

00001

1 EXXON VALDEZ OIL SPILL
2 TRUSTEE COUNCIL
3 Public Meeting
4 Friday, June 14, 2002
5 10:00 o'clock a.m.
6 441 West 5th Avenue, Suite 500
7 Anchorage, Alaska
8 TRUSTEE COUNCIL MEMBERS PRESENT:
9 STATE OF ALASKA - MR. CRAIG TILLERY
10 DEPARTMENT OF LAW: Assistant Attorney General
11 (Chairman) State of Alaska
12 U.S. DEPARTMENT OF AGRICULTURE, MR. DAVE GIBBONS
13 U.S. FOREST SERVICE Forest Supervisor
14 U.S. DEPARTMENT OF COMMERCE, MR. JAMES W. BALSIGER
15 National Marine Fisheries Svc: Administrator, AK Region
16 STATE OF ALASKA - DEPARTMENT MR. FRANK RUE
17 OF FISH AND GAME: (Telephone) Commissioner
18 U.S. DEPARTMENT OF INTERIOR: MS. DRUE PEARCE
19 U.S. Department of Interior
20 STATE OF ALASKA - DEPARTMENT MR. RON KLEIN for
21 OF ENVIRONMENTAL CONSERVATION: Commissioner Brown
22 Proceedings electronically recorded, then transcribed by:
23 Computer Matrix Court Reporters, LLC, 3522 West 27th,
24 Anchorage, AK 99517 - 243-0668

00002

1 TRUSTEE COUNCIL STAFF PRESENT:

2 MS. MOLLY McCAMMON	Executive Director
3 MS. SANDRA SCHUBERT	Program Coordinator
4 DR. PHIL MUNDY	Science Coordinator
5 DR. BOB SPIES	Chief Scientist
6 MS. PAULA BANKS	Administrative Assistant
7 MS. DEBBIE HENNIGH	Special Staff Assistant
8 MR. ROBERT WALKER	Data Manager
9 MS. CARRIE GOMBOS	Intern, Department of Law
10 MS. DEDE BOHN	U.S. Geological Service
11 MR. KEN HOLBROOK	U.S. Forest Service
12 MR. STEVE SHUCK	U.S. Fish and Wildlife Svc.
13 MR. BILL HAUSER	ADF&G
14 MS. CAROL FRIES	ADNR
15 MR. ALEX SWIDERSKI	Department of Law
16 MR. BUD RICE	National Park Service
17 MR. JIM BODKIN	USGS
18 MS. REGINA BELT	Department of Justice
19 MR. DOUG MUTTER	Department of Interior

00003

1	TABLE OF CONTENTS	
2		
3	Call to Order	04
4	Approval of Agenda	05
5	Approval of Meeting Notes (April 18, 2002)	06
6	Executive Director's Report	06
7		
8	PUBLIC COMMENT	12
9		
10	Ms. Patty Brown-Schwalenberg	13
11	Mr. Gary Kompkoff	15
12	Ms. Michelle Wilson Nordhoff	16
13	Mr. Jim Adams	25
14	Mr. Craig Matkin	30
15	Ms. Theresa Obermeyer	40
16	Mr. Henry Makarka	46
17	Ms. Nancy Hillstrand	137
18		
19	Old Harbor Land Exchange	59
20	Revisions to Draft PAC Charter	66
21	Solicitations of Subcommittee and PAC Nominations	75
22	GEM Briefing on NRC Report	82
23	FY03 Draft Invitation, Phase II	109
24	Revised Operating and Report Procedures	114
25	Adjournment	151

00004

1 P R O C E E D I N G S

2 (On record - 10:05 a.m.)

3 CHAIRMAN TILLERY: This is the June 14th
4 meeting of the Exxon Valdez Oil Spill Trustee Council. I'm
5 Craig Tillery, the Chair of the meeting today. With us we
6 have Dave Gibbons with the Forest Service; Ron Klein is
7 representing Commissioner Michele Brown for the Department
8 of Environmental Conservation. Jim Balsiger is not here,
9 right now he is apparently on his way in from the airport
10 and should be here shortly. Drew Pearce is with us from
11 the Department of the Interior and Frank Rue should be on
12 line from Fish and Game. Frank, are you on line?

13 (No audible response)

14 CHAIRMAN TILLERY: Frank?

15 (No audible response)

16 CHAIRMAN TILLERY: Okay, we're.....

17 MR. MEACHAM: This is Chuck Meacham in
18 Juneau with the Public Advisory Group and I am on line.

19 CHAIRMAN TILLERY: Okay, thank you, Chuck.
20 You haven't seen Frank, have you?

21 MR MEACHAM: Negative.

22 CHAIRMAN TILLERY: Okay. So we're going to
23 wait a few minutes until Jim Balsiger gets here and until
24 Frank Rue is available. Public testimony is scheduled to
25 begin at 10:15, if Mr. Balsiger has not gotten here by

00005

1 then, what I'm going to do is see if there's anyone who
2 needs to testify right away because of time limitations, we
3 can go ahead and take that testimony, otherwise it's
4 obviously preferable to wait until everyone is here.

5 So we'll be in recess for a few minutes
6 until we hear from our other members of the Council.

7 (Off record - 10:07 a.m.)

8 (On record - 10:09 a.m.)

9 CHAIRMAN TILLERY: We're still waiting for
10 Mr. Balsiger, he should be here shortly, the plane has
11 arrived, I'm informed he should actually be here very soon.
12 What we're going to go ahead and do is to start with the
13 meeting at this time and he should be here by the time that
14 we get to public comment. So the first item on the agenda
15 is the approval of the agenda.

16 MS. PEARCE: So moved, Mr. Chairman.

17 CHAIRMAN TILLERY: It's been moved, is
18 there a second?

19 MR. KLEIN: Second.

20 CHAIRMAN TILLERY: It's been moved and
21 seconded to approve the agenda; is there any discussion?

22 (No audible response)

23 CHAIRMAN TILLERY: Hearing none, all in
24 favor say aye.

25 IN UNISON: Aye.

00006

1 CHAIRMAN TILLERY: Okay, the agenda is
2 approved. The second item is the approval of the meeting
3 notes from the April 18th, 2002 meeting; is there a motion?

4 MS. PEARCE: So moved.

5 CHAIRMAN TILLERY: It's been moved.

6 MR. KLEIN: Second.

7 CHAIRMAN TILLERY: And Mr. Klein has
8 seconded the motion. Is anyone opposed?

9 (No audible response)

10 CHAIRMAN TILLERY: Okay, the April 18, 2002
11 meeting notes are approved. The next item on the agenda is
12 the Executive Director's report. Ms. McCammon.

13 MS. McCAMMON: Mr. Chairman, thank you. I
14 have a few items I wanted to report on. First of all you
15 have your investment reports through April of this year.
16 We do have just some preliminary numbers from the
17 Department of Revenue for May, and the fund did earn
18 310,000 in May. And we'll get you those full reports when
19 we receive them.

20 The Investment Work Group will be meeting
21 in July. According to the resolution that the Council
22 adopted in March of 1999, the investment account gets split
23 into two funds on October 1. One will be for research
24 monitoring, general restoration and one for habitat
25 protection activities. And so we'll be preparing to get

00007

1 that account set up. The habitat account itself gets split
2 into a further account, assuming that the Koniag agreement
3 gets finalized by that time. And then it would be the
4 Koniag subaccount and the habitat account and then the
5 remainder, which is about 25 million, would be available
6 for other habitat protection activities.

7 The agreement that we had with Koniag is
8 that the Trustee Council would be responsible for investing
9 those funds, but with input from Koniag. And so we do plan
10 on having some meetings later in the summer talking to them
11 about what that investment structure might look like and
12 whether it would be different than what the Trustee Council
13 has. There was some talk earlier that they might want a
14 more aggressive investment strategy, but I'm not sure, but
15 that's their thinking right now.

16 The other thing I needed to report on is
17 that John Jenks, who is head of the Treasury Division at
18 the Alaska Department of Revenue, has resigned to take a
19 new position in San Francisco. He's being replaced by Lee
20 Livermore, who has been working at Treasury for about two
21 years. So there is a transition there. We met with both
22 John and Lee, we're assured that there will be no
23 significant changes in how Department of Revenue operates
24 and is managing the funds, but it something that we should
25 be aware of and kind of keep our eyes open, especially as

00008

1 we get to the change in administration.

2 (Mr. Balsiger arrives - 10:12 a.m.)

3 MS. McCAMMON: Also in your packet you have
4 a quarterly project report and basically most things are
5 going forward. We continue to have a problem, once again,
6 with late reports. A number of these go back a number of
7 years. So any assistance from you in getting reports that
8 come from within your agency, getting those to us, would be
9 greatly appreciative.

10 In May we held the last meeting of our core
11 reviewer group in Homer, this was led by Chief Scientist
12 Bob Spies and kind of our core group, Pete Peterson, George
13 Rose, Steve Braund, Jim Reynolds, I think there's one more
14 here that I'm missing. And they met for two days and then
15 had a half day meeting with the new Scientific and
16 Technical Advisory Committee. It was a really nice
17 transition to have that as their final meeting and be able
18 to meet with the new STAC. And we'll be talking a little
19 bit more later about the STAC process.

20 Next week we are busy finalizing all the
21 arrangements for the Oceans and Watershed Symposium. We
22 have approximately 350 to 375 people signed up. I think
23 there's going to be excellent attendance, so I hope all of
24 you can be there for that. There's just a great group of
25 speakers. We also have it arranged so that the transcripts

00009

1 from that conference will be available in about two weeks
2 and we'll post those on our website, have those available
3 for posting. It's also being videotaped and the videotapes
4 will be available at the ARLIS Library for people to check
5 out. And then also the materials from that conference go
6 into a report that will be available probably sometime in
7 October, November and that will be both a hardcopy and a
8 PDF file that can be posted on websites. And the idea of
9 the report is to kind of be a prototype of the first State
10 of Alaska's Oceans and Watersheds report. I think there's
11 going to be a lot of excellent material presented next
12 week.

13 One other final item that I wanted to bring
14 to your attention, I faxed out to you on Wednesday a letter
15 that I received from Patty Brown-Schwalenberg, Executive
16 Director of the Chugach Regional Resources Commission. In
17 that letter, written on behalf of the tribes of the Chugach
18 Commission they're asking the Trustee Council to meet with
19 the tribes to develop an Alaska tribal government policy
20 that would specifically address tribal involvement in
21 matters relating to the Exxon Valdez oil spill and would
22 confirm that the Trustee Council is committed to working
23 with the tribes on a government to government basis.

24 The letter is requesting the opportunity to
25 clarify the role of tribes and how that status differs from

00010

1 community or public. And so at some point, whether it's
2 today or at another meeting or what, I'd like to get some
3 advice back from the Trustees on how to respond to this
4 letter. And I believe there are some people here who will
5 be testifying also during public comment.

6 How this came about is we had an in-house
7 meeting here talking about how to facilitate communication
8 between our office and tribes. And there was a very clear
9 perspective presented at that meeting that the tribal
10 groups that we've been working with really closely for the
11 last two years do not consider themselves as part of the
12 public or as a stakeholder group. And so any clarification
13 there in terms of whether we should be doing things
14 differently would be appreciated.

15 And, let me see, those are the primary
16 things that I wanted to report to you today.

17 CHAIRMAN TILLERY: Okay. Thank you.
18 Before we go any farther, let the record reflect that
19 Mr. Balsiger has joined us and we now have all six Trustee
20 Council members here.

21 Are there any questions or comments for
22 Ms. McCammon?

23 (No audible response)

24 CHAIRMAN TILLERY: Okay, the next item on
25 our agenda is public comment. I gather this is sort of

00011

1 dual purpose, general public comment, plus sort of a
2 specific invitation and a hearing on injured resources and
3 service update. I guess inevitably they're going to get
4 interspersed. Did you have any plan to have any kind of an
5 overview on the injured species before the comment?

6 MS. McCAMMON: Mr. Chairman, we weren't
7 planning on specifically an overview. The draft has been
8 posted on the website and has been widely circulated.
9 Dr. Spies is here and he is the primary author of the
10 revised draft in consultation with a number of scientist.
11 I should mention -- and you have received copies of all of
12 the written comments that we've received so far, and I
13 think there are approximately 15 of those, and you should
14 have those in front of you at the table, and they were
15 faxed to you, Mr. Rue.

16 I should mention, also, as part of this,
17 this really highlights kind of the complexity of trying to
18 assess of injury and recovery in a marine environment and
19 with kind of the extensive geographic scope of the Exxon
20 Valdez oil spill. And one of things that I've been looking
21 for is guidance from other -- either other spills or other
22 programs or of other experiences on this issue. From what
23 I can tell, once again, the Trustee Council is kind of at
24 the cutting edge of this whole effort. But Mr. Tillery
25 does have a Harvard Law School intern this summer who, at

00012

1 our request, is looking into other incidents of either oil
2 spills or hazardous material spills, reviewing the
3 biological and ecological literature, reviewing legal
4 statutes, talking to people who have been involved in these
5 kinds of efforts over the years to see if there's some
6 additional guidance that might be provided in not only
7 defining the definitions; not recovered, recovering,
8 recovered, but maybe even looking at overall recoveries of
9 a different perspective. So I'm hoping to have that report
10 before our July 9th meeting and provide some additional
11 guidance there.

12 CHAIRMAN TILLERY: I would note that our
13 intern is here. Carrie, if you'd wave your hand or
14 something. And Carrie will be working on those activities.
15 Okay. At this time, I'd like to start with
16 public comment. Do we have a list of the sites?

17 MS. McCAMMON: Right in front of you.

18 CHAIRMAN TILLERY: Okay. At this time we
19 will go around the -- I'll start with the remote sites.
20 The first on I have is Seldovia, is there anyone from
21 Seldovia who would like to make comment?

22 (No audible response)

23 CHAIRMAN TILLERY: Is Seldovia on line?

24 (No audible response)

25 CHAIRMAN TILLERY: Okay. The next location

00013

1 is the Village of Chignik. Is there anyone from Chignik on
2 line?

3 (No audible response)

4 CHAIRMAN TILLERY: Just as a question, is
5 there anyone on line?

6 MR. MEACHAM: Yeah, Chuck Meacham, I'm on
7 line, but I don't have anything to offer during the public
8 comment period.

9 CHAIRMAN TILLERY: Okay. Is there anyone
10 from Larsen Bay on line?

11 (No audible response)

12 CHAIRMAN TILLERY: Did these people
13 actually sign.....

14 MS. McCAMMON: They called in for the
15 number and said they were going to be calling in.

16 CHAIRMAN TILLERY: Oh, okay. Is there
17 anyone on line who would like to make a public comment?

18 (No audible response)

19 CHAIRMAN TILLERY: Okay, we will come back
20 to that again later, but we'll move to Anchorage. I
21 believe the first person on the list is Patty. You had
22 comments?

23 MS. BROWN-SCHWALENBERG: Good morning, I'm
24 Patty Brown Schwalenberg, Executive Director Chugach
25 Regional Resources Commission. I just wanted to add a

00014

1 couple of comments to Molly's introduction to the letter
2 that we wrote. We think that -- the tribe have a
3 government to government with the Federal agencies and with
4 the recent signing of the Millennium Agreement also a
5 relationship with the State, so we feel that this
6 cooperative working relationship and the trust
7 responsibility with the Federal government should be
8 carried through to the Trustee Council, and I don't think
9 it has been to date. And we've been working with Molly to
10 try to get a more meaningful involvement in GEM and I think
11 having a meeting between the Trustees and the village
12 chiefs would provide an opportunity to learn about some of
13 the things that the tribes want to do, plus learn about
14 tribal sovereignty and the role that the tribes can play in
15 the GEM Program more on an equal level, government to
16 government.

17 And the other comment that I had was on the
18 GEM report from the National Research Committee -- is Mike
19 Roman on the line now, Molly?

20 MS. McCAMMON: Not yet, no.

21 MS. BROWN-SCHWALENBERG: Oh, okay. I just
22 had a comment. I was a little bit disappointed with the
23 community involvement portion of the report. We reviewed
24 it as the CRRC Board, as well as myself, and it really
25 didn't tell us anything new and, as Molly said, it didn't

00015

1 recognize some of efforts that had been going on to date,
2 so I would just like to offer my assistance to Molly, if
3 she wants any help putting some language together to add to
4 that section or whatever. We'll probably be providing some
5 comments directly to the NRC as well.

6 And Gary Kompkoff is also in the audience
7 and I don't think he checked the box to testify, but he
8 does want to provide some public comment.

9 Thank you.

10 CHAIRMAN TILLERY: Okay, thank you. Are
11 there questions or comments?

12 (No audible response)

13 CHAIRMAN TILLERY: Okay, thank you very
14 much. Gary, you are next on the list.

15 MR. KOMPKOFF: Good morning. I'm Gary
16 Kompkoff, President of the Village Council in Tatitlek and
17 just a brief comment in support of the letter from CRRC and
18 in support of Patty's comments that she just made. I think
19 the letter that was written from CRRC on behalf of the
20 tribes affected by the oil spill is long overdue. I think
21 it should have been written a number of years ago, rather
22 than today. The government to government relationship that
23 is mentioned, I think, is really important, especially now
24 that the tribes, especially in the Chugach region, are
25 working on natural resource management plans and trying to

00016

1 integrate those plans in with the GEM Program and work as
2 closely as we can with the Trustee Council and State and
3 Federal agencies in working out management plans that would
4 benefit both the tribes and the users overall.

