who could do
9 that fairly quickly.

10 MS. D. WILLIAMS: And, Mr. Chairman.

11 CHAIRMAN PENNOYER: Yes, Deborah.

12 MS. D. WILLIAMS: I would be interested in
13 seeing the eight beach analysis. I'd also be interested in
14 having the group come up with the minimal test area that would
15 get us what we perceive to be appropriate results, so it might
16 be than eight beaches. I feel as if I would be prepared to
17 appropriate an additional million dollars if that is necessary
18 to make this both meaningful and safe.

19 CHAIRMAN PENNOYER: Okay. Any other comment on
20 this?

21 MS. BROWN: Yeah, Mr. Chairman, this is
22 Michele, may I go ahead?

23 CHAIRMAN PENNOYER: Go ahead.

24 MS. BROWN: I guess I'm somewhat troubled by
25 this. I don't disagree with the concept that we should be very

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1 conservative in this, but I think we've crossed that bridge a
2 number of times. What this sounds to me is very much like the
3 long time debate, and it's a legitimate debate, over whether
4 these substances are good and effective and leave any kind of
5 residual toxicity. We've known all along that we could never
6 say there were zero risks but we made a lot of choices, we've
7 done a lot of the studying that I think people are talking
8 about already and, you know, I think if we start talking about
9 appropriating another million dollars just to sort of recreate
10 studies, we're doing the kind of research that's kind of the
11 realm of what our mission is.

12 And, I mean, I think I kind of have to say I agree with
13 what Molly said, and I think the choice is really do we go
14 ahead because based on the scientific information we have the
15 risk is relatively low compared to the benefits. Or do we just
16 say that there are still too many residual concerns to go ahead
17 with the project and it just seems very hard to me to justify
18 another million to cover ground that that I think I heard other
19 folks, the scientific folks, say we've already covered and we
20 will not gain much more information from this.

21 MR. TILLERY: Mr. Chairman.

22 CHAIRMAN PENNOYER: Yes.

23 MR. TILLERY: I tend to agree with Michele, the
24 position she's taking. I share Frank's concern that what we do
25 has impacts on what other people do but I guess I think that's

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1 one of our missions is to help people. We have the ability to
2 find some answers out, and maybe Stan can answer this, but,
3 Stan, if we go ahead with the project as it's being done now,
4 is it set up so that we're going to learn from this or are we
5 just going to end up with a clean beach? Or if we go ahead and
6 do what we're doing then with some follow-up analysis does that
7 then tell the people at Mendenhall whether they should be
8 applying stuff there?

9 MR. SENNER: Mr. Chairman and Mr. Tillery, the
10 monitoring protocol that set up now for the currently proposed
11 project is at best a very minimal monitoring scheme. It was
12 not designed with the intent of testing a product, PES-51, it
13 was designed to give the Trustees some level of feedback on the
14 effectiveness of PES and would give some indication of what I'd
15 call gross environmental problems as a result of it but,
16 Mr. Chairman, the current proposal is definitely at the very
17 low end, and I emphasize low end, of the monitoring program.
18 But it really wasn't designed to be any more than that.

19 We had a limited amount of resources, we have a product
20 that is already on EPA's National Contingency Plan Product
21 schedule, we have a product that's gone through the State's
22 technology protocols, that through the Department of
23 Environmental Conservation. We had a workshop where we had a
24 number of experts discussing various options. All of that was
25 there as background and thus there was no intent to design a

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1 system to that would really be a test of PES-51. We would
2 learn something from the sampling that's now proposed but
3 definitely at the very low end of the scale.