5 If the Trustee Council would find the time
6 to sit down and meet with tribal representatives, at some
7 point, we'd really appreciate it. I think it would
8 beneficial not just for us as tribal people, but for the
9 State and Federal agencies in the long run in accomplishing
10 the goals of the GEM Program and also accomplishing the
11 goals of the tribal and natural resource management
12 program.

13 And that's basically my comment. Thank
14 you.

15 CHAIRMAN TILLERY: Okay. Are there
16 questions or comments of Mr. Kompkoff?

17 (No audible response)

18 CHAIRMAN TILLERY: Okay. Thanks. The next
19 person on the list is Michelle Wilson Nordhoff, is
20 that.....

21 MS. WILSON NORDHOFF: Good morning,
22 beautiful day today. My name is Michelle Wilson Nordhoff
23 with the Alaska Center for the Environment and my comment
24 today will be with regards to the draft injured resources
25 and services, changes that are being proposed. I'm going

00017

1 to kind of go through a list of our concerns, they're not
2 in priority.

3 I'm going to start by saying we are
4 uncertain as to what appears to be a recent change in
5 recovery objectives for several key species, in addition to
6 the immediacy to list species as 'recovered' when the
7 scientific studies show otherwise or if the studies are
8 still incomplete.

9 And we also would like to speak to the
10 changes, not only in recovery, but the need to also have
11 the classifications reflected non-recovery of some species
12 and resources. First we'd like to talk about and highlight
13 findings from the newly-released final report coming from
14 Auke Bay Laboratory, the Alaska Fisheries Science Center,
15 National Marine Fisheries Service, NOAA titled "Vertical
16 Oil Distribution within the Intertidal Zone 12 Years after
17 the Exxon Valdez Oil Spill in Prince William Sound Alaska"
18 This study is important since previous reports have assumed
19 low oil persistence in these areas.

20 This ground-breaking study provides timely
21 insight about the unexpected amount of oil-largely liquid
22 oil matching the Exxon Valdez that remains in the
23 productive lower intertidal areas.

24 To quote from the report: "the persistence
25 and dominance of subsurface oil in the mid- and lower-

00018

1 intertidal ... is a very surprising result. The frequency
2 of encounters was more than expected, and the trend of
3 subsurface oil at lower tidal elevations was spread across
4 all beach-oiling categories."

5 The report goes on to say: "The prevalence
6 of liquid subsurface oil in the mid- and lower-intertidal
7 has important biological implications. The presence of oil
8 provides a potential for bioavailability, and the potential
9 is greatly increased when liquid oil is associated with the
10 productive biological zone in the lower intertidal.

11 Mussels, clams, and other invertebrates may
12 be exposed directly to the oil, and provide a source of
13 oiled prey to predators. "We are concerned about the
14 continued instability and low productivity of the
15 intertidal areas, particularly the lower and
16 mid-intertidals. Since many invertebrates and their
17 predators depend on varied age-classes of Fucus (or
18 rockweed), their lack of recovery, the new evidence of
19 extensive oil in the intertidal and the non-recovery of
20 clam populations on oiled and treated intertidal are grave
21 concerns that demand further restoration.

22 The Conclusion states: Our study of viable
23 source of contamination for those species that forage in
24 the lower intertidal areas and continue to show evidence of
25 protracted oil exposure demands more attention considering

00019

1 the list of species that are being asked to be moved to the
2 'recovered' category.

3 One of the species that we are particularly
4 concerned about is clams. We feel that there is a lack of
5 recovery of clams in western Prince William Sound. The
6 sites that were examined in '97 that were oiled and treated
7 were not showing any signs of recovery from pre-spill
8 populations. We know some of the clams were still
9 recovering from the earthquake, but there is a difference
10 from oiled and treated areas in the Sound, compared to
11 sediments and shoreline areas that were not affected.
12 According the main researcher for clams populations
13 assessments (not contamination issues), Dennis Lees, they
14 are not seeing the recruitment events necessary and the
15 balances are not stabilized.

16 There is no recovery of the clams on the
17 beaches that were treated from the clean-up. The
18 high-pressure hot water treatments basically "cooked" the
19 clams causing enormous mortality rates, as you're aware,
20 that were making them unable to re-establish themselves.
21 We are asking the Council contamination studies on clams
22 and, considering Auke Bay's new report, we are also
23 concerned about the mussel beds in the intertidal areas.
24 Many of the mussels are important for other species to feed
25 on.

00020

1 Therefore, until the final report on Lees'
2 study comes out, expected in January of 2004, we ask that
3 clams be listed as not recovered.

4 And then harlequin ducks, we are concerned
5 about the continued hydrocarbon exposure and possible
6 effects on reproduction of female harlequin ducks since the
7 oil spill. Considering new evidence of unexpected
8 intensity of liquid oil in the lower and mid-intertidal
9 areas, prime foraging areas for harlequins ducks, coupled
10 with survey results which are still inconclusive and mixed
11 results and trends, we ask that the Council take a
12 precautionary approach and that harlequins remain 'not
13 recovered' category until further studies demonstrate the
14 toxic exposure to hydrocarbons are no longer having
15 effects.

16 And with the AB pod of killer whales, which
17 were most commonly seen by tourists, fisherman, and other
18 individuals who work and recreate in Prince William Sound,
19 before and during the Exxon Valdez spill. We are concerned
20 that the AB pod has experienced a 27 percent decline in
21 population since 1989 and although we have seen calf
22 recruitment recently, over the last five years, the pod
23 still remains 10 individuals short of its pre-spill number.
24 Without reaching it's pre-spill population abundance and
25 productivity, the AB pod is not recovered. While other

00021

1 pods are increasing at approx 2 percent annually since the
2 spill, the AB pod is far from pre-spill levels. And to us,
3 this is also similar with sea otters. And while we see sea
4 otters populations doing well in some parts of the spill
5 zone, we feel that when you have some otters that are not
6 recovered that we need to keep them at the not recovery
7 level.

8 We disagree with the proposed change of
9 recovery objective in the draft update for killer whales.
10 The new standard states, that "the pod will have recovered
11 when the number of individuals in the pod is stable or
12 increasing." And so we're wondering what the term stable
13 or increasing -- if you mean that if one more AB calf is
14 born then we consider it recovered and we disagree with
15 that assumption.

16 So we ask that the AB pod continue to be
17 monitored and it is not suitable to change the recovery
18 objective, not to upgrade killer whales to recovered at
19 this time.

20 With regards to Pacific herring, we feel
21 that there is a great deal of study that needs to continue.
22 The draft update proposes the herring as a "recovering"
23 species, but there is no clear information to support this
24 proposition. We concur with the Center for Biological
25 Diversity that when a successful year class is recruited

00022

1 the Council could then cautiously claim the herring is on
2 the way to recovery, but until that time the proper
3 classification for the pacific herring is "not recovered".

4 And then with the sea otter we appreciate
5 your acknowledgement of the non-recovery of sea otters in
6 the most heavily oiled bays in the Western Sound. Bodkin's
7 research on liver damage from chronic oil exposure,
8 particularly research in Knight Island, is a great concern.
9 According to your prescribed recovery objective: "sea
10 otters will have recovered when the population in oiled
11 areas returns to its pre-spill abundance and distribution.
12 An increasing population trend and normal reproduction and
13 age structure in western Prince William Sound will indicate
14 that recovery is underway."

15 We would like the Council to add a phrase
16 in its recovery objective that sea otters would have the
17 ability to forage on non-contaminated food sources. We
18 would also ask that the Council provide more public
19 education about the state of sea otters non-recovery in
20 Western Prince William Sound.

21 For black oystercatcher, the draft report
22 says "it is likely that the population of Prince William
23 Sound is probably as large or larger than previous to the
24 spill", yet the biological effects of exposure to
25 contaminated mussels and other prey is still of concern to

00023

1 us. "Earlier studies with oiled mussel beds have
2 demonstrated persistence of oil beneath the mussels, and
3 contamination of the mussels" A report by Carls that came
4 out in 2001. Therefore we feel the black oystercatchers
5 must cautiously remain in the 'recovering' category for
6 further monitoring.

7 And lastly with pink salmon, we disagree
8 with the new recovery objective for pink salmon: "Pink
9 salmon will be recovered when ongoing oil exposure is
10 negligible." We fail to understand how out-migrating fry
11 are not being exposed to hydrocarbons that are remaining in
12 the intertidal areas of the western Sound, especially with
13 storms and things of that nature. The assumption that pink
14 salmon at any part of the life cycle-are not getting
15 exposed or no longer exposed to hydrocarbons is
16 unsupported. We find that studies demonstrating that the
17 smallest parts per billion of hydrocarbons can cause damage
18 to the fry during early embryonic life stages and delayed
19 reproductive impairments from chronic exposure to
20 hydrocarbons requires more study and public education from
21 the Council.

22 So to conclude, we ask that the Trustee
23 Council err on the side of caution in proposing any
24 upgrades to the list of any injured resources and services
25 from the spill. We urge the Trustee Council to refrain

00024

1 from altering the recovery objectives in such a way that
2 does minimize the recovery standards set in 1994. Also,
3 we urge the use of the precautionary principle, even when, in
4 some cases, the cause-and-effect relationships are not
5 fully established scientifically.

6 Lastly, as we know, ExxonMobil has
7 contractors out in Prince William Sound now and will
8 continue this summer in an attempt to maybe debunk some of
9 the ground-breaking research of the Auke Bay Lab. We ask
10 that the Trustee Council send a strong message to
11 ExxonMobil that good environmental stewardship means
12 holding to promises, such as agreements to pay for injuries
13 and damages that were unanticipated at the time of the
14 disaster.

15 CHAIRMAN TILLERY: Thank you. Are there
16 questions or comments for Ms. Nordhoff?

17 Mr. Balsiger.

18 MR. BALSIGER: Yes, did we get a
19 written.....

20 MS. WILSON NORDHOFF: Sure right here.

21 MR. BALSIGER: We have that? Is it in this
22 package?

23 MS. McCAMMON: No, it's not, no. Just
24 leave it with Paula, she'll get a copy.

25 CHAIRMAN TILLERY: Are there other

00025

1 questions or comments? Commissioner Rue, did you have
2 anything?

3 MR. RUE: Nope.

4 CHAIRMAN TILLERY: I had one question. You
5 talked about additional research on clams. I think there's
6 a clam study out this summer.

7 MS. WILSON NORDHOFF: Yeah, the
8 contamination.

9 CHAIRMAN TILLERY: Is that the study that
10 you're looking for or do you want something beyond that?

11 MS. WILSON NORDHOFF: If that's Lees'
12 study or the group -- they're doing a population assessment
13 and we would like to see some contamination studies done.

14 MS. McCAMMON: It's included in Jeep Rice
15 and Jeff Short's proposal for FY2003, so it would be next
16 summer it would be done.

17 MS. WILSON NORDHOFF: Oh, it is, okay,
18 great.

19 CHAIRMAN TILLERY: Anything else?

20 (No audible response)

21 CHAIRMAN TILLERY: Thank you very much.

22 Okay, the next person on the list is a Jim Adams.

23 MR. ADAMS: Hi, my name is Jim Adams, I'm
24 an attorney with the National Wildlife Federation here in
25 town. I'll keep these short, and mercifully perhaps. The

00026

1 public looks to the Trustee Council as oppose to, say,
2 ExxonMobil to give them the real scoop on what's going out
3 [sic] in the Sound. And the status of injured resources is
4 obviously the way the Council has chosen to do that, I
5 suspect that was a hard decision to make and it's a
6 difficult document to put together. But nonetheless,
7 having chosen that route it makes it really important for
8 this document to give the public as good a comprehensive
9 overview of damage to the Sound as is possible.

10 And I think that's particularly important
11 now given the increasing use in the Sound. You know,
12 kayakers are increasing, tour boats are increasing, charter
13 fishing is increasing. The road to Whittier has opened and
14 I suspect that we are still going to see close to the 1.5
15 million visitors that the State predicted three or four
16 years ago in 2015. Given all that increased use, there's
17 going to be increased pressure, certainly from the National
18 Wildlife Federation and others, to put together some kind
19 of comprehensive plan for the Sound. And to do a good plan
20 we need to have baseline information about the damage the
21 spill has done and so does the public, the public has to
22 have as clear and as accurate idea of where we're starting
23 from when we make these long-term plans as we can.

24 That, in more practical terms, that is to
25 some extent a pitch to be very careful when the Trustee

00027

1 Council issues its press release about how -- whatever your
2 status of injured resource is. When the initial report
3 draft came out, the ADN led with the caption of something
4 along the line "Killer Whales Recovered and the Sound is on
5 the Way" something along those lines. I don't think that's
6 a particularly accurate assessment of what the report
7 really said, 17 of the 26 resources are still considered to
8 be not recovered or simply recovering. Obviously you can't
9 control what the ADN says, I've tried thousands of times,
10 have continuously failed. But it does suggest to me that a
11 press release would lead with "17 of 26" and wouldn't lead
12 with "Killer Whales Recovered." An assessment I disagree
13 with, by the way, but we won't go into that today.

14 I guess my second point. We have submitted
15 -- on a substantive level, we have already submitted
16 comments in a letter and I won't go through those. I do
17 want to say that the document, to me, did seem to be
18 pervaded with a sense of impatience in some way. The
19 Trustee Council may be ready to move on, and I don't think
20 it was intentional, there's no malfeasance here but, you
21 know, the science is murky, as Molly was saying, it's a
22 tough thing to do 13 years after the spill. Also the
23 Trustee Council is ready to move onto GEM and other
24 programs. I think there's an inclination to get things out
25 of the way by kicking it up the ladder a little bit as part

00028

1 of human nature. And I want to urge the Council to be very
2 careful about that, to sit down and really take a look at
3 maybe downgrading some species or resource, like herring.
4 Then also to think about using the recovery unknown
5 category more. It won't necessarily advantage
6 environmental movement or anyone else, but if we're going
7 to be honest about this, and we can't figure out what the
8 science is, let's not kick it upstairs, let's simply say,
9 look, it's unknown and we're never going to know. I mean,
10 that's why we're not going to any more monitoring on it,
11 not that it's recovered, so we're never going to do any
12 more monitoring. That's it. thank you.

13 CHAIRMAN TILLERY: Thank you. Are there
14 questions or comments? Mr. Balsiger.

15 MR. BALSIGER: One brief question, if I
16 could. Could you briefly tell me the relationship between
17 the National Wildlife Foundation and Eyak Preservation
18 Council?

19 MR. ADAMS: National Wildlife Federation
20 and Eyak Preservation Council is a separate non-profit
21 environmental organization and they agreed with the
22 substance of our comments and asked to be included in them.

23 CHAIRMAN TILLERY: Are there other
24 questions and comments? Commissioner Rue?

25 MR. RUE: No comment.

00029

1 CHAIRMAN TILLERY: No comments. I have
2 one. In terms of the species and I haven't had a chance to
3 look at your comments, but are there any one or two
4 particular listing that you have a concern with?

5 MR. ADAMS: I think I highlighted four in
6 my comments. The AB pod, I think, is an easy one, and it's
7 easy because it fits in with the theme of my comments here,
8 which is the Council is educating the public with this
9 report and I understand the Council adopted a different
10 definition of recovery in '99 and that the Council thought
11 about it and certainly wasn't trying to be sneaky, but that
12 definition suggests that 26 or 27 whales instead 35 or 36
13 whales is recovered. To my mind, the public doesn't think
14 that means recovery and really, intuitively, it doesn't
15 strike me that way either. If the Council really decides,
16 look, it's been 13 years, we can't tell what kind of
17 environmental impact would have occurred to this pod, we
18 don't know what the heck is going on, again, I'd say put it
19 in recovery unknown, rather than saying it's recovered,
20 because I don't think it accurately portrays to the public
21 the status of that pod.

22 CHAIRMAN TILLERY: Okay. Thank you very
23 much. We also have a Pat Lavin who indicated did not want
24 to testify; is that still true?

25 MR. LAVIN: Yes.

00030

1 CHAIRMAN TILLERY: Okay. And Mimi Hogan
2 did not want to testify or comment?

3 MS. HOGAN: (Nods in the affirmative)

4 CHAIRMAN TILLERY: Craig Matkin. Craig.

5 MR. MATKIN: Good morning. My name is
6 Craig Matkin, I've done the bulk of the killer whale
7 research that's being discussed here this morning. I just
8 drove in in the middle of the night, last night, I don't
9 have my land legs yet, but I'm getting there. I echo the
10 comments that have been made by the Center for the
11 Environment of National Wildlife Federation. It was a good
12 overall summary of some of the concerns that I'm hearing
13 from people and that I have myself.

14 I personally have been involved with the
15 killer whale research primarily and also, to some extent,
16 with the herring research and have also been a herring
17 fisherman for many, many years and I'm going to address my
18 comments to those two species. I agree completely that the
19 problem here is not so much -- I don't think the science is
20 in question, if it is, I'd be glad to have anybody ask me
21 questions about it at this time, but it's this
22 classification, and I have to admit it sort of got by me
23 that this would be -- that AB pod would essentially be
24 recovered when there was a noticeable increase or a trend
25 toward increasing.

00031

1 I think this is sort of a carry over from
2 the harbor seal work where we don't have a way to
3 accurately assess numbers with numbers with harbor seals
4 and so we look at trends. And when the harbor seal
5 question come up, if there is an increasing number of
6 harbor seals at some in time, this is the kind of thing
7 that may have to be done, but I think it sort of got
8 sluffed over on killer whales and this is a situation where
9 we know exactly what's out there. It's a fortunate
10 situation, it was a fortunate situation before the oil
11 spill that we did. And I feel very, very comfortable with
12 the research and the results of the research that had been
13 done.

14 So I think rather than being a problem in
15 interpretation here, it's simply the way this
16 classification scheme has been set up, and that's what we
17 heard a little bit about in the previous testimony. And I
18 think that that's what needs to be re-thought with killer
19 whales and, as I suggested, a recovery status is
20 reasonable, however, recovered seems a bit premature. And
21 it gives a very wrong message to the public, to Exxon, and
22 I think it's important that you are very concerned about
23 how scientific research is interpreted and the impressions
24 that are given to the public. That, I feel, is your job.
25 So I'd like to ask you to re-think that.

00032

1 Also with herring, I -- as it's been stated
2 in your own documents, without a really substantial year
3 class, there really is no recovery occurring for herring.
4 And this species is so important to what goes on in the
5 Sound, not just from the commercial aspect, but from the
6 food chain aspect. And I think a real clear message needs
7 to be sent that herring is not recovering at this time.
8 There's been a little bit of positive news this spring, but
9 I think to jump on that would be premature also. So I
10 would ask that, again, you look at just what the criteria
11 are for judging herring as recovered and maybe revisit that
12 a little bit, I don't think the science of enumeration is
13 in question here.

14 That's primarily what I have to say. The
15 only other thing I would like to mention is that there's
16 another group of killer whales, this AT1 transient group,
17 which is genetically unique and at the time of the spill
18 and shortly thereafter we couldn't make an accurate
19 assessment on whether or not they had really lost the
20 number of individuals that it appeared they had, because
21 they don't have the social stability of the resident type
22 killer whales. These are two separate populations, they're
23 like separate species. They operate as if they were
24 separate species. Unfortunately there can be some
25 integration out of the transient groups.

00033

1 Well, after a number of years and because
2 of the frequency with which we tend to encounter this group
3 and the fact that its range seemed to be limited to the
4 Kenai Fjords, Prince William Sound area, we became very
5 comfortable that these animals were lost following the oil
6 spill and I don't -- I'm not necessarily saying that we go
7 back and say, okay, now this is an injured resource that
8 has to be dealt with as such, but I'm asking that that be
9 acknowledged clearly in some way. And in our reports, of
10 late, we have clearly stated these animals are gone,
11 although, again, it's circumstantial evidence, in one
12 sense, but there's a lot of circumstantial evidence in this
13 whole interpretation of the oil spill for many species.
14 We're very clear with what's happened now and if we had
15 been this clear at the beginning, I think we would have
16 treated these as a damaged resource also, this AT1
17 transient group. But it's something that needs to be
18 brought to the public's attention, it's something that
19 needs to be out there.

20 Whether or not you continued doing
21 monitoring is up to you, I think at some level it should be
22 done. But I think it's important that the information
23 that's come from all this research and all of the time that
24 people spent out there is presented accurately and clearly,
25 and I think that's my major concern. And I'll just leave

00034

1 it at that. Are there any questions?

2 CHAIRMAN TILLERY: Thank you. Questions?

3 Mr. Balsiger.

4 MR. BALSIGER: Yes. Dr. Matkin, I

5 understand you don't like the new criteria for AB -- or for
6 the killer whales.

7 MR. MATKIN: Right.

8 MR. BALSIGER: Do you have a suggestion,
9 other than perhaps the general one that talks about age
10 class structure being retained?

11 MR. MATKIN: Well, yeah, I think that
12 essentially when the pod recovers to the numbers -- there's
13 no indication right now that the pod cannot recover to 36
14 individuals, for one thing. If it was a situation where
15 there were other factors involved, for instance, other pods
16 weren't -- or the carrying capacity was lower, something
17 like that, then I would understand this kind of
18 classification. But the fact of the matter is other pods
19 are all increasing and have been at over two percent a year
20 for the last 20 years. So the habitat out there, I think,
21 is as good as you can get for these guys. So there's no
22 reason to think that they shouldn't increase to that
23 number.

24 We had some social problem, some orphan
25 calves that were lost, but basically what we're seeing now

00035

1 is the -- we initially predicted recovery in 12 years, and
2 the reason it hasn't happened is because the animals we
3 lost were all females, which is totally unusual. But we
4 didn't realize the extent to which they inhibited the
5 ability of this pod to recover at that time, because the
6 other females don't pick up the slack. So I guess what I'm
7 saying is just there's no reason to feel they shouldn't
8 increase to that number, and there's no reason to call them
9 recovered until they do. And whether you fund research
10 because of that or not is another decision, another choice,
11 but I don't want to see, you know, this premature
12 indication that they are recovered. But they are
13 recovering, I would go with that.

14 CHAIRMAN TILLERY: Any questions or
15 comments?

16 MS. McCAMMON: Just.....

17 CHAIRMAN TILLERY: Ms. McCammon.

18 MS. McCAMMON: Mr. Chairman, can I just ask
19 a clarification question? And this is because we're going
20 to have to rewrite whatever comes back to the Council. The
21 decision to change the recovery objective in 1999 was done
22 in consultation with you.

23 MR. MATKIN: Uh-huh.

24 MS. McCAMMON: And so I guess the question
25 I have is do you think the recovery objective should go

00036

1 back to what it was in '94 or would you be okay with having
2 that recovery objective there, but a longer period of time
3 for stabilize or increasing?

4 MR. MATKIN: To be honest with you, I don't
5 remember how this change came about. You know, I admit it
6 went by me.

7 MS. McCAMMON: Except I have your signature
8 in the file. I know you were consulted with it, you may
9 remember.

10 (Laughter)

11 MR. MATKIN: I know.

12 MS. McCAMMON: And that's okay, you can
13 change your mind, that's fine.

14 MR. MATKIN: Yeah, I changed my mind. I
15 do.....

16 MS. McCAMMON: You think it should go back
17 to the full 36?

18 MR. MATKIN: Yeah, I do. I don't see a
19 reason not to, you know. And I don't think that, once
20 again, this forces you to fund research either, but I do
21 think it forces you to take a certain stand.

22 MS. McCAMMON: Well, I think that's the
23 other point that people do seem to have this perception
24 that once a species is recovered, that's it, the Council
25 will never do any more work on that species, you know, it's

00037

1 off the radar, and that I don't think is the case at all.

2 CHAIRMAN TILLERY: That's certainly not the
3 case.

4 MR. MATKIN: All right. Yeah. Well,
5 that's fine, too, but I think -- you know, I am really
6 concerned about the public perception, you know, the Exxon
7 perception and the fact that I don't like to tell you what
8 you should be doing, but I view you as an educational group
9 as well as a research funding group and this type of thing.
10 So I think it's really important that you provide the best
11 type of public education you can.

12 CHAIRMAN TILLERY: Other questions?

13 MR. MATKIN: I apologize for if this
14 slipped through in 1999, I really -- you know, I make
15 mistakes, too, but fortunately I get my research reviewed.

16 (Laughter)

17 MR. MATKIN: At any rate, thank you for
18 listening.

19 CHAIRMAN TILLERY: Dr. Matkin, I have one
20 thing.

21 MR. MATKIN: Yes.

22 CHAIRMAN TILLERY: I understood you to
23 indicate there was no reason why these whales shouldn't be
24 increasing. And I thought that there was generally that we
25 were seeing that their prey was changing because of various

00038

1 prey were disappearing and is that not suggestive of some
2 kind of a shortage?

3 MR. MATKIN: Okay, well, this is this whole
4 confusion of what I was trying to address with the AT1
5 killer whales. There's two type of killer whales that
6 we're dealing with that live totally different lives, it's
7 really like I'm working on two species. It becomes clear
8 all the time as I go along. And with these AT1s, yeah,
9 exactly harbor seals have declined dramatically, there's
10 problems with contaminants, there's the oil spill loss and
11 so -- but with the AB pod, those whales, they're salmon
12 dependent from what we understand. And those populations
13 are not necessarily declining. They're declining in value,
14 but not declining in numbers so. At any rate it's a
15 totally different situation. And their carrying capacity,
16 if anything, seems to have gone up in the last 20 years for
17 whatever reasons.

18 CHAIRMAN TILLERY: Okay. Commissioner Rue,
19 did you have a comment?

20 MR. RUE: Mr. Chairman, actually
21 Mr. Balsiger is asking every question I was thinking of, so
22 I appreciate Jim mind reading. So thank you, Jim.

23 MR. BALSIGER: So what do you want, you
24 want a bigger budget or what, what are you talking?

25 (Laughter)

00039

1 MR. RUE: I'm amazed, I was writing
2 furiously and then you asked it. Actually I had a question
3 -- I appreciate Craig's analysis here and appreciate his
4 giving us his thought. I am interested in how the AB pod
5 -- what are they feeding on in the winter? Are there other
6 fish species they depend on besides salmon that are not
7 doing as well?

8 MR. MATKIN: As early as we get out and get
9 any good information, which is now March, April, it's
10 salmon. There's quite a few king salmon, not necessarily
11 all Alaskan king salmon, but there are quite a few king
12 salmon in the coastal areas in the winter and these animals
13 stay -- most of them stay fairly close to the coast and our
14 suspicion is that they are feeding on salmon, to some
15 extent, year around. And the king salmon are what we're
16 seeing -- the earlier we get out, the more king salmon
17 we're seeing preyed upon. But, you know, I don't really
18 know, there's a few months in there that I really don't
19 have good information, they seem to come in and have some
20 association with herring schools, but I -- this is a
21 judgment on my part, I think it's because the king salmon
22 are associated with the herring schools. But, you know,
23 there's some uncertainty there, and maybe the herring are
24 important, too, in Norway they are, but I don't really have
25 that information. But that's a good question.

00040

1 MR. RUE: Thank you.
2 CHAIRMAN TILLERY: Anything else?
3 (No audible response)
4 CHAIRMAN TILLERY: Thank you, Mr. Matkin.
5 MR. MATKIN: Thank you.
6 CHAIRMAN TILLERY: Okay, our next person is
7 Ms. Obermeyer.
8 MS. OBERMEYER: Yes, sir. Theresa
9 Obermeyer and I'm candidate for the U.S. Senate, Mr.
10 Tillery and I always have something to pass out. Senator,
11 good to see you.
12 MS. PEARCE: Good to see you.
13 MS. OBERMEYER: And let's create a whole
14 new beginning. Now, you know, I watched when Dr. Matkin
15 was speaking and looked behind you and if you ever get a
16 chance, this is a really beautiful view, even right here.
17 I'd like to focus my comments on the
18 morning Anchorage Daily News, and we have Allen Baker in
19 the audience who's with the Associated Press. I marvel at
20 the Associated Press. I'm going to say this, Allen. About
21 a week ago right after I filed -- oh, no, it was two weeks
22 ago, I talked to him and he said that Mary Pemberton
23 literally -- what did you say, Allen? I don't even want to
24 quote his words. She is the....
25 MR. BAKER: Oh, come on.

00041

1 MS. OBERMEYER: She is like sexually
2 interested in Ted Stevens. I mean, I don't know what his
3 words were, but I'm so turned off when I hear this.

4 But let me focus -- did you see the
5 editorial in this morning's paper? This morning's paper
6 "Exxon's Chutzpa" -- I'm not even sure how to pronounce it.
7 I thought it was a great headline, I think it means they
8 have a lot of nerve. And do they have a lot of nerve. How
9 dare they? Would you forgive me, ladies and gentleman, I
10 raise children in this community and I am positive, because
11 of this book, Exxon is behind the high school qualifying
12 exams. Do we understand -- I don't know whether people
13 that don't raise children know what has gone on in the
14 Anchorage School District. The millions that have been
15 spent on these glossy posters, their booklets, all this
16 other stuff. This is all about my husband's case. From
17 start to finish.

18 And I want to make sure I mention it is
19 McGraw Hill Book Publishers in Monterey, California that
20 actually grades that test. I mean it's scary, ladies and
21 gentleman. They don't care about a child. I raise
22 children and I'm worried -- you know, I'm doing this, I'm
23 running. My twins, who are going to be juniors, they
24 haven't got their test results from their high school
25 qualifying exams, so guess what, they're going to flunk. I

00042

1 mean, I just think it's really possible. I mean, molding
2 self-concepts in children. Anyone of us that raise
3 children knows how important their growing up is. A child
4 only gets one growing up.

5 But let me go to theme one back here for a
6 moment. You see, I spent all last week because my husband
7 was going to speak at the Unitarian Fellowship last Sunday
8 morning and my husband had gone out of town with one our
9 children to look at colleges, so I was left with trying to
10 advertise what my husband was speaking about the Bar
11 Association. I don't know whether you knew that, Mr.
12 Tillery, he blew them away. But on the other hand, Steve
13 Lindbeck would not give my husband a four-line letter to
14 the editor.

15 I have been denied a letter to the editor
16 in the Anchorage Daily News. Well, I mean, basically what
17 it always is, is no matter what I write I have to revise it
18 three and four times. And they have actually printed with
19 my name on it letters to the editor that they have taken
20 phrases out of, and they don't even make sense. So I don't
21 know about you, I don't want my name on something that
22 doesn't even make sense.

23 But let's get that Exxon chutzpa, if I'm
24 pronouncing it correctly. What is here at the -- you know,
25 that's played is a 200 billion, you see, this kind of money

00043

1 is unfathomable to us. We're working people, I know I am.
2 Two hundred billion a year company with profits last year
3 of 15 billion, Exxon's proposed penalty does not even
4 qualify as a slap on the wrist. It's not even a pin prick.
5 Now Steve Lindbeck was pretty good today. I mean, I read
6 this stuff, I don't believe in any of it. But today he
7 wrote something pretty decent. And what is being suggested
8 is that Exxon settle, regarding the Exxon Valdez, for about
9 25 million bucks.

10 You know, you people have always motivated
11 me because your first word here is this group that have
12 played us all for fools for so long. How could we be so
13 stupid? I would simply like to motivate you. I cannot
14 believe how terrible we have been ripped off. I mean, to
15 me all that has gone on, I could never have imagined. And
16 I really think it's -- oh, let me mention -- where we live
17 everyone is so darn cynical. And would you forgive me,
18 everyone has their paycheck. Now, see, I can't have a
19 reasonable life. It's about this. That is every judge and
20 lawyer in our great nation stock and trade, so I have been
21 really forced to do these things. I do this, you know,
22 very reasonably and in a balanced way. I'm raising four
23 young children and my eldest son just got into medical
24 school, so none of this is a big deal. But then it really
25 is because I know this.

00044

1 And Drue is on the East Coast and I'd like
2 to find out where she is because I have to fly to the East
3 Coast in order to get any help at all. It is that bad, it
4 is -- our media is so corrupt it is beyond belief.

5 But here's the other thing. Let's see if a
6 whole bunch of things come unglued and unraveled during the
7 summer. I mean, when I remember -- and I don't remember
8 the exact amount of hits the Exxon Valdez Oil Spill Trustee
9 Council gets a week. I thought you said 115,000 a week when
10 I was at your last -- hits. That's how much people care
11 about our great state of Alaska all over this nation. And
12 I know this, we don't even know what our natural resources
13 are. And I, for one, I'm not giving them to Exxon and BP,
14 especially BP. I even said in front of Mr. Campbell, he
15 don't vote and we're handing over our state to those
16 people.

17 I mean, can we stop now. I just want to
18 look at you and try to motivate you. Let's clean the
19 slate, it's time to start over. I think it's possible.
20 All I can do is try, that's what I'm doing in this
21 campaign. I'd like to motivate you.

22 But the last thing, Mr. Tillery, is who's
23 counting the ballots? I don't even believe we have fair
24 elections, I know we don't. Look what's going on, it's on
25 my website, and I'd like to mention that. It's tobermeyer,

00045

1 O-B-E-R-M-E-Y-E-R, dot info. If any of these very bright,
2 nice and decent people. I mean, whenever I come here
3 they're just so amazing, these scientists that speak for
4 you. And I think I've said many times, I would have loved
5 to have been able to research the things they learned, but
6 I haven't been able to, I've had to do all this other
7 stuff. Don't ever think I'm having fun, but I will do it.
8 I'm an American.

9 Oh, did we remember today is Flag Day? And
10 at 6:00 o'clock tonight over there at Town Square they're
11 going to have a Flag Day celebration if the weather holds.
12 That might be something fun to go to. It just depends on
13 the weather, they're going to cancel it if it starts
14 raining. But really the main thing where we live, Mr.
15 Tillery, is flexibility. Do we know this? I just take the
16 whole thing a day at a time. All I can do is try.