4 CHAIRMAN PENNOYER: Stan, I guess that's --
5 we're apparently going to be split on this, and maybe it's a
6 lack of information and time to really deal with it, but I --
7 you know, my agency has presented to two different views, one
8 was cautionary and the other was saying we probably have the
9 information to say at this scale it's not going to have any
10 significant impact. If you viewed significant impact on a more
11 global scale, as opposed to quarter acre by quarter acre or
12 foot by foot, and I don't know what the legal answers are to
13 those questions yet. I -- if, in fact, we were to go ahead
14 with the project but if it had a -- because again at the eight
15 beach level even, this is a very minor percentage of the total
16 area we're dealing with in Prince William Sound or, indeed, in
17 the whole oil spill area.

18 What would it cost to do a monitoring program that was
19 effective in answering those questions? But proceeding with
20 the eight beach process instead -- if we go down to four
21 beaches, I don't know what the difference is with eight beaches
22 in terms of impact overall in the area. I couldn't tell you
23 what -- right now I don't feel comfortable with whether it's
24 one beach or two beaches or three beaches or four or five or
25 six, seven, eight, nine, 10, before you reach a level that it's

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1 not -- that it is really a production project rather than
2 research. But if we were to do the eight beaches, but actually
3 -- or seven or whatever, but actually at the end of that have
4 information on what the effect of the of the program was, both
5 in the cleaning up and any toxicity, what would the cost be?
6 Does anybody know the answer to that?

7 MR. SENNER: Okay. Yeah, Mr. Chairman, and
8 Jeep Rice and Bruce Wright may want to jump in, but if you had
9 to do all eight beaches -- let me restate that. If you did --
10 if you treated all eight beaches this year but wanted to do it
11 as a scientifically rigorous test you would add about
12 \$800,000.00 in monitoring to the program, that would be for,
13 you know, a reasonable, but still somewhat minimal program on
14 the chemistry side. And it would definitely very minimal on
15 the biological side. That wouldn't include, for example, any
16 monitoring of what we call in-fauna, the organisms that live,
17 you know, in between the rocks and down in the sediments and
18 gravel.

19 If one were to want to do that, and that is where one
20 would expect to see some effects, we would add enormously to
21 the cost and, Mr. Chairman, you were around for all the
22 decisions about the Coastal Habitat Project that we did back in
23 the damage assessment and know that we spent \$20,000,000.00 on
24 that over a period of several years.

25 CHAIRMAN PENNOYER: Thanks for reminding me.

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1 Of course, that was a much larger scale and, anyway without --
2 Jeep, did you want to say something on that, too?

3 MR. RICE: No, I've been in cahoots there with
4 Stan on the subject.....

5 MR. SENNER: Strike that from the record.

6 MR. RICE:of the 800,000 is over three
7 years, the bulk of it is in year one/year two where there's
8 actual people on the beach and the subsequent analysis of the
9 samples that they collected. Year three would be just a wrap
10 up to finish it all off and write up the science that comes out
11 all of that.

12 MR. SENNER: Mr. Chairman, one other thing may
13 be worth putting on the table, and that is if one went the four
14 beach approach where you would treat four beaches and keep four
15 as controls in year one and it would then take you a year to
16 evaluate the results, because you have to go out and do the
17 sampling after the treatment. You want to go out 30 days after
18 the treatment, then you want to go out a year after the
19 treatment. You have to process those samples do the, you know,
20 the analysis, write up the results, everyone needs to look at
21 those. Then a year later, in other words, in year three,
22 depending on the results of the initial round of four
23 treatments you could reach a decision then to go back and treat
24 the additional four beaches. So one of the difficulties of the
25 four beach approach is that it would essentially take you three

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1 to four years to carry out the project and, of course,
2 additional expenses.

3 MR. RUE: If I could -- you know, I think a lot
4 of this turns on whether or not people feel comfortable that
5 there's enough information in right now to let us feel
6 comfortable that we're not going to put something on the beach
7 or in the environment that is not a good thing to do. And I'm
8 not sure, you know, how to resolve that one. Maybe we just
9 ought to -- you know, I'm not the expert, the Department's not
10 the expert on toxicity necessarily. I guess I have problem
11 getting past this one -- I guess I'd be interested in hearing
12 what Dr. Spies and some of the folks at NOAA feel about the
13 toxicity and whether the existing -- or DEC. Michele, you felt
14 the literature, there was enough research to let us know that
15 this was not a problem. And I don't know if you've had a
16 chance to look at the various comments and the debate on that
17 issue.