17 Any questions?

18 CHAIRMAN TILLERY: Are there any questions
19 or comments of Ms. Obermeyer?

20 (No audible response)

21 CHAIRMAN TILLERY: No, thank you. Thank
22 you very much.

23 MS. OBERMEYER: Thank you so much for
24 hearing me.

25 CHAIRMAN TILLERY: Okay. Our next person

00046

1 is Henry Makarka. I'm not sure if I have that
2 pronunciation correct.

3 MR. MAKARKA: Makarka.

4 CHAIRMAN TILLERY: Makarka, okay, close.
5 If you could give us your name and proceed with your
6 comment.

7 MR. MAKARKA: Henry Makarka. I'm an Alaska
8 Native, Aleut, born in Cordova, Chugach Alaska shareholder,
9 Village of Eyak, 72 years old. That enough?

10 (Laughter)

11 CHAIRMAN TILLERY: I think you covered it.

12 MR. MAKARKA: First off, I would like to
13 mention to you folks on May 21st my sister-in-law came up
14 from Spokane and wanted to see the Sound after having to
15 read so much about the oil spill and et cetera. So we took
16 her to Cordova. On that trip we went from Whittier to
17 Chenega, from Chenega to Cordova. It was a day like this
18 exactly. And having to remember with what the '89 oil
19 spill was like from day one, and having to observe it now
20 and going through the Knights Island Passage and from all
21 the way, it was of interest to me because of the fact that
22 from day one I've been involved in the oil spill issues,
23 right from day one. I wanted to see, too, exactly what the
24 recovery would be like after 13 years. Lo and behold,
25 there isn't too much out there.

00047

1 I would like to show you something here
2 right now of how the interests of an Outside person viewed
3 the Prince William Sound. You can pass it out to them
4 there, and maybe one of you could read it if you're good at
5 -- maybe you can read it aloud one of you.

6 CHAIRMAN TILLERY: Would you care to read
7 it for us, do you want.....

8 MR. MAKARKA. I would prefer one of you to
9 read it.

10 CHAIRMAN TILLERY: Okay, I will take a shot
11 at this.

12 Once it was a Paradise, then the
13 Exxon Valdez came
14 Prince William Sound changed forever
15 When the oil they failed to tame
16 The ugly goo spread far and wide
17 Broadcast by the storm and tide
18 It coated every living thing
19 Killing animal and stilling wing
20 Exxon says "It's all fine now
21 We'll stand up and take a bow"
22 But the ocean floor whispers "Untrue,
23 Untrue!"
24 In my secret places I live hidden, the goo"
25 For all your talk of recovery

00048

1 We here await discovery
2 By the world of why we are bound
3 To call this place "The Silent Sound".
4 By Judy Robertson from Spokane, Washington.

5 MR. MAKARKA: My sister-in-law from
6 Spokane.

7 CHAIRMAN TILLERY: Uh-huh.

8 MR. MAKARKA: She had written that after we
9 arrived in Cordova. And, you know, it's quite true with
10 what she had wrote there.

11 I viewed the whole area and looked. Having
12 to travel the Prince William Sound from my younger days
13 with my father and my cousins and all my relatives to see
14 what the Sound was like before the oil spill. It was a
15 lively place, abundance of all sorts of wildlife and et
16 cetera. As you know, the Native people throughout the
17 Prince William Sound have established their villages in
18 strategic locations where there are an abundance of
19 resources that are directly available to them. You know,
20 it's kind of sad to see with what had happened though. The
21 recovery, I don't think, has even begun yet, where once the
22 whole Sound was alive, alive with abundance of all sorts of
23 wildlife.

24 And having to travel that distance this May
25 21st was kind of a sad -- once again, a sad viewing of the

00049

1 place I grew up in where there's nothing. I think maybe we
2 saw one porpoise right near Chenega, nothing else. The
3 Knights Island Passage was once an abundant -- the Knights
4 Island itself was an abundance of all sort of wildlife. A
5 lot of the Natives made their living off of trapping it,
6 mink, otter and -- oh, they had an abundance of them.
7 Nothing. The ducks that were abundant are nothing. Where
8 you seen herring, nothing. Where you look at low tide, the
9 kelp is damaged. The kelp where we once picked herring
10 spawn off of, nothing.

11 I looked at the oil spill clean up and
12 watched them cleaning up Lower Herring Bay and Upper
13 Herring Bay from day one when they began the clean up.
14 First they were there wiping and doing whatever they can.
15 As they went along and that wasn't good enough, so what do
16 they do, they decided that they would kill everything off
17 by inserting hot steam into the low water tide, making darn
18 sure that they killed all the resources off. You might as
19 well say cook them. The spawn of the herring where they
20 once laid spawn on kelp is kind of black, isn't the healthy
21 looking color it was before the oil spill. And it's kind
22 of sad, you know, to see that.

23 I'm a Native myself. After reading the
24 paper yesterday about Exxon and with what it is doing to
25 the people of Prince William Sound, you know. I often felt

00050

1 that if Exxon themselves would view the situation of what
2 they have done to the Native people at the top of the oil
3 spill and how it as directly affected the Native people of
4 the Prince William Sound, as far as their subsistence
5 lifestyle and use of the resources, was a feeling exactly
6 like 9/11 in New York was, the Natives felt that way about
7 the abundance of death.

8 My friend, which is deceased now, Walter
9 Meganak, put it very clear "the sea is dead." He put a
10 very good definition to that that time in day one. I can't
11 understand why Exxon in itself would come up with a
12 statement that you see the paper yesterday, how it spelled
13 it out, that it's recovered and doing fine. No, it isn't,
14 it's not doing fine. Not one iota bit. They don't know.
15 Do they have anybody living out there to know what the
16 country is like or what it's like? Or are they in New York
17 or Texas and having an idea of what it is like? That isn't
18 no way to find out what it's like. We live here, we know
19 what it's like. There is oil out there yet. Exxon, in day
20 one, should have cleaned it up and had responsibility of
21 doing a good job of it at that particular time. It's 13
22 years now, by golly, Exxon, 13 years. Is this what you are
23 waiting for?

24 You know, one thing that I've thought about
25 is somehow our judicial system in our county is kind of a

00051

1 misleading judgment. I think our statutes of limitations
2 when someone is guilty should drag on for 13 years. It's
3 ridiculous. I think I was found guilty, do you think I
4 would be able to drag it on for 13 years? Hell no. If I
5 committed a crime, no, no way. I don't think Exxon is in
6 their right mind when they say that the Sound is fine, it
7 is not.

8 Their punitive damages as far as whatever
9 comes to be or whoever is going to make the final judgment
10 on it, I think they should uphold the original punitive
11 damage of five billion dollars. I really think they should
12 because when they look at what it had done and how the
13 Natives of Prince William Sound felt about it. Exactly
14 like 9/11. Having to view the pick up of dead animals, at
15 that time, too, was kind of a sad situation to watch the
16 Natives that were there trying to help the clean up.

17 So, you know, I'm a Native, but I read the
18 paper and I kind of got a little angry about the statement
19 that they made in the paper. Exxon, be honest, do what you
20 have to do, settle the claim and do it rightfully and
21 honestly. Thank you.

22 CHAIRMAN TILLERY: Thank you, Mr. Makarka.
23 Are there comments or questions by Council members?

24 (No audible response)

25 CHAIRMAN TILLERY: Thank you very much,

00052

1 appreciate that.

2 Is there anyone else in Anchorage who would
3 like to make a comment at this time?

4 (No audible response)

5 CHAIRMAN TILLERY: Okay. Has anyone joined
6 us on line who would like to make a comment?

7 (No audible response)

8 CHAIRMAN TILLERY: Okay. Hearing none, at
9 this time the public comment period is closed. It's 11:15
10 and the next item on the agenda.....

11 MS. McCAMMON: Mr. Chairman, before you
12 move on. I was listening to the comments and I've read the
13 comments that were received and I just want to pose three
14 questions to the Trustee Council, because I think the
15 recommendations that Bob Spies, I think, are based on his
16 best understanding of the science, but there are clearly
17 some other issues that arise with this listing that we put
18 forth. And I want to pose these to you and if you have any
19 response to it, either today or soon, I'd like to hear
20 that.

21 The first one is some of the comments that
22 people made related to the fact that there's new evidence
23 and that without any new evidence then species shouldn't
24 move on that recovery line. And the question I pose with
25 that is one of the reason, often, there is no new evidence

00053

1 is because there are no studies that are possible, even if
2 you spent millions of dollars, to give you evidence to
3 answer some of those questions. And so when Bob says
4 things like unlikely or improbable, they're not 100 percent
5 conclusive, but there will never be 100 percent conclusive
6 evidence. What are we to do in those situations? How do
7 we assess that? And I think, in some ways, that becomes
8 almost a policy decision rather than a scientific decision.
9 That's number one.

10 Number two, this really struck me today in
11 some of the testimony from people about the purpose of the
12 listing being a public educational tool, because when we
13 look at it, it is recovery from the effects of the oil
14 spill. This doesn't mean it's recovery from the effects of
15 global warming, increased tourism, contaminants, any other
16 compounding factor that's going on out there. It doesn't
17 mean a population is healthy, it doesn't mean it's
18 necessarily in good condition at all. It's looking at the
19 oil spill. And yet when we say something as recovered, the
20 public, I think, does make an assumption that that means it
21 healthy. And how do we address that? And I'm not sure our
22 categories and the way we have this set up really allows
23 for that. And that really complicates things, I think,
24 from our perspective.

25 And then the third question that I have is

00054

1 we know that there is still oil in the environment, it's a
2 small amount, it's larger than what was originally
3 anticipated at this time and it will probably be out there
4 decades. I don't know when we'll ever get to zero oil in
5 the environment, could be over a hundred years. I mean,
6 it's going to be a long time. It's at a low level, but
7 it's going to be out there a very long time. So we know
8 all these species, at some phase of their lifecycle, are
9 probably exposed to some amount of oil somewhere, it's
10 quite likely. Does that prohibit us from declaring that
11 recovery has been achieved, just because they are being
12 exposed to oil, even if there is no pathway for that oil to
13 transfer and having had some kind of -- become bioavailable
14 and have some kind of an affect? Because I think some
15 members of the public are looking to kind of a zero
16 tolerance, zero oil exposure. And if that's our standard,
17 then that's decades if not a century off.

18 But these are the kinds of issues that I
19 think make it very complicated to address some of the
20 comments that we've received in the written comments and
21 the public testimony today and really do service with this
22 kind of a document. And I don't know if Bob Spies, who's
23 here, had anything further, but certainly any guidance from
24 the Trustee Council from that perspective, because I think
25 some of these are policy questions and not necessarily

00055

1 scientific questions.

2 DR. SPIES: Your last question, Molly, is
3 certainly pertinent because the question, I think, in any
4 pollution situation is how clean is clean? And that's one
5 that people struggle with everywhere. And, as you say, is
6 the decision going to be made with clams or with salmon or
7 with any of the other resources that any exposure at all
8 means that the species is not recovered? And that is
9 somewhat of a policy question. I think you have to look to
10 science -- the science of toxicology can make certain --
11 it's relatively primitive, in some ways, but can make
12 certain connections between exposure affects.

13 Generally the level of exposure that we're
14 seeing away from these patches of oil are relatively low.
15 We do have some low level induction of some enzymes in
16 harlequin ducks and sea otters on the western side of
17 Prince William Sound that we think are associated with
18 continuing exposure to oil. We do see some problems in
19 those species, whether those are due to the oil or whether
20 they're due to other things is not entirely clear, so as it
21 is with a lot of other things, there's a lot of judgment
22 that goes into this.

23 And one of the people that testified this
24 morning invoked the precautionary principle, I'm generally
25 quite in favor of a precautionary principle, but the

00056

1 question really becomes how precautionary should you be?
2 Should there be every resource to be pre-spill levels, no
3 exposure of oil? Do you we ignore other sources of
4 variability to these populations? And I think that the
5 Trustee Council does risk some credibility there,
6 generally, in a wider scientific community if it goes too
7 far towards a extremely conservative interpretation of what
8 remaining injury there is.

9 I just wanted to add those few comments to
10 what you said.

11 CHAIRMAN TILLERY: Are there questions or
12 comments of Council members?

13 MR. RUE: Mr. Chairman.

14 CHAIRMAN TILLERY: Mr. Rue.

15 MR. RUE: Yeah. Perhaps, Molly -- and I
16 appreciate this conversation, I think -- Molly's posed some
17 good questions for us. Would you remind us, Molly, or me,
18 everyone else may know, how we have laid out our internal
19 process for moving through the final decision on the list
20 of species and their status? Is it July that we're going
21 to be meeting to make a decision on that?

22 MS. McCAMMON: Well, the internal process
23 that we have is that Bob Spies writes the first draft.....

24 MR. RUE: Right.

25 MS. McCAMMON:he consults with all of

00057

1 our researchers who work on these various species in
2 preparing that draft. Then it was presented to you at the
3 last meeting, there's public comments right now and you're
4 scheduled, at this point, to take action on this on July
5 9th.

6 MR. RUE: July 9th, okay.

7 MS. McCAMMON: Yes.

8 MR. RUE: Thank you.

9 CHAIRMAN TILLERY: Other questions?

10 MR. RUE: I guess just to follow up on
11 that, I think July 9th is probably the appropriate time,
12 perhaps, for us to discuss the three questions that Molly
13 posed to us and that Dr. Spies has laid out, and also the
14 public comments we've gotten today. I don't feel prepared,
15 necessarily, today to go through those. It's helpful to
16 have heard all this and I think it's good.

17 CHAIRMAN TILLERY: Others?

18 (No audible response)

19 CHAIRMAN TILLERY: To the extent, Ms.

20 McCammon, that you're looking for some guidance, I'll tell
21 you that I sort of have some of these same concerns, and I
22 think Mr. Adams' testimony was -- I think he was sort of
23 getting at the same thing. I think it's the labels we're
24 putting on that I'm having a problem with, because they do
25 seem to me -- I mean, recovery unknown somehow is different

00058

1 than -- you know, we'll never know, we can't know. It
2 seems like more precise labeling might be a way to address,
3 at least, some of these. So you might want to look at
4 something other than those three categories, is there a
5 better way to describe things that does preserve our
6 credibility in the scientific community, but still informs
7 the public and doesn't mislead them and doesn't try to jump
8 ahead of ourselves by just trying to, maybe, narrow it down
9 too much or something. So if you can kind of think a
10 little bit about that, that would help me.

11 Mr. Balsiger.

12 MR. BALSIGER: Well, Mr. Chairman, along
13 that line, I guess, if we were going to consider different
14 categories, and I think perhaps that's a good idea to
15 consider them at least, it seems like it might be difficult
16 to get a final decision on the list in July because that's
17 when we know the new considerations of categories occurred,
18 so -- my understanding is this is sort of an ongoing living
19 list, so if we didn't reach decisions on changing listing
20 in July, what would be lost?

21 MS. McCAMMON: Nothing. I mean, there's no
22 magic date about July.

23 MR. BALSIGER: I was just trying to confirm
24 that, thank you.

25 MS. McCAMMON: Yeah.

00059

1 MR. BALSIGER: I didn't mean to make it a
2 tough question.
3 MS. McCAMMON: No, that's fine.
4 CHAIRMAN TILLERY: I think our updates have
5 been random, as was pointed out at our last meeting.
6 MR. BALSIGER: Yeah. Okay, thank you.
7 MS. McCAMMON: Totally random.
8 CHAIRMAN TILLERY: Any other questions or
9 comments?
10 (No audible response)
11 CHAIRMAN TILLERY: Okay, thank you very
12 much.
13 Okay, the next item on the agenda is the
14 Old Harbor land exchange. Is that Mr. Swiderski?
15 MS. McCAMMON: Yes. And you do have a memo
16 that was faxed to you yesterday, it's a memo from Alex
17 Swiderski at the Department of Law, entitled "Sitkalidak
18 Exchange".
19 MR. SWIDERSKI: I also brought a map to
20 distribute.
21 CHAIRMAN TILLERY: This is listed as an
22 action item.
23 MS. McCAMMON: Right.
24 CHAIRMAN TILLERY: So you might, up front,
25 kind of let us know what action you're hoping for, so that

00060

1 we can be thinking about it.

2 MR. SWIDERSKI: Okay. I apologize for not
3 having a large map on the wall. I do have others if anyone
4 would like one.

5 In September 1998, the Trustee Council
6 authorized the expenditure of 73.5 million dollars by the
7 Department of Natural Resources to.....

8 MS. McCAMMON: Thousand, not million.

9 MR. SWIDERSKI: I'm sorry, did I say
10 million? Thousand dollars for the Department of Natural
11 Resources to pursue a land exchange with the Old Harbor
12 Native Corporation. One of the conditions that the Council
13 put on the funding, and the condition is slightly
14 ambiguous, but it's probably there, is that the Old Harbor
15 Native Corporation would convey a conservation easement on
16 all of Sitkalidak Island to the Fish and Wildlife Service.
17 Essentially, we are at the point where the land exchange is
18 ready to be consummated but the conservation easement is
19 not in place and the question for you will be whether or
20 not to maintain the condition that the conservation
21 easement be conveyed in place.

22 If you go to the map, land that will be
23 conveyed by the State is on the southern portion of
24 Sitkalidak Island, a portion of it is still to be conveyed
25 by BLM to the State, actually the majority of it, and

00061

1 that's in the blue and white striping in the blue. The
2 land to be conveyed by Old Harbor to the State is in
3 Kiliuda Bay by the north shore of the bay and it's outlined
4 in red. The land with the gold and blue hash marks on it
5 has now been conveyed to Old Harbor and this would be
6 included in the exchange.

7 As I laid out in the memo, all of this
8 arose in 1994-1995 when Old Harbor was negotiating with the
9 Fish and Wildlife Service to sell lands on Kodiak Island to
10 the Fish and Wildlife Service. As part of that transaction
11 there was two commitments by Old Harbor. One was to pursue
12 the exchange with the State of Alaska that I just
13 described, and the second was to pursue conveyance of the
14 conservation easement on all of Old Harbor's holdings on
15 Sitkalidak Island. As you can see from the map if the
16 exchange goes through Old Harbor will own all but the small
17 red areas, which are Native allotments on Sitkalidak
18 Island.

19 Old Harbor favors the exchange because by
20 getting title to all of Sitkalidak Island Old Harbor would
21 then focus its development activities, which I suspect are
22 primarily in the nature of eco-tourism, but possibly other
23 lodge developments, things like that, on Sitkalidak Island.
24 The land in the exchange is beneficial to the State, I
25 think DNR would say, because, as you can see from the map,

00062

1 the lands to be conveyed to the State are bordered by lands
2 that are already owned by the State and Old Harbor selected
3 the shoreline in these three bays here, which are really
4 the primary access points to the adjacent uplands that are
5 already owned by the State. So acquiring these lands would
6 provide access to adjacent uplands and, of course, access
7 to the shoreline within these three bays.

8 Shortly after the Council authorized the
9 expenditure I asked Old Harbor to pursuing the conservation
10 easement on all of Sitkalidak Island, because I wanted to
11 be sure that we didn't expend all the money and then not
12 have a conservation easement. In response, Old Harbor sent
13 a letter to the Trustee Council, February of 1999,
14 committing to pursue the conservation easement with the
15 Fish and Wildlife Service. And then approximately a year
16 later reached, essentially, an oral or handshake agreement
17 with the Fish and Wildlife Service that they would convey a
18 10-year easement on Sitkalidak Island for \$100,000 a year
19 for a total of \$1,000,000, what they call the stand-still
20 agreement. During the term of that stand-still agreement,
21 the parties, that is Fish and Wildlife Service and Old
22 Harbor, would attempt to negotiate a permanent easement on
23 Sitkalidak Island. Based on that, the State pursued the
24 land exchange, as I say, are virtually ready to complete
25 the land exchange today.

00063

1 Approximately a month ago the Fish and
2 Wildlife Service advised me that they were reconsidering
3 the agreement for the conservation easement and I now
4 understand the Fish and Wildlife Service would still like
5 to pursue a permanent easement on Sitkalidak Island, but is
6 no longer willing to purchase the 10-year stand still
7 agreement for the \$1,000,000. As I indicate, the exchange
8 is otherwise ready to be consummated. DNR's view is that
9 it is in the best interest of the State. DNR believes that
10 it has in good faith attempted to comply with the
11 conditions of the Council and, unfortunately, due to this
12 change is not able to satisfy the condition, require the
13 Council and, therefore, the State is requesting that the
14 condition be removed. And would ask the Council to adopt a
15 motion along the line the one that is included in the last
16 paragraph of my memorandum, which states it is moved that
17 requirement that the Old Harbor Native Corporation convey a
18 conservation easement on Sitkalidak Island to the United
19 States Fish and Wildlife Service, imposed as a condition
20 upon the funding provided for the Sitkalidak land exchange,
21 be deleted.

22 CHAIRMAN TILLERY: Thank you. Are there
23 questions of Mr. Swiderski? Ms. Pearce, do you have a
24 question?

25 MS. PEARCE: Do you want a motion?

00064

1 CHAIRMAN TILLERY: A motion would be good.

2 MS. PEARCE: I would move that the
3 requirement that the Old Harbor Native Corporation convey a
4 conservation easement on Sitkalidak Island to the United
5 States Fish and Wildlife Service, imposed as a condition
6 upon the funding provided for the Sitkalidak land exchange,
7 be deleted.

8 MR. RUE: Second.

9 CHAIRMAN TILLERY: Okay. It's been moved
10 and seconded. Are there comments? Mr. Gibbons.

11 MR. GIBBONS: Mr. Tillery, I've got a
12 question. What is the possibility or chances that the Fish
13 and Wildlife Service would get a conservation easement in
14 the future if we went ahead and removed this from the
15 resolution presently? It says they're going to continue
16 negotiations with the group, so is there some feel for that
17 or anybody have any thoughts at all on that?

18 MR. SWIDERSKI: I don't think I could give
19 you a good answer. I know the parties intend to negotiate,
20 I know there is a proposal that Old Harbor has, it involves
21 essentially interstate land exchange that I don't know a
22 lot about. I certainly couldn't sit here and represent
23 that there will be an easement.

24 MS. PEARCE: We should have the Service
25 come up and tell us.

00065

1 MR. GIBBONS: Steve.....

2 CHAIRMAN TILLERY: Mr. Shuck.

3 MR. SHUCK: I knew there was a reason I
4 came in today. I'm Steve Shuck, U.S. Fish and Wildlife
5 Service. We have met with Old Harbor a number of times and
6 the discussion that Mr. Swiderski gave is correct, we are
7 no longer negotiating for a stand-still agreement with a
8 payment of the million dollars over the 10 years, but we
9 are interested in working out some kind of a conservation
10 easement for perpetual protection of the island. There are
11 a number of things that we have considered and I don't
12 think we are in line with everything that the corporation
13 has considered, but we are interested. Whether or not
14 anything ever comes to fruition, I don't have any idea.
15 We're a ways away from where we would like to be right now.

16 CHAIRMAN TILLERY: Mr. Shuck, would you
17 concur then with the statement that you are supportive of
18 the State proceeding with the land exchange without this
19 requirement?

20 MR. SHUCK: Very much so, we think that for
21 the -- in the interest of the State, as well the
22 corporation and I think that the refuge system would also
23 be well served. It would put into public ownership more
24 land on the main island of Kodiak and consolidate ownership
25 there in public lands rather than some public and some

00066

1 private.

2 CHAIRMAN TILLERY: Are there questions of

3 Mr. Shuck?

4 (No audible response)

5 CHAIRMAN TILLERY: Thank you. Are there

6 any other comments or questions from Council members?

7 (No audible response)

8 CHAIRMAN TILLERY: Okay, it's been moved

9 and seconded, the motion. All in favor signify by saying

10 aye.

11 IN UNISON: Aye.

12 CHAIRMAN TILLERY: Opposed?

13 (No audible response)

14 CHAIRMAN TILLERY: Okay, the motion

15 carries, thank you.

16 The agenda indicates -- as I understand the

17 agenda, Ms. McCammon, we have sort of a time certain at

18 noon to hear from the NRC?

19 MS. McCAMMON: Right, Mike Roman is going

20 to be on line at that time.

21 CHAIRMAN TILLERY: Okay. And we can get

22 through the next item in the next 20 minutes?

23 MS. McCAMMON: We could do the revisions to

24 draft PAC charter.....

25 CHAIRMAN TILLERY: Okay.

00067

1 MS. McCAMMON:actually, instead of
2 doing the operating procedures, I'd recommend we do the
3 draft PAC charter.

4 CHAIRMAN TILLERY: Oh, the draft PAC
5 charter. Okay. Is there any objection from the Council
6 for moving that item up on the -- the PAC charter, which is
7 an action item?

8 (No audible response)

9 CHAIRMAN TILLERY: Hearing none, why don't
10 you go ahead and proceed with that then?

11 MS. McCAMMON: Okay. And also Doug Mutter
12 is here, our FACA representative at Interior who has been
13 working this proposed charter through the Interior review
14 process. But you'll recall at your April meeting you
15 adopted a revised Public Advisory Committee charter. It
16 was then submitted to the Interior Department Solicitor's
17 office for their review, they came back with some changes
18 to the charter that require your formal adoption.

19 The primary changes were done in Section VI
20 regarding "Membership Selection and Service", they
21 clarified that at least one member shall represent each of
22 the 14 interests identified and that no more than three
23 members shall be appointed for any single interest. They
24 provide a definition for each of the identified interests.
25 And then, lastly, specify that the Secretary, with the

00068

1 consent of the Trustees may remove Public Advisory members,
2 as opposed to the Trustees removing the members directly.
3 In prior charters it did have the Trustees having the
4 authority to remove the PAC members directly, but there was
5 a feeling from the Solicitor's office that this was
6 inconsistent with, I don't know, regulations or statutes.
7 And it deleted the list of reasons for removal and just
8 kept it opened.

9 Under "Expenses" clarified that members
10 received travel and per diem only, no compensation and then
11 some correcting the citation for the authority.

12 There was one additional change, since this
13 had to come back to you, that I made, and I discussed this
14 with the members of the current Public Advisory Group. We
15 talked about calling it the Program Advisory Committee and
16 this was, basically, in response to a recommendation that
17 had been made at an earlier National Research Council
18 review draft, but we found -- and having this be the group
19 with community, scientists, stakeholders, and others who
20 looked at the program, when we looked at the make up of
21 this committee it had all of those people in it, but what
22 we were doing is calling the Program Advisory Committee,
23 you know, the Public Advisory Committee. And I think
24 there's always a problem when you have to describe with
25 words what your definition is. So in this we've replaced

00069

1 it back to Public Advisory Committee, just to reflect that.
2 And I don't know if you have any additional
3 more technical questions beyond that. Doug, hopefully,
4 will be able to help you because he is the one that did all
5 of the facilitation with the Solicitor's office.

6 CHAIRMAN TILLERY: And what you're
7 suggesting would then be a motion to adopt the charter?

8 MS. McCAMMON: Adopt the revised charter,
9 the 6/4/02 draft which you have in your packet.

10 CHAIRMAN TILLERY: Are there questions for
11 Ms. McCammon? Mr. Balsiger.

12 MR. BALSIGER: Thank you, Mr. Chairman.
13 Ms. McCammon, obviously this is the revised draft because
14 all these suggestions are in here.

15 MS. McCAMMON: Right.

16 MR. BALSIGER: Do you recall if we had
17 discussion at the last meeting about whether we wanted all
18 of the 14 to necessarily be representative or did we just
19 not talk about that?

20 MS. McCAMMON: What we had talked about was
21 that by having the interest groups, the interest
22 represented but not having the identified seat, that you
23 often have individuals who represent maybe three interests.
24 And so when you're looking at getting lots of variety of
25 input and balance -- sometimes it made it really difficult

00070

1 to have to identify one person to sit in a particular seat
2 for that interest. And so it was a 20-member group
3 representing these 14 interests, so there was no sense in
4 your original draft saying at least one member for each of
5 these. However, that was done with the caution from our
6 FACA representative at Interior that the tendency in
7 Interior is to look at those interests to see if each of
8 those interest was represented by one person.

9 And so I'm not sure we can totally get away
10 from this. And I don't know, Doug, if you have anything
11 additional to add to it.

12 MR. BALSIGER: Well, Mr. Chairman, I'm not
13 registering an objection, I was just trying to recall if we
14 had talked about this. Is this to be read, then, that it's
15 a unique person for each one or if you had a person that
16 represented both the Native landowner and the Native
17 government, that would be one person representing each of
18 those. In other words, can one person cover two of the 14?

19 MS. McCAMMON: No. Even though, in
20 reality, many people will have many qualification and will
21 fit multiple seats. It's my understanding. Correct, Doug?

22 MR. MUTTER: (Nods in affirmative)

23 MS. McCAMMON: Yeah, Doug is nodding, for
24 the record.

25 MR. MUTTER: Let me just say, Molly, it's

00071

1 not just the Department of the Interior, there was some
2 revisions to FACA in the past few years and across the
3 board they're looking at -- the question is do we have
4 balanced representation on these groups. And so if you
5 don't designate at least one person per seat you could have
6 14 people in one category and somebody else who represents
7 all the other 13 categories. So you kind of leave yourself
8 opened for criticism about do we have balanced
9 representation. And if those are the interest you want to
10 cover then I think it makes sense from a broad perspective
11 that you have somebody that represents that interest, even
12 though that person may also have other interests, but you
13 have that anyway. So it limits your flexibility a little
14 bit on who you appoint. But I think we're going to be
15 stuck with doing it this way, that seemed to be a pretty
16 good sticking point.

17 CHAIRMAN TILLERY: Dave.

18 MR. GIBBONS: Yeah, Mr. Chairman, maybe
19 another point of clarification. They make a statement that
20 no more than three member will be appointed for any single
21 interest. Well, I think shouldn't we -- isn't it our
22 intent to say that three members for the public at large
23 and no more than one member for the other interests? Isn't
24 that what we basically agreed on as a structure? So
25 shouldn't that say: three members shall be appointed for

00072

1 the public at large seats?

2 MR. MUTTER: I think, as I recall, one of
3 the interests was to have more scientists involved and you
4 may want three scientific people, because the STAC can
5 appoint up to three people as nominees. So I think the
6 idea was to add some flexibility there not just make them
7 public at large, but be able to have scientists if we want
8 scientists, so I think you did that on purpose.

9 MR. GIBBONS: I must have missed that.

10 MS. McCAMMON: Or maybe the communities
11 also, yeah.

12 CHAIRMAN TILLERY: Mr. Balsiger.

13 MR. BALSIGER: It probably says here, but
14 as I recall it's like 20 people for 15 seats, so obviously
15 there's going to be more than one for several of them.

16 MS. McCAMMON: Correct.

17 CHAIRMAN TILLERY: I think the possibility
18 is -- right now it's one for each of the 14, one could say
19 but a minimum of two public at large, or whatever you
20 wanted to do, but I think the -- I thought what we
21 discussed last time that would sort of fill in and that
22 wouldn't be a problem with having six additional seats that
23 really didn't have a designation, it wouldn't really be
24 much of an issue, is my recollection.

25 MR. MUTTER: Yeah, right now you could make

00073

1 all the extras public at large or scientists or anything.

2 CHAIRMAN TILLERY: Well, you couldn't make
3 them all scientists, I understand, because no more than
4 three can be for.....

5 MR. MUTTER: Are recommended by the STAC.

6 MR. GIBBONS: Mr. Chairman, you could also
7 make three environmental groups or three local governments
8 or three Native landowners or.....

9 MS. McCAMMON: Yeah, you could, right.

10 MR. GIBBONS: Yeah.

11 MR. BALSIGER: Or six of those.

12 MR. GIBBONS: Yeah, or six of those. No,
13 three, I think.

14 MS. McCAMMON: No, under this, you could
15 only do three.

16 CHAIRMAN TILLERY: Any other comments on
17 this?

18 MS. PEARCE: Did the present group,
19 Mr. Meacham, have any comments on this new draft?

20 MS. McCAMMON: I don't think I talked to
21 them about this, it was more just working out kind of a
22 legal issue. The categories they were supportive of and
23 having more flexibility they were supportive of and having
24 a large group they support.

25 CHAIRMAN TILLERY: Mr. Meacham, are you

00074

1 still on line?

2 MR MEACHAM: Yes, I am.

3 MS. McCAMMON: But I don't think we
4 discussed the issue that came up, the legal question of
5 having to limit to no more than three in one seat.

6 CHAIRMAN TILLERY: I think Ms. Pearce was
7 asking whether you had any comments about that and possibly
8 do you have any other general comments about the proposed
9 charter revisions?

10 MR MEACHAM: I don't have any comments of
11 any consequence at this point, we have been following the
12 various review drafts and this most recent one, as I
13 recall, we didn't take any position as a Public Advisory
14 Group. But, personally, reviewing it as it stands I don't
15 have any difficulty with it and I think it's in keeping
16 with the way most of the PAG would like to see this Public
17 Advisory Committee function.

18 MS. PEARCE: Thank you.

19 CHAIRMAN TILLERY: Thank you.

20 Mr. Balsiger.

21 MR. BALSIGER: One final question for me.
22 Will this group develop, sort of, it's own operating
23 procedures, like how to make quorums and how to vote and
24 all that kind of stuff?

25 MS. McCAMMON: Yes, they have that already.

00075

1 I mean, this is the same group, basically, Public Advisory
2 Group that we had all along, so those procedures will still
3 stay in existence.

4 MR. BALSIGER: So it'll adopt those things.

5 MR. MUTTER: We'll just revise their
6 procedures to fit with their new structure.

7 MR. BALSIGER: Okay, thank you.

8 CHAIRMAN TILLERY: Further questions or
9 comments?

10 (No audible response)

11 CHAIRMAN TILLERY: Does anyone have a
12 motion?

13 MS. PEARCE: Do you want a motion? I would
14 move that the Council adopt the 6/4/02 draft charter for
15 the Exxon Valdez Oil Spill Public Advisory Committee.