18 MS. BROWN: Yeah, I think -- you know, and you
19 said earlier about, you know, being fearful that people would
20 dismiss the concerns and I think that that's valid, you don't
21 want these concerns dismissed. But I think from my review of
22 the literature, and again, I'm not an expert, so I'm relying
23 on, you know, the NOAA scientists and the EVOS scientist that
24 the concerns have been adequately addressed. Again, it is not
25 risk free and what I'm just concerned about is this is not

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1 really a new issue and each time we've addressed this we've
2 known this was going to be a problem, which is one of the
3 reasons why I'd be hesitant to endorse putting more money into
4 it because I think that there are people, you know, for not
5 illegitimate reasons in a number of the agencies we represent
6 who are adamantly opposed to ever using these substances, so we
7 will never get to the point of complete comfort because it's a
8 very controversial subject that is not risk free.

9 I just -- from my perspective, and I, too, would like
10 to hear from the scientists more on this point, it seems that
11 we have enough information since we've already made the
12 decision that we want to go ahead with remediation using these
13 substances that we have enough information to warrant that
14 decision.

15 MS. D. WILLIAMS: Mr. Chairman, the sand is
16 quickly running out of my hour glass. Can I make a
17 recommendation?

18 CHAIRMAN PENNOYER: Well, Jim wanted to say
19 something.

20 MS. D. WILLIAMS: Okay.

21 CHAIRMAN PENNOYER: Jim, you want to make
22 something.....

23 MR. WOLFE: I'll defer to Deborah at this time.

24 CHAIRMAN PENNOYER: Deborah, go ahead.

25 MS. D. WILLIAMS: Oh, thank you. The fact of

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1 the matter is that we have a record in front of us with five
2 agencies opposing the preferred alternative and recommending
3 and alternative -- testing alternative. Given the record it is
4 very difficult for us, today, to support the preferred
5 alternative. What I would be interested in knowing is how
6 quickly the key players could get together, sit down and see if
7 they can come up with a protocol that our agencies can concur
8 with.

9 The problem that I face is my attorneys tell me that I
10 should not under NEPA regs sign a FONSI and really cannot, in
11 essence, sign a FONSI given the amount of controversy expressed
12 by the five agencies on the preferred alternative. Now, if
13 folks can sit down and come up with at protocol that they can
14 agree with then I think we can all happily go forward and if
15 they can -- I think there's obviously urgency for that. I
16 certain would be prepared to have another, you know, phone call
17 Trustee Council Board member (sic) mid next week or end of next
18 week following that sitting down and figuring out protocol we
19 can all agree to. But with five agencies weighing in at this
20 point expressing substantial concerns, it is difficult, I
21 think, for this Trustee Council today to vote to go forward
22 with the preferred (indiscernible - interrupted).....

23 CHAIRMAN PENNOYER: Deborah, I agree with you
24 entirely, I'm in the same position myself. And what I was
25 going to suggest, and I was just talking to Jeep here, is that

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1 we get -- I was just saying for our agency get HazMat and Auke
2 Bay Labs on the line talk to each other with perhaps Jim or I
3 there to try and work that out. I would expand that and maybe
4 we want to ask Dr. Spies to convene the people who are --
5 either by conference call or face-to-face that are most
6 concerned with this. Actually the experts, because I'm
7 certainly not enough of an expert to pass judgment on this
8 myself. And maybe in the very near future they can do that and
9 we can see if there is a resolution to this.

10 MS. D. WILLIAMS: Yeah.

11 MS. McCAMMON: Mr. Chairman, when Ms. Williams
12 asked for a protocol, what does she mean by that? A protocol
13 for a test or a protocol for going forward or what exactly?