16 MR. RUE: Second.

17 CHAIRMAN TILLERY: It's been moved and
18 seconded. Are there comments on the motion? Discussion?

19 (No audible response)

20 CHAIRMAN TILLERY: Okay. It's been moved
21 and seconded, all those in favor signify by saying aye.

22 IN UNISON: Aye.

23 CHAIRMAN TILLERY: Opposed?

24 (No audible response)

25 CHAIRMAN TILLERY: The motion carries.

00076

1 Thank you, Mr. Mutter. Okay.

2 MS. McCAMMON: So, Mr. Chairman, going from
3 there, just real quickly, number 9 on the agenda, that's
4 more of an informational item that ties in with this. It's
5 my understanding the process now, this charter goes back to
6 Washington, D.C. and goes through the process there. And
7 that while that's going through the process we can go ahead
8 and solicit nominations, although they can't, obviously, be
9 appointed until the final charter is approved back in
10 Washington.

11 But our plan is to go forth in the next
12 week or two with the solicitation for nominations to the
13 Public Advisory Committee. At the same time we will be
14 doing solicitations for some of the subcommittees that will
15 be working under the Scientific and Technical Advisory
16 Committee. We started to do that earlier and then realized
17 we'd be doing the solicitation for the Public Advisory
18 Committee and we'd have all these solicitations out for
19 committees, that could be really confusing to the public,
20 so somehow we're going to have this document that just lays
21 it out and it's very clear and very easy to fill out and
22 people will just want to be part of these committees and
23 we'll get lots of nominations by the end of the summer.

24 The three committees that are going forth
25 are the Data Advisory Committee, the Lingering Oil Effects

00077

1 Committee and the, if you'll recall, under the STAC process
2 we had listed the four subcommittees by habitat type. When
3 we met with the STAC, the main science advisory committee,
4 there was a little hesitancy and concern about going forth
5 with four subcommittees by habitat type at this point.
6 Number 1, that means we're looking at, like, seven
7 subcommittees to manage, so just administratively it could
8 be difficult, challenging. And, number 2, there was also
9 concern about dividing the program too discretely among
10 these habitats and not having something that really looked
11 at the entire system, that really focused on some of the
12 cross -- the linkages between some of the various habitats,
13 whether they're processes or things like modeling and
14 synthesis effort, things like that. So their
15 recommendation was to put a solicitation out for a
16 subcommittee, habitat subcommittee, and then see who
17 nominated, who nominated themselves, or when nominated by
18 others and kind of leave it opened into the fall whether
19 how much that got divided further. It could end up just
20 being one working group, it could be several, but leave
21 that a little open. So at this point we're calling it the
22 Habitat Subcommittee.

23 The main difference between the
24 subcommittee and the STAC is that on the subcommittee you
25 can have federal and state agency representatives, you can

00078

1 have principle investigators, researchers, so it doesn't
2 have the restriction, the independent restriction, that the
3 STAC has, it's more the worker bee type, so you could have
4 community people. So a wide variety of perspectives at
5 that level. So we'll be putting forth a solicitation on
6 that in the next couple of weeks. So that's just FYI
7 mainly.

8 CHAIRMAN TILLERY: Okay. Thank you. Are
9 there questions for Ms. McCammon?

10 (No audible response)

11 CHAIRMAN TILLERY: Okay. That brings us to
12 about shortly before noon. We are going to have the GEM
13 briefing which will need to start at noon. Why don't we
14 take a five-minute break and be ready to start back then.

15 MS. McCAMMON: Okay.

16 CHAIRMAN TILLERY: Thank you.

17 (Off record - 11:54 a.m.)

18 (On record - 12:07 p.m.)

19 CHAIRMAN TILLERY: Okay. This is the
20 resumption of the Exxon Valdez Oil Spill Trustee Council
21 meeting of June 14th. We are ready to move on the agenda
22 to GEM, a briefing on National Research Council report and
23 proposed revisions. Ms. McCammon.

24 MS. McCAMMON: Thank you, Mr. Chairman. In
25 your packet you have a copy of the pre-publication version

00079

1 of the final report from the review committee and you also
2 have revised draft of portions of the GEM document that I
3 encourage you not to get too wedded to that draft because
4 we've already ripped it apart and we'll have a new draft
5 for you shortly. Everytime we look at it we figure out
6 different ways of organizing it to, hopefully, make it
7 clearer what's going on.

8 We do have the Chairman of the Review
9 Committee on the phone and he is available to describe a
10 little bit any thinking of the Committee and development of
11 their recommendations and answer any questions you might
12 have. I think I had said earlier when reading through
13 this, when we first got it, the first read through is, is
14 there anything fatal in here that I'm just going to have to
15 run away and hide over. And there wasn't, which was good.
16 Then the second time you read it, you know, there are
17 little pieces of it, you go, you know, I can't believe
18 that's what they thought because that's certainly not what
19 we intended. So, you know that your work needs more work
20 and more revision.

21 And then the third, fourth, fifth and I
22 think I probably read it multiple -- up to 10 times now, I
23 think is really going to be a really helpful document as
24 the program develops further. And maybe even more so five,
25 seven, 10 years down the line when we have our first

00080

1 external review of the program looking back. Because it
2 really does set a lot of benchmarks in terms of where the
3 program should go and it'll be very useful to go back and
4 see whether it actually was accomplished.

5 All of the recommendations and conclusions,
6 we looked at those, we're incorporating responses to them
7 or in the revised draft. There was nothing in here that we
8 disagreed with. I think the biggest criticism we had had
9 with it was the chapter on community involvement, which --
10 and it actually wasn't the recommendation or the conclusion
11 that we had the biggest concern with, it was more the
12 language that was in the text of the chapter, there was no
13 acknowledgement in that chapter of all of the past efforts
14 that the Trustee Council has undertaken in the last 10
15 years to work with tribes, with fishermen, with local
16 communities, with all of the stakeholders and public in the
17 spill-affected region to actively involve them and not use
18 them just as a source of a labor pool, but even beyond
19 that. Really have them participate at all levels in the
20 program, so that was probably our biggest concern.

21 I did ask -- and I don't know if Mike saw
22 these or not, but I did ask Chris Elfring, who was staff,
23 and know that they have pretty rigid processes in terms of
24 once a document is final. Just went ahead and said, okay,
25 if I was writing the document, here's what I would have

00081

1 done and ask for some major changes, which I'm sure none of
2 them will be included in that final document, but I think
3 there was a little bit of toning down some of the language
4 in there, and there was a sentence or two added that I
5 think will be helpful.

6 And from what I understand, the final
7 document will be received in about five weeks, so this is
8 the pre-publication copy, but the published version is
9 about five weeks away. And with that, Mike is on the line
10 and we can either go through section by section, we also
11 have Dr. Mundy here, it's kind of at your pleasure how you
12 want to see this done.

13 CHAIRMAN TILLERY: Mr. Roman, are you on
14 line?

15 MR. ROMAN: Yes, I am.

16 CHAIRMAN TILLERY: Okay. Do I understand
17 correctly that you have some time constraints?

18 MR. ROMAN: Well, I mean, not that bad. I
19 know you all have lunch at 12:30, so I don't want to hold
20 you up but, no, I got to pick up a daughter from LaCrosse
21 practice in an hour and a half, but I think we can
22 accomplish our goals by then.

23 CHAIRMAN TILLERY: I would certainly hope
24 so. Is the Council's pleasure -- my suggestion would be
25 that we just hear first from Mr. Roman and then, perhaps,

00082

1 have some questions for him, if that's a good way to
2 proceed.

3

4 Commissioner Rue, are you on line, still?

5 MR. RUE: Yeah, I'm here.

6 CHAIRMAN TILLERY: Okay. Mr. Roman, will
7 that work for you, could you go ahead and make whatever
8 sort of comments or -- you might like to make to us and
9 then perhaps let us ask you some questions at the end?

10 MR. ROMAN: I'd be glad to do that. Yes.

11 First of all, I wanted to thank Molly and
12 Phil for all of their help and guidance. We made them do
13 back flips and kept asking them for information and asked a
14 lot of questions that they kind of rolled at after a while
15 because we're just asking the same questions, maybe,
16 without reading all the materials, but they were great
17 folks to work with and you're lucky to have them looking
18 after the GEM Program for you.

19 Second is, I don't know if you recall the
20 charge to our Committee but, you know, we were to hold
21 public meetings, gather information and become familiar
22 with the program and then comment on the general strategy
23 proposed in the Draft Science Plan, which we did. And then
24 review, once it's available the Draft Research and
25 Monitoring Plan, which is the subject of the report that

00083

1 you see in front of you. It was a little strange for us on
2 the Committee in that it was different from some of the
3 National Academy panels that we had served on before, where
4 you were given kind of a final document or, you know, asked
5 to review, you know, the effects of cigarette smoking on
6 lung cancer or something, and kind of asked to review
7 evidence. This was more of work in progress and that's,
8 again, what was complimentary to Phil and Molly because we
9 had this kind of give and take over the process that, you
10 know, I think worked quite well.

11 You'll see that we organized the general
12 recommendations in chapters under six themes. One was the
13 conceptual foundation, which when I spoke before your
14 Council in Anchorage, I guess, last year, we explained what
15 that meant, and this is kind of your overall idea of the
16 importance of the study, what goals you want to accomplish
17 and essentially working out a game plan.

18 The second subdivision was scope and
19 geographic focus and this was, you know, where you want to
20 do the study. And you'll see in there that, you know, it's
21 a trade off, it's a huge area, kind of getting some
22 measurements in broad area or concentrating and getting a
23 lot of measurements in a more defined area. And there are
24 pros and cons which we outlined for both of those
25 approaches.

00084

1 The third category was the organization
2 structure and what we did in making recommendation for this
3 was look at other monitoring programs, both in marine and
4 desert environment or how kind of large programs are set up
5 with scientific steering committees and reviews and kind of
6 rules of impartiality and review. And so we did case
7 studies on those and picked what we thought were some of
8 the best examples to bring forward in this report to you.

9 The fourth one, which as Molly mentioned,
10 which was the part that perhaps some of the language was
11 inflammatory or we didn't appreciate some of the work that
12 you had been doing is community involvement. And, you
13 know, for a lot of the scientists on our Committee, there
14 were 12 members, only two of the members really had
15 backgrounds of that, sociologists, that kind of worked us
16 through on those things and that probably was the biggest
17 learning curve for the other 10 of us because we hadn't
18 really dealt with those types of issues before.

19 And the last two are data management and
20 synthesis and modeling, and this is how you manage the
21 data, periodically look and evaluate the data to take steps
22 in the future. And so as you look at the recommendations,
23 this is how we divided up the recommendations and
24 conclusions. And so, you know, most of -- this is detailed
25 in the executive summary, and then at the very end the

00085

1 recommendations are again repeated, so you can see between
2 the bookends is kind of the whys and why nots that we felt
3 that you might consider in going forward on GEM.

4 And that's it, really. I'm open to
5 questions. I wrote part of the document, you know, and I
6 certainly read and reviewed all of it, so much of it is
7 within my area of expertise, others, you know, I'm mostly
8 familiar with, so I can entertain any questions that you
9 might have.

10 CHAIRMAN TILLERY: Okay. Thank you very
11 much. Are there questions from the Council members? Mr.
12 Gibbons?

13 MR. GIBBONS: (Shakes head in the negative)

14 CHAIRMAN TILLERY: Oh, I'm sorry I thought
15 I saw you raise your hand. Mr. Balsiger.

16 MR. BALSIGER: Thank you. I have a
17 question. I don't have it very well framed in my mind, I
18 guess, but it's relative to recommendations that there
19 needs to be long-term research. And sometimes I think that
20 perhaps, you know, Federal agencies or something like that
21 are better suited to long-term sustained data series where
22 you want to measure the same thing for 25 or 30 years, as
23 opposed to, at least, the way the Trustee Council used to
24 operate by funding proposals under the RFPs. I know that
25 the GEM model, modeling is a big part of it, but I was

00086

1 wondering, Dr. Roman, what your thoughts were about how the
2 Trustee Council's funds -- they'd obviously be diluted if
3 you took over the long-term observations that, as I said
4 earlier, may better be funded by governmental agencies?

5 MR. ROMAN: Well, actually, I think the
6 consensus of the Committee was that because GEM had this
7 opportunity to take the long-term view, that a long-term
8 monitoring -- and really we have a little box in there
9 that, you know, monitoring versus research. Monitoring is
10 research, the difference, really, could be the time scale.
11 But because you had this potential source -- well, the
12 source of funds that would allow you to take the long view
13 and that you knew that, you know, certain parameters would
14 be important, controlling the productivity of the Gulf of
15 Alaska system. You know, some of the agency missions get
16 tweaked now and then, you know, that certain measurements
17 should be continued -- maintained or continued by the GEM
18 Program.

19 We also said in there that GEM funds
20 shouldn't be substituted for some of the measurements that
21 are mandated for some of the mission oriented agencies,
22 like NOAA or the National Marine Fisheries Service. For
23 instance, fishery surveys, tide gauges, things like that
24 are maintained by agencies that do this in an operational
25 mode and that that probably wasn't the purview of GEM, but

00087

1 it was those measurements that are critical for
2 understanding the long-term changes in the Gulf of Alaska
3 ecosystem that weren't being conducted by those mission
4 oriented agencies. Is that clear?

5 MR. BALSIGER: I think so. Like I said, I
6 didn't have it very well formulated, but I think it's
7 obvious we don't want to spend all of the Trustee Council's
8 money on fish surveys or oceanographic observations off of
9 buoy systems that are being funded now by OAR and NMFS, so
10 we have to guard against, I guess, depleting our funds.
11 And maybe you have to use them when there are tweaks in
12 agency missions to fill in temporarily.

13 Thank you, I think you were answering my
14 question.

15 MR. ROMAN: Yeah, and, as I say, we kind of
16 didn't really lay out the percentage but, you know, I mean
17 certainly there are certain important measurements that
18 your Scientific Advisory Committee would recommend that you
19 need to sustain and, you know, that's -- those might be in
20 a lock box as something that is sacrosanct. There are
21 other short-term, three to five year, research programs to
22 understand particular problems that crop up. And then, of
23 course, funds to maintain a database and to distribute that
24 database to the various communities and users of the data.
25 And so it's kind of delineating the funds in those types of

00088

1 categories.

2 MR. BALSIGER: Thank you.

3 CHAIRMAN TILLERY: Other questions?

4 (No audible response)

5 CHAIRMAN TILLERY: Mr. Roman, you talked
6 about not, I think, kind of wasting or letting our money
7 slip away. And as I understood it, you were essentially
8 talking about, as Mr. Balsiger pointed out, sort of a long-
9 term consistent kind of research thing, which I think
10 response really to the unique opportunity that we present,
11 a stable, long-term, funding source. However, we also have
12 a legal charge to do restoration. We can't just study
13 without the anticipation that things will come out of it
14 and that we'll be able to do things. Do you see that as a
15 conflict or a problem?

16 MR. ROMAN: No, I don't think it's
17 necessarily a conflict. For instance, what you might
18 consider doing is, you know, issuing a yearly report card
19 of the Gulf of Alaska from the Exxon Valdez studies in the
20 past on hydrocarbons in the environment, on perhaps changes
21 in bird or whale or other mammal populations. And as far,
22 you know, is the Gulf warming up in response to global
23 change or, you know, decreasing in salinity because of
24 melting of ice. There are certain oceanographic
25 measurements that you need to know that are of interest to

00089

1 the public and managers. There are certain things that you
2 may feel that are good tenaries in your restoration efforts
3 and, you know, these could be included in a monitoring
4 effort to see how rapidly the Gulf of Alaska comes back, is
5 restored. And I know many similar monitoring studies issue
6 these kind of report cards, which are good things to get
7 the word out to the public and managers and keep people
8 enthused about continuing the support of the monitoring
9 effort. You need sustained measurements, but you need to
10 get the word back and feedback on how you're doing and how
11 the ecosystem is doing, so I guess it's a roundabout way of
12 saying that you could do both.

13 CHAIRMAN TILLERY: But some of the things
14 we've done in the past have related, very specifically, to
15 agency management that was intended to protect species. An
16 example might be the development with marking techniques
17 for hatchery fish. Is that something that you would think
18 that we should moving away from, sort of an active role in
19 developing management. We've done some salmon genetics and
20 stuff to help stock identification, would you suggest
21 we.....

22 MR. ROMAN: Well, I certainly think that if
23 you wanted to separate the natural versus man-induced
24 effects, certainly the release of hatchery fish and their
25 impact on the ecosystem is something that you might want to

00090

1 monitor and be concerned about. You know, I think -- you
2 know, it might be hatchery fish or Steller sea lions or,
3 you know, in two or three years it might be some other
4 thing, you might want to reserve a certain portion of your
5 funds to maybe have special studies or research areas that
6 respond to those management needs, but that you wouldn't
7 want all the funds to keep swinging back and forth with
8 that, you need, as I say, the sustained measurements of the
9 oceanography, of the health that data needed to maybe
10 support all of these things, you know. So there's certain
11 common measurements that might be needed to help interpret
12 a variety of species declines and increases. And so, you
13 know, your Scientific Advisory Committee, hopefully, will
14 give you guidance on these long-term sustained measurements
15 that all of these things we need versus having some money
16 available, you know, to investigate these problems as they
17 crop up.