14 MS. D. WILLIAMS: Whatever they come up with.

15 CHAIRMAN PENNOYER: If some of each -- a
16 protocol if that requires a test, what is the type of test we
17 require. If it's simply doing the overall project but with
18 some chance of evaluating the effects, what is that? If the
19 people can get together and talk really about what they mean
20 with their concerns maybe we can find our way through it.

21 MS. D. WILLIAMS: Yeah.

22 DR. SPIES: Mr. Chairman, can I make a quick
23 comment? This is Bob Spies.

24 CHAIRMAN PENNOYER: Yes, Bob.

25 DR. SPIES: There may be a middle path out of

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1 this. If the agency people that have made comments expressing
2 concerns about the toxicity of PES-51 would agree, and I'm not
3 sure they would, but if they would agree that a review of the
4 toxicity literature or some further toxicity tests could be
5 done as an alternative to a really rigorous field test because
6 it's obvious that the costs of a very rigorous field tests are
7 going to be very expensive, but perhaps testing of select
8 organisms under control conditions could, in my mind, be done
9 for a lot less money, might be a way out of this if they would
10 agree that those results might provide further comfort for them
11 in regards to the toxicity of this compound.

12 MS. D. WILLIAMS: Right.

13 CHAIRMAN PENNOYER: If each agency could
14 provide you with some names of key people to get on a call or a
15 meeting for next week, could you possibly put that type of
16 thing together? And that would be one question you could
17 explore.

18 MS. D. WILLIAMS: Right.

19 MS. BROWN: Mr. Chairman.

20 CHAIRMAN PENNOYER: Yes.

21 MS. BROWN: This is Michele. I would really
22 endorse that last comment because I think it's very focused.
23 And let's really get it -- what it is that's making people
24 nervous here because, you know, we've been through a number of
25 comments here, so each time around something new comes up and

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1 it would really be good if we could have all the experts in one
2 room addressing what it is that really is making them nervous
3 and see if there is a way to work through this. So that when we
4 come back we either know that there's a point at which some
5 people will never be comfortable so that we can then make that
6 decision, but I think -- I'm a little worried about this --
7 this has gone a long time with successive comments coming in as
8 people think of things. And it would be really good if we
9 could get one final wrap up, so we know that some folks -- you
10 know, if it is that there are no circumstances under which this
11 would be acceptable then we can all know that and proceed.

12 CHAIRMAN PENNOYER: Okay. Bob, with that in
13 mind, can you, in fact, try and pull that together for some
14 time next week? Jeep sitting, I'm sure, he -- we'll volunteer
15 that much, I'm going to have to HazMat people, but could you
16 perhaps do that?

17 DR. SPIES: Sure, I'll be glad to,
18 Mr. Chairman.

19 MR. WOLFE: Mr. Chair.

20 CHAIRMAN PENNOYER: Yes, Jim.

21 MR. WOLFE: I -- Forest Service doesn't have
22 the toxicology experts and we don't want to be in that
23 position. We do have the responsibility on the -- on signing
24 the (indiscernible - interrupted).....

25 CHAIRMAN PENNOYER: Well, then you probably

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1 want to attend the meeting, right?

2 MR. WOLFE: We want to see this come together.
3 We knew and DEC knew that this was a sensitive topic early on
4 and I thought we had already gone out and had an independent
5 third party do a search of the literature and give us their
6 recommendations. And based on that we moved forward with some
7 discussion that is in the current draft of the NEPA document.
8 And so I guess -- I can tell you that I'm a little bit
9 frustrated that we get to this point, you know, and did hire an
10 independent third party too, at least DEC did, to do some work
11 for us in that area and it seems like it was totally ignored
12 and nobody even discussed it today.

13 So for whatever we do next week I hope we at least
14 consider what the consultant that DEC hired put on the table
15 for us as a basis to work from.

16 CHAIRMAN PENNOYER: Michele, would somebody
17 from DEC be willing to bring that to the table with Bob, then?
18 Do you have somebody that could bring that part forward?

19 MS. BROWN: Yes, Dianne can.

20 MS. MUNSON: Yes. We will.

21 CHAIRMAN PENNOYER: Okay. Then that -- Bob, do
22 you hear that as well?

23 DR. SPIES: Yes, I do, thanks.

24 CHAIRMAN PENNOYER: Okay.

25 MS. D. WILLIAMS: And Bob, Catherine Berg will

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1 be our liaison person, so when you set this up you can talk
2 with her in terms of who will be representing DOI.

3 CHAIRMAN PENNOYER: Thank you.

4 MR. RUE: And Claudia Slater for Fish and Game.

5 CHAIRMAN PENNOYER: And we'll certainly have
6 Jeep Rice, but I have to talk to HazMat, Bob, so you need to
7 get back to perhaps Bill Hines and he'll provide you with a
8 name. Or to Jeep.

9 DR. SPIES: Sure.

10 MS. McCAMMON: Mr. Chairman, I'm going to have
11 to suggest. We are right in the mist of our project proposal
12 review process and I think Dr. Spies is not really, maybe, the
13 appropriate person to organize this meeting. I think it would
14 be appropriate for him to be there and to maybe review the list
15 of who's all involved, but I would suggest that an agency take
16 the lead in terms of actually organizing it.

17 MS. D. WILLIAMS: Okay.

18 CHAIRMAN PENNOYER: How about DEC then?

19 MS. BROWN: Well, we could. I was going to
20 suggest that either Interior or Fish and Game, the folks who
21 have the most concerns at this point to make sure that they're
22 concerns are being addressed.

23 MS. D. WILLIAMS: Well, how about Forest
24 Service because they think they have the smallest ax in this?

25 MS. McCAMMON: How about DNR?

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1 CHAIRMAN PENNOYER: Dave Gibbons just
2 volunteered but -- organizing that's good, but in terms of
3 actually conducting the meeting I think it needs to be
4 Dr. Spies be there and to get that -- I'd appreciate his advice
5 on this and perhaps for sending out the letters or making --
6 doing whatever else you got to do then maybe Dave can help us
7 out there, but, Bob, I assume that you'll still coordinate with
8 us and be present.

9 DR. SPIES: I'll be glad to play any role that
10 seems to be appropriate.

11 CHAIRMAN PENNOYER: Okay. So Dave then is
12 going to make sure that everybody knows about it and I think
13 everybody in the agencies is going to have to help him do that
14 anyway. And, Bob, when we get the thing set up then you'll be,
15 maybe even chair it.

16 Is that all right with everybody? Do we need to have a
17 formal motion on that or.....

18 MR. WOLFE: So moved, Mr. Chair.

19 CHAIRMAN PENNOYER: Thank you.

20 MS. BROWN: Second.

21 CHAIRMAN PENNOYER: Okay, it's been moved and
22 seconded we proceed with a mini workshop next week to try to
23 sort out the question regarding the Chenega Beach Cleanup, and
24 most specifically to look at what's been done and what people's
25 problems really are in terms of toxicity of this element in the

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1 scale we're talking about it being applied.

2 And I think.....

3 MR. RUE: And how we might proceed to get the
4 information to people.

5 CHAIRMAN PENNOYER: Proceed to either get
6 further information if required.....

7 MR. RUE: As required. As the group agrees is
8 necessary.

9 CHAIRMAN PENNOYER: And the cost, too,
10 presumably.

11 MR. RUE: Yeah.

12 MS. McCAMMON: Mr. Chairman, I'd just like to
13 emphasize here that we're on a very tight time schedule if this
14 project is to go forward this summer. We're probably already a
15 week to 10 days behind schedule just over the last week and so
16 I would hope that folks could come as prepared as possible and
17 that we could actually resolve something by mid next week. And
18 that people should come to this meeting trying to resolve
19 something.