18 MR. ROMAN: Okay. Other questions? Mr.
19 Balsiger.

20 MR. BALSIGER: I had just one other
21 question. I can't seem to find where I made the note in my
22 document here, but it's relative to the committees on the
23 various habitats, and I think that your recommendation was
24 worded something like, we don't necessarily recommend
25 linking subcommittees, because maybe it would be better to

00091

1 make sure that the various habitat committees had feelers
2 out on the ends of them to link to the next habitat, or
3 something like that. But I guess my personal thought would
4 be that I'd recommend against a linking subcommittee and
5 make sure that those committees talk to each other instead
6 of thinking that they would be able to pass those
7 responsibilities to a different group. I thought the way
8 you worded it made it sound like probably they should have,
9 but not necessarily. I wonder if you have a comment on
10 that.

11 MR. ROMAN: We actually had some debate
12 about that, whether, you know -- well, take a step back.
13 You could organize the study different ways, you could
14 organize it by, you know, upper tropic levels and mammals
15 and fish and water column things and benthos. Or, you
16 know, by habitat or some other way. And the habitat
17 approach, we thought, was as good or better than any. But
18 the disadvantage is if you have all the people working
19 inshore and they aren't talking to the people working
20 offshore or, you know, as you see the effects of land
21 purchases, there may be reduced logging and how that
22 affects salmon watersheds. Clearly they're all connected
23 and one danger in having just the habitats would be
24 isolation because, you know, water and nitrogen and these
25 elements flow from one habitat to the other.

00092

1 And so, you know, we had a debate if you
2 wanted, you know, organize the study by habitats, but maybe
3 not have habitat subcommittees, but have subcommittees that
4 were geared to bridge those gaps between the habitats. You
5 know, I was going to say, it's kind of more -- we didn't
6 want to micro-manage the way that you saw fit to organize
7 it, but we just saw the danger of isolation of habitat.
8 And either another subcommittee that, you know, one person
9 from each of the other habitat committees serves on or, you
10 know, constantly stressing common themes within all the
11 habitats, that by nature of addressing those common themes
12 they would forced to talk and collaborate with each other.
13 Again, it's something that has to be worked out, but we
14 thought you should be cognizant of the pros and cons about
15 it.

16 MR. BALSIGER: Thank you.

17 CHAIRMAN TILLERY: The one item that I
18 found as particularly interesting, and I think that your
19 report where it's kind of a major impact on our thinking is
20 a year or so ago we were envisioning this program as
21 something of a gap filling program, a source of money to
22 pick up where other people may be dropping off or where
23 there were gaps in research and so forth. As I understand
24 your recommendation it's fairly strong that we should not
25 view ourselves that way, but rather we should work on a

00093

1 comprehensive and, you call it, eventually predictive
2 understanding of the Gulf of Alaska ecosystem. I guess my
3 original thought in terms of gap filler was with five or
4 six million dollars a year we could fill some gap, but with
5 five or six million dollars a year, can we really be our
6 own central core program to develop comprehensive
7 understandings and predictive abilities

8 MR. ROMAN: Well, not if your focus is
9 broad, I mean, you know, if you kind of narrow focus, these
10 are the most important things to know about and we're going
11 to do them whether these other agencies or these other
12 program exist or not, and this is what we need to do to
13 separate natural variability from man-induced affects in
14 the Gulf of Alaska. Then, I think, focusing a study on
15 this, saying you have to have these elements to understand
16 that as your goal, as stated in your documents. If you
17 have other folks coming in and doing part of it, it's
18 wonderful, but if you don't you have to be prepared to step
19 up to the plate and do it yourself. And so one way, at the
20 very beginning, in this planning is saying we need these
21 essential elements to fulfill the mission of GEM and that's
22 where we're going to put our money. And if somebody else
23 wants to come along later and say, okay, we'll do this,
24 fine, then you can put some of your resources somewhere
25 else. So it's almost like, you know, build a field and

00094

1 they will come, you know, you have to plan from the very
2 onset that this is the most important thing to do, rather
3 than kind of always like on the lookout of saying, who's
4 doing this and who's doing this? And we'll keep filling in
5 the gaps. So one was more proactive, as opposed to
6 reactive.

7 I mean, I see your point about gaps, but at
8 least from a scientific point of view and the Committee
9 felt, in reviewing this, is we didn't know who was going to
10 be out there and what studies were going to come and go.
11 Our job was just to recommend the best possible science and
12 help you build an infrastructure, or suggest an
13 infrastructure, that would do that and, therefore, we
14 thought that the gap analysis, while in the end it might be
15 done in different ways, a better strategy would be to just
16 to first figure out what needs to be done to answer your
17 question and then construct a program from that.

18 CHAIRMAN TILLERY: Yeah, actually, I.....

19 MR. RUE: Mr. Chairman.

20 CHAIRMAN TILLERY:appreciate your
21 approach, it has more vision than, I think, our approach
22 did. So, as I understand it, you would essentially say we
23 should just establish this program, it should set out as,
24 what, a hypothesis on how we're going to go about it. And
25 when NMFS gets money for sea lions and stuff, let them

00095

1 adapt their more temporary funding to our somewhat more
2 predictable long-term program.

3 MR. ROMAN: That's it exactly. You're the
4 Christmas tree with all the branches and people might put
5 on ornaments and put on side branches, but the basic
6 structure of the program would be planned and dictated by
7 GEM.

8 MR. RUE: Mr. Chairman.

9 MS. McCAMMON: Mr. Chairman. This is Molly
10 and I think that approach is actually where we have evolved
11 over the last two years and actually wasn't -- I don't
12 think it was articulated nearly as well in the August 2001
13 document and so there was some confusion on that, but
14 that's exactly the point, to figure out what are the
15 questions, what information do you need to know, what are
16 the measurements that need to be taken. And then the gap
17 analysis is who else is collecting some of that information
18 so you don't have to, even if it's just right now and not
19 permanent, but at least -- and then fill in those gaps
20 there, but still the basic structure is these are the
21 measurements and the things you need to know.

22 MR. RUE: Right, I agree, Molly. In fact,
23 I think we always talk about ourselves as having the
24 ability to perhaps be a catalyst for research that we think
25 is important, because we do have a long-term funding source

00096

1 and we can attract others to participate and get more for
2 our money and have even recommended some cooperative
3 agreements with other research entities to further that
4 objective, so -- I guess I never viewed myself as gap
5 filler, but that's.....

6 MR. ROMAN: One example that perhaps we
7 should have articulated more is the long-term ecosystem
8 research program at NSF, you know, these are studies that
9 are designed to go on for 20, 30, 50 years, short by GEM's
10 comparison but, you know, in the end they plan what's going
11 to be done and start a series of measurements and the
12 average ratio of outside funds is between two and three to
13 one, so for every dollar that they invest there's two to
14 three dollars of outside funds that are brought in. And
15 this is a good model because it's very analogous and
16 people, I think, are looking to GEM for guidance and once
17 they develop a strong science program, I think it would
18 potentially attract a lot of outside dollars to enhance the
19 program.

20 CHAIRMAN TILLERY: Other questions?

21 (No audible response)

22 CHAIRMAN TILLERY: Okay.....

23 MS. McCAMMON: There was one set of
24 recommendations that I think actually -- I think most of
25 the recommendations in here are things that required us to

00097

1 either clarify some pieces of the document, reorganize it,
2 add some language, things like that, but there was one
3 question in here that I think actually relates to some of
4 your goal that is in the first chapter of the document and
5 I just wanted to point those out. And it's under the
6 recommendations, GEM's roles in Gulf of Alaska research and
7 it's in the Executive Summary on Pages 10 and 11. And
8 these come into -- that GEM's primary role should be to
9 develop a comprehensive and eventually predictive
10 understanding of the Gulf. Other programs will come and
11 go, but GEM does not have the resources to be the central
12 coordinating body for all such efforts. The focus should
13 be on it, should not dilute resources, it can provide a
14 building block, but it should be distracted by the idea of
15 assuming leadership of Gulf of Alaska marine research.

16 The next one about the gap analysis and
17 then the final recommendation. It's not possible for GEM,
18 given its resources, to play a leadership role in both
19 scientific research and day-to-day support of resource
20 management and not be involved in monitoring those
21 typically the responsibilities of agencies.

22 And it kind of ties into, if you look under
23 the goals that haven't been formally adopted by the Trustee
24 Council, but the five major goals, detect changes,
25 understand change and then, as part of that, informing

00099

1 CHAIRMAN TILLERY: No, I think that
2 discussion about not taking leadership -- I mean, I think
3 inevitable there is leadership when you provide the only
4 stable one out there, at least -- that's our program,
5 everybody has been coming to us over the last few years or
6 the last 10 years, I guess, looking to our program. It's
7 kind of been a catalyst for a lot of other activities. The
8 leadership.....

9 MS. McCAMMON: But now they're all going to
10 the Steller sea lion money because it's a bigger pot of
11 money over there.....

12 CHAIRMAN TILLERY: Right.

13 MS. McCAMMON:but that won't be there
14 forever.

15 CHAIRMAN TILLERY: Right.

16 MR. BALSIGER: That's heresy.

17 MS. McCAMMON: It'll be rolled into your
18 base budget.

19 CHAIRMAN TILLERY: But I guess what I sort
20 of understood of this leadership is that we would not
21 actually try to create a group, we would not try to
22 coordinate, we would not try to take our money and take
23 other people's data and synthesize them and try to be the
24 ultimate arbiter of the ecosystem or something here; is
25 that a misunderstanding?

00100

1 MS. McCAMMON: There will be models that
2 require -- that will have data from our programs and our
3 projects feeding into it, but that will also use data from
4 other programs feeding into it. It doesn't mean that
5 that's going to be the only house or archive of that data
6 and the only place it goes into, but certainly we're going
7 to take advantage of everything National Marine Fishery
8 Service does and NOAA and any other program if it makes our
9 model more complete and provides a better picture of what's
10 going on.

11 MR. ROMAN: I agree with Molly and, you
12 know, in there, kind of reading this again, it said not to
13 play a leadership role in both scientific research and day-
14 to-day support of resource management. I mean, I think,
15 you know, scientific leadership is one thing, but the day-
16 to-day resource support of data -- of resource management
17 of how Steller sea lions and Arrowtooth flounder and
18 everything else, that was more of what we were thinking.
19 You know, it may be as simple as the GEM web page is a
20 portal for all research in the Gulf of Alaska, so that your
21 research is portrayed and on that are some sample data and
22 the links for the data from the U.S. Forest Service and
23 National Marine Fishery Service, so that, in kind of a
24 virtual way, it links all the data sources and then so
25 folks can see what the big picture would look like and have

00101

1 a better time putting the various data sources together. I
2 think you can do creative things like that, that don't cost
3 a lot of money, that would serve as a means for integrating
4 the various players in the Gulf of Alaska.

5 MS. McCAMMON: We do have one policy
6 problem, is that we do have a policy that the Trustee
7 Council will not fund normal agency management. And we
8 have it defined as those activities -- let's see. I may be
9 saying this wrong, but are activities that would not have
10 occurred except for the spill happening, the oil spill
11 happening, and that was the way we were able to
12 distinguish. But under GEM that definition doesn't really
13 work because there's not that oil spill difference and so
14 if that policy of not funding normal agency management
15 continues, which it does until you change it, you probably
16 need a new definition for that and how you define that.

17 And then, again, it's always squishy
18 because some of the best information that we get is from
19 some of Fish and Games trawl surveys and they only conduct
20 those surveys when there's a commercial fishery happening
21 or likely to happen. And if the fishery is closed for a
22 number of years, like some of the shrimp surveys they
23 haven't done because there's no shrimp around and they
24 don't do those surveys. But they're really great data
25 collectors. And so in that sense we may want to fund them

00102

1 in every third year, every year when they don't have a
2 fishery year or something like that. And that's not really
3 normal agency -- I mean, it could be considered normal
4 agency management, but -- so there are always kind of gray
5 areas there.

6 MR. RUE: Yeah, Molly, this is Frank. I
7 don't know if you're ready to engage in this debate now,
8 but I think that's a really good question and I think it
9 will always be a judgment call I think if we say normal
10 agency activities, that covers the entire waterfront, NMFS
11 or Fish and Game or Forest Service, or Interior, someone
12 would normally do this kind of activity, the judgment call
13 is this something that they should be doing under their
14 normal management responsibility or something. We don't
15 want to substitute for what we think legislatures and
16 Congress should fund, an agency to manage a resource,
17 rather we would want to enhance or do additional kind of
18 work. So I think -- I agree, we need to work on a
19 definition and I think the word activity is the problem
20 versus level of action or level of management
21 responsibility that we, in our judgment, think that they
22 should take on versus what we should take on.

23 MS. McCAMMON: Yeah, that's always --
24 difficult, too.

25 MR. RUE: I don't think there will ever be

00103

1 a definition that will lead us down the path without any
2 discussion or debate or sort of a judgment, so -- but I do
3 think the word activity makes it very hard to justify
4 anything, because almost -- some are responsible for just
5 about everything, whether they do it or not is the
6 question.

7 MS. McCAMMON: And whether they've had
8 historical funding to ever do it, and that's been part of
9 the issue, too.

10 MR. RUE: Right.

11 CHAIRMAN TILLERY: Do you have anything
12 else? Now, as I understood, you and Phil Mundy were going
13 to.....

14 MS. McCAMMON: We went through the document
15 and what you have in your packet is our first cut at
16 basically going through all the recommendations and all of
17 the comments and making changes in response to that. And
18 most of them -- this was a very iterative process, so it
19 really hasn't taken much because most of the things that
20 were in here in terms of recommendations we've already
21 incorporated into the document in some fashion. So a lot
22 of it was just reorganizing it, kind of putting things up
23 front, emphasizing certain things, clarifying some
24 language, things like that, so it hasn't been, you know, a
25 huge substantive change. We clarified, to the extent we

00104

1 can, community involvement and traditional knowledge and
2 three or four different sections, while still acknowledging
3 how that actually will work, because it's going to evolve
4 over time also.

5 We've taken another stab, just in the last
6 week, after going through this version and doing another
7 little tweaking of the organization, once again, and we're
8 hoping to get that kind of final version. I think we're
9 getting close to being satisfied with it, it needs a lot of
10 kind of smooth transition language. Whenever you do this,
11 certain things kind of pop out at you that weren't so
12 obvious before when they were hidden back in Chapter 8,
13 when they're up in Chapter 2, you kind of look at them.
14 Part of it is the definitions and terms and we found in a
15 number of these places we called different things
16 strategies, different things are components, but in other
17 places they're tools, and trying to get those consistently
18 used throughout so very clearly you can see the logic of
19 how you flow through kind of the thinking. So that's going
20 to get cleaned up, and we hope to have a draft to you two
21 weeks before the July 9th meeting, which would be what?

22 CHAIRMAN TILLERY: That's next week, isn't
23 it?

24 MS. McCAMMON: That's next week. Somehow
25 two weeks before the next meeting sounds better than next

00105

1 week.

2 CHAIRMAN TILLERY: And what is the timing
3 line, when is it going to happen?

4 MS. McCAMMON: Well, the reason we're a
5 little tight on time is that it's scheduled for action for
6 your adoption on July 9th, which means you all have to have
7 read it cover to cover and love it cover to cover. We'll
8 have an executive summary, so you can love the executive
9 summary. And the reason is that this year for the Work
10 Plan we did the Work Plan in two phases and Phase I was
11 lingering oil effects and some continuing transitioning
12 projects, and that review has already gone forward. The
13 Draft Work Plan, in fact, has been printed and is out on
14 the street for Phase I and you'll take action on this
15 August 6th.

16 But to do Phase II, that is more focused on
17 the GEM Program and we would feel more comfortable if you
18 had adopted the document before that invitation goes out.
19 But because of the timing of -- and that all hinges on the
20 fact that we have a new administration coming in on
21 December 2nd and when you start working back from there,
22 that invitation has to go out July 15th. So it's all kind
23 of tied together.

24 CHAIRMAN TILLERY: Okay. Dr. Mundy, did
25 you have comments or do you have anything that you wanted

00106

1 to present?

2 DR. MUNDY: Mr. Chairman, just briefly,
3 just one comment, thank you. My name is Phil Mundy. I
4 just want to point out that the task of reviewing the
5 document by the Council members may not be as difficult as
6 it seems, because, as Molly pointed out, a lot of the
7 language that's in here has been in here since August of
8 last year. In fact, I'd say the majority of the language
9 in here been in there since August of last year. And we
10 have labored to change those things that the NRC pointed
11 out that needed to be changed and have changed only those
12 things.

13 Another thing I'd just like to say is I'd
14 like to return the compliment to Dr. Roman and the NRC
15 Committee for the work that they've done because NRC
16 members are volunteers, they donate their time to this
17 effort and I know that members of this Committee worked
18 very hard and spent a lot of time on this. So I would also
19 like to say to Dr. Roman thank you very much.