20 MS. D. WILLIAMS: Correct.

21 CHAIRMAN PENNOYER: I presume also give that,
22 you'd be prepared to reschedule a conference call of this body
23 for late next week, perhaps, and we'll put that type of time
24 constraint on it?

25 MS. McCAMMON: Yep.

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1 CHAIRMAN PENNOYER: Okay. If everybody agrees
2 to that then, that's how we'll proceed. And if everybody, all
3 agencies, will get their names and contacts into Dave who will
4 coordinate the time and location and.....

5 MR. RUE: You got ours, Dave, right?

6 MR. GIBBONS: This is ones I've got. For NOAA
7 I got Jeep Rice; for Interior, Catherine Berg; Fish and Game,
8 Claudia; and DEC, Ginny.

9 MS. MUNSON: Dianne Munson.

10 MR. GIBBONS: Dianne.

11 MS. FAY: Both of us I think.

12 CHAIRMAN PENNOYER: And don't leave Bob Spies
13 off.

14 MR. GIBBONS: Right, and Bob.

15 CHAIRMAN PENNOYER: Okay. Stan, do you want to
16 be in on that, too?

17 MR. SENNER: I would just love it.

18 CHAIRMAN PENNOYER: I can tell, so you're in on
19 it. Okay. Is there anything further on this topic at this
20 time. Thank you very much.

21 And, Molly, do you have anything else on this agenda?

22 MS. McCAMMON: Do you want public comment?

23 CHAIRMAN PENNOYER: So I would -- I'm sorry?

24 MS. D. WILLIAMS: Mr. Chairman, I would.....

25 CHAIRMAN PENNOYER: I would accept a motion to

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1 adjourn.

2 MS. D. WILLIAMS: Do we want to recess?

3 CHAIRMAN PENNOYER: Why did you say that,

4 Deborah?

5 MS. D. WILLIAMS: I move to recess.

6 MR. TILLERY: Second.

7 MR. RUE: Second.

8 MS. BROWN: Second.

9 MS. D. WILLIAMS: I'm off.

10 CHAIRMAN PENNOYER: Hold on half a second.

11 Dave, you're holding up your hand, what?

12 MR. WOLFE: Well, the point that Dave wants to
13 make is that confidential draft information on the appraisal,
14 appreciate it if folks would kind of destroy that at this point
15 in time and not let it get out.

16 CHAIRMAN PENNOYER: I see Dave eating his copy
17 so.....

18 MR. WOLFE: Yeah.

19 CHAIRMAN PENNOYER: Okay. Thank you very much.
20 This meeting is recessed probably to resume sometime late next
21 week.

22 MS. McCAMMON: Thank you very much.

23 (Off record - 11:58 a.m.)

24 (MEETING RECESSED)

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1 C E R T I F I C A T E

2 UNITED STATES OF AMERICA)
3) ss.
4 STATE OF ALASKA)

5 I, Joseph P. Kolasinski, Notary Public in and for the
6 State of Alaska and Owner of Computer Matrix do hereby certify:
7 THAT the foregoing pages numbered 3 through 38 contain
8 a full, true and correct transcript of the Exxon Valdez Oil
9 Spill Trustee Council's Teleconference Meeting recorded
10 electronically by me on the 18th day of April 1997, commencing
11 at the hour of 10:35 a.m. and thereafter transcribed by me to
12 the best of my knowledge and ability.

13 THAT the Transcript has been prepared at the request
14 of:

15 EXXON VALDEZ TRUSTEE COUNCIL, 645 G Street,
16 Anchorage, Alaska 99501;

17 DATED at Anchorage, Alaska this 24th day of April
18 1997.

19 SIGNED AND CERTIFIED TO BY:

20 _____
21 Joseph P. Kolasinski
22 Notary Public in and for Alaska
23 My Commission Expires: 04/17/00