20 CHAIRMAN TILLERY: Thank you. Questions?
21 Further comments?

22 (No audible response)

23 CHAIRMAN TILLERY: Dr. Roman, having heard
24 this last bit of discussion, do you have anything to add?

25 MR. ROMAN: Well, nothing about kind of the

00107

1 -- you know, your discussion of the leadership role and gap
2 analysis and, you know, I think this is something that is
3 always going to be evolving, as other studies and other
4 missions are -- problems with particular species pop up
5 and, as I say, I think that it would be wise to take
6 advantage of these situations, but as I say, our
7 recommendations are -- you know, once you decide what you
8 want to do, to separate the effects of natural variations
9 versus man-made effects, to understand the ecosystem so in
10 case there was ever another oil spill that you knew if the
11 populations were going up or down naturally, what the
12 state of the ocean was. You just have to maintain those
13 measurements and that, you know, these monitoring programs,
14 once they're set up, they inevitably discover new things
15 and have been very important. So you have a wonderful
16 opportunity to set up a study and then maintain it and, as
17 I say, it'll be the envy of many areas and folks will want
18 to come and work there and so you'll be able to enhance the
19 funds that you invest.

20 CHAIRMAN TILLERY: Thank you. I suppose
21 when we regret having only five or six million a year in
22 perpetuity to use, other people would not look upon that as
23 a big problem.

24 MR. ROMAN: No, it's a wonderful
25 opportunity. But just like these long-term ecological

00108

1 research, they're, I think, a couple million dollars a
2 year, but they end up a much smaller area, it's more
3 focused than the Gulf of Alaska. But, as I say, the
4 leveraging effect on those things magnifies the things that
5 you will be able to do.

6 CHAIRMAN TILLERY: Any further questions?

7 (No audible response)

8 CHAIRMAN TILLERY: Dr. Roman, I would like
9 to echo Dr. Mundy's comments that we very much appreciated
10 the NRC's involvement in this. We understand how much
11 time, it has been very apparent with the reports and the
12 contact that we've had with you as we've gone along, it
13 certainly has produced a far better document, I think, and
14 a far better understanding on our part of the opportunity
15 that we have. So I'm sure we'll have a more formal thank
16 you, but we just certainly would like to tell you right now
17 that we very much appreciate the role you and your
18 colleagues have played.

19 MR. ROMAN: Well, thank you for the
20 compliment and, as I say, I think your vision in setting up
21 these funds was one of the things that we thought was
22 remarkable and, you know, allows you to do this and so good
23 luck.

24 CHAIRMAN TILLERY: Thank you very much.
25 Okay, we will move on to the next item on the agenda. I

00109

1 don't know what it is. Is that lunch?

2 MS. McCAMMON: There's lunch.

3 CHAIRMAN TILLERY: But we need to get

4 through by 2:00 and I assume people want to move right

5 along, is it possible that we should perhaps just take five

6 or 10 minutes, grab the lunch, bring it back here and then

7 keep going? Is that the wish of the Council?

8 MS. McCAMMON: Yeah.

9 MR. KLEIN: Sound good.

10 CHAIRMAN TILLERY: Okay, we will do that,

11 it's now 10 to 1:00, we'll back here at 1:00 ready to go.

12 (Off record - 12:50 p.m.)

13 (On record - 1:05 p.m.)

14 CHAIRMAN TILLERY: June 14th meeting of the

15 Exxon Valdez Trustee Council is now back in session. We've

16 been skipping around a little bit on the agenda. It looks

17 to me like what is left is revised operating report

18 procedures, including a new data policy and then the FY03

19 draft invitation Phase II briefing.

20 MS. McCAMMON: Yeah, why don't we start

21 with that, just because it kind of transitions from the GEM

22 report NRC.

23 CHAIRMAN TILLERY: That's fine, otherwise

24 we would be sort of going in order, we haven't done that

25 all day, so it would inconsistent if we.....

00110

1 (Laughter)

2 CHAIRMAN TILLERY: All right, that's good.

3 MS. McCAMMON: Okay. As I mentioned

4 earlier, we have published the Draft Work Plan, Phase I.

5 This went through the standard review process with our

6 Chief Scientist, core reviewers, it's gone through agency

7 review. It includes all of the work being done on

8 lingering oil. It includes a number of GEM transition

9 projects, it includes the administrative budget, science

10 management budget, data management, all of those kinds of

11 things. The grand total is about \$4,000,000, and so given

12 that we're operating under the \$6,000,000 cap, there's

13 about \$2,000,000 left for the Phase II invitation.

14 So in your binder we have a Draft Phase II

15 invitation, and if you kind of -- this is a little

16 different because what we're starting to do with this is to

17 organize things by habitats, by some of these cross cutting

18 element, such as modeling and synthesis and kind of

19 tracking the GEM document. And, again, this is one of

20 those things. We start looking at this and then we look at

21 the GEM document, we don't use the same terms consistently,

22 so Katharine Miller is going to work wonder magic here and

23 it's all going to be consistent and perfect soon.

24 This was discussed by the STAC at their

25 first meeting and given where we are in the plan at this

00111

1 stage of the program, there really is very little that will
2 be invited at this stage. The STAC had a very short
3 meeting, they didn't really have time to go into the
4 substance of the conceptual foundation, the hypotheses, the
5 questions and really start focusing on this, and a lot of
6 the work will be done in the larger subcommittee and
7 targeted workshop areas.

8 Of all of the various habitats, we're
9 probably farthest along in the nearshore, because we have
10 had three workshops on that over the last year. And so a
11 lot of this is background information, but when you get to
12 the invitation topic areas the major things that are being
13 asked for are additional synthesis projects, which
14 basically pull together data from a number of disciplines
15 or dataset times, regions and trying to evaluate them
16 related to the central hypothesis, key questions. So we
17 describe in here, what is being proposed -- recommended for
18 funding in Phase I and then what's being invited for Phase
19 II. So, again, synthesis projects.

20 Nothing invited for modeling, nothing
21 actively being solicited for community involvement,
22 although there are, I think, five or six projects
23 recommended for funding under Phase I. When you get to the
24 habitat topics there's a couple of transitional projects
25 underway, recommended for funding in Phase I, nothing being

00113

1 out by July 15th. So this has gone out to the agencies,
2 they've been asked to review it and get back to us, I
3 think, by the end of next week with their comments. So if
4 you have questions or anything, let us know soon.

5 CHAIRMAN TILLERY: Are there questions now?

6 (No audible response)

7 CHAIRMAN TILLERY: Molly, I was a little
8 bit surprised to see under Phase I, we got 4.3 million in
9 proposals and you're thinking 4,000,000, isn't that a very
10 high percentage?

11 MS. McCAMMON: This is a record. I think
12 there are only two proposals that are not proposed to be
13 funded. Now, the 4,000,000 even includes those that are
14 deferred or fund contingent and the fund contingent, all
15 the contingencies may not be met. And the deferred, most
16 of those required additional information and that
17 additional information may not be sufficient. So they
18 won't necessarily all ultimately get funded. There were
19 only two that weren't even kind of in the range of
20 consideration. And I think that was due to the fact that
21 we had a very targeted invitation in the spring.

22 MR. BALSIGER: Mr. Chairman, just to
23 clarify. On Page 1, as you pointed out, it says roughly
24 4,000,000 in Phase I, with 1.2 for lingering effects, 1.0
25 for GEM, 1.8 for science, but on Page 2 it says

00114

1 approximately 2.9 is recommended under Phase I, and so is
2 the difference there the 1.1 that's.....

3 MS. McCAMMON: Probably the 1.1 for
4 administration.

5 MR. BALSIGER: For administration, but.....

6 MS. McCAMMON: Yeah.

7 MR. BALSIGER: So on the first page, on
8 Page 1, and the 1.1 for administration is included in the
9 line that says administration and education, I guess.

10 MS. McCAMMON: Uh-huh, yeah.

11 MR. BALSIGER: Okay.

12 MS. McCAMMON: Is that confusing, though?
13 Should we somehow clarify just because.....

14 MR. BALSIGER: Oh, I should have been able
15 to catch on probably, but.....

16 (Laughter)

17 MR. BALSIGER: That's fine, thank you.

18 MS. McCAMMON: If it requires you to read
19 it twice, it might be confusing though. We'll take a look
20 at that.

21 CHAIRMAN TILLERY: Commissioner Rue, do you
22 have any questions?

23 MR. RUE: No.

24 CHAIRMAN TILLERY: Okay. Is that.....

25 MS. McCAMMON: That's it.

00115

1 CHAIRMAN TILLERY: That's it for that. And
2 that brings us to the last item, which is revised operating
3 and report procedures.

4 MS. McCAMMON: Yeah. It's hard to believe
5 that these actually were very painful when they were first
6 done years ago. Okay. What we're trying to do, first of
7 all, is we have lots of different policies and procedures.
8 We have one -- originally the Council started out with
9 operating procedures and financial procedures, then we did
10 a major revision, I think, in '96 or '97 and compiled those
11 into one procedures' book. But we also had additional
12 procedures relating to report writing, traditional
13 ecological knowledge, sample destruction, collection,
14 supplementation, investments, habitat protection, and a
15 science review. And so our goal with this revision was to
16 look at all of these procedure and policies and then
17 collect them all, at least into one binder that the major,
18 significant, people would have copies of. So there was one
19 source of it, and they would be put collectively on our
20 website. So at least that was one goal, was to bring those
21 all together.

22 And it's always good to review these on a
23 regular basis. Many of these have gone out and no
24 revisions are proposed and, in fact, that's the case with
25 most of them. The traditional ecological knowledge

00116

1 protocol, sample destruction, collection, supplementation,
2 investment, habitat protection, scientific review process,
3 which was adopted in February. So no changes in there at
4 this point. So the major changes are in the general
5 operating procedures, the financial procedures, the data
6 policy and the report writing procedures. And I'll go
7 through some of those major changes.

8 Actually operating procedures was mainly --
9 the major changes were mainly just reorganizing that
10 portion, so the major changes were in the financial part.
11 And a lot of this had to do with issues that have come up
12 over the prior years as a result of our audits. Our goal
13 was to look at certain policies and procedures and
14 especially those that seemed to generate the most agency
15 concern or complaints or violations, if you will,
16 deviations or whatever and look at it and go, what's wrong
17 here? What are we trying to accomplish with this policy or
18 procedure and are we achieving that? And is there
19 something that we could do differently? We were also
20 looking with the goal of a smaller program and trying to
21 streamline our processes, streamline kind of the review and
22 oversight parts of the agencies who managed these projects
23 had to accomplish and that still have major accountability.

24 So the primary changes in the financial are
25 to revise the general administration formula, and I'll come

00117

1 back to that in a minute, but it had been 15 percent on
2 personnel, seven and a half percent on the first \$250,000
3 of a contract, seven percent. And then two percent on
4 everything above the 250,000. And so the recommendation is
5 just have a flat nine percent on each project total cost or
6 direct costs.

7 The auditors had been -- we've been working
8 with the auditors and we had a requirement that all general
9 administration funds were expended in proportion to your
10 actual direct costs. So let's say you had \$100,000 project
11 with \$10,000 in GA, as you spent down that 100,000 you
12 could proportionately spend down your 10,000 general
13 administration. And apparently this is a requirement on
14 some Federal funds, it's not a requirement on funds, we
15 don't have to do it.

16 I think typically a reason you might want
17 to do it is, say, you have a project in the early phase and
18 it just doesn't happen for whatever reason and so you get
19 all your indirect money, but the project never happens. In
20 reality, I think, we've only had that happen once. So it's
21 a lot of extra paperwork and financial bookkeeping to do
22 this. It's also a real burden on the agencies because you
23 never know how much general administration you really have
24 until the end of year and those costs go to pay for people
25 who do your bookkeeping, your personnel, lots of things

00118

1 like that, and it's really helpful if they know exactly how
2 much.

3 We worked with our auditors, they said it's
4 not a requirement, we don't need to have that and so the
5 recommendation is to remove that requirement and whatever
6 GA is associated with that project, once the project is
7 approved, the administering agency gets that fund.

8 The next item deals with bonuses, and this
9 was an issue a couple of meetings back. And the way it is
10 now, general administration pretty much funds can be used
11 for whatever the administrating agency chooses, there's no
12 oversight over that at all. And so the recommendation here
13 is that, yes, bonuses can be paid if they're allowed by an
14 agency, but they would come from the general administration
15 fund. Kind of that discretionary money.

16 We've had a provision, in the past, to be
17 able to move between EVOS projects at an agency's
18 discretion for up to 25,000 or 10 percent of a project,
19 which ever was lesser. And we've actually used that
20 several times. It was put in, I think, in the early days
21 when there were lots of projects and lots of unknowns about
22 responding to the oil spill. There are no other programs
23 that allow that kind of transfer between projects like
24 that. I considered just eliminating that, but there are a
25 number of agencies, especially Fish and Game and NOAA, that

00119

1 are managing multiple projects, you get into the middle of
2 a field season and you need some extra money to do some
3 extra samples and, you know, maybe there's a little piece
4 in another project that isn't quite happening this year and
5 it does give some flexibility to respond to kind of those
6 in-season tweakings of various projects. So the
7 recommendation is to keep that, but to decrease the
8 discretion down to 10,000. And that's actually -- I mean,
9 the kinds of things -- transfers we're seeing are more
10 along the line of two, three, 5,000 anyway.

11 The next major issue was on equipment. And
12 right now the way it works is the Trustee Council owns all
13 of the equipment purchased by an EVOS project, even if that
14 project has a long life and the equipment has no value at
15 the end, the Trustee Council owns it. It's held on behalf
16 of the Council by the managing, administering agency. If
17 it's no longer used for that project there's this whole
18 procedure in place for offering up to any other EVOS
19 project, and if it's not used there, then it can be offered
20 up for a Trustee agency use. And then if it's not needed
21 there then it can be surplusd under your regular rules.
22 What's happened with this is that we have a huge equipment
23 list that we're monitoring that is mostly filled with
24 equipment that has no value, nobody really wants, or if
25 they do it's -- I mean, we have computers that on our

00120

1 equipment list that are in Nome and Kotzebue and yet we're
2 monitoring -- they're on our list. They're under,
3 theoretically, our ownership. And so the proposal is to
4 revise all of this, so our policy -- if anything costs
5 under \$5,000, it's not considered equipment, it's not on
6 our list, it belongs to whoever the project proposer is,
7 it's more of a commodity. Most computers only have a life
8 of about two or three years now anyway. So we will not
9 track anything under \$5,000. They will be handled strictly
10 by existing agency procedure, so the Trustee Council has no
11 involvement in it.

12 So the only thing we would track would be
13 equipment over \$5,000 and in that case it would be
14 negotiate with the proposer at the end of the project,
15 because there are some cases where after five years, again,
16 it either has no value or it makes sense to leave it with
17 the originator of the project.

18 What we're finding now and why this has
19 come up, also, is at the Prince William Sound Science
20 Center in Cordova, the Trustee Council owns most of the
21 equipment in the Science Center. These are, you know,
22 everything from some system computers to a lot of their lab
23 equipment. And they love having equipment there and depend
24 on it completely until they don't want something and then
25 when it's become the burden, then it belongs to us and they

00121

1 don't want it anymore. So we've had to deal with the boat,
2 the Orca Challenger, in trying to surplus that, I mean,
3 this is a fairly large boat, that we're having trouble
4 disposing of.

5 So all of that should have been decided in
6 advance when we did the contract with the Science Center,
7 what was going to happen, the eventual disposition of that
8 equipment. So I think.....

9 MS. PEARCE: But one assumes that wouldn't
10 come in under 5,000. The boat.

11 MS. McCAMMON: No, no, this was like 25,
12 30,000. Yeah, this was a lot more expensive. But we
13 should have had some provision that either we negotiate at
14 the end or some way to dispose of it. So that's being
15 proposed in there.

16 So those are the major changes in the
17 financial procedures. And I'll come back to the GA. The
18 data policy, there's a proposed revision and, if you
19 recall, our original data policy was, I think, about a
20 paragraph and it says, basically, that all data is publicly
21 owned and belongs to us and we'll make it publicly
22 available, which we thought was sufficient at the time.
23 And you can see, I think, the data policy in here is I
24 don't know how many pages -- five pages. So it's a lot
25 more detailed, Bob Walker, our data manager has really done

00122

1 a great job of working with all the various agencies,
2 they've reviewed it and had comments. Trying to be a lot
3 more specific, deal with other issues, processing,
4 archiving, dissemination, citations, all of these things.
5 And this would be a requirement that if you receive funding
6 under our process you would be subject to this data policy.
7 You would agree to it. And part of it also involves with
8 each particular project developing a data management plan
9 that's tailored to that particular project and those
10 particular data needs.

11 CHAIRMAN TILLERY: Molly, on this data
12 thing.

13 MS. McCAMMON: Yeah.

14 CHAIRMAN TILLERY: I talked to you about
15 having a data destruction policy?

16 MS. McCAMMON: Right. And I passed that
17 comment onto Bob and I'm not quite sure what he did with
18 it.

19 CHAIRMAN TILLERY: Okay. Because we get
20 into a lot of conflicts when people want to get rid of
21 stuff and we tell them, because of various court orders,
22 they have to maintain.

23 MS. McCAMMON: Right.

24 CHAIRMAN TILLERY: You mention in here that
25 is a requirement of law, but it needs to be a requirement

00123

1 of policy when we enter into research agreement with them
2 or whatever.

3 MS. McCAMMON: Did you -- what was
4 your.....

5 MR. WALKER: Right now I just have
6 referenced it.....

7 MS. McCAMMON: You need to come, just so
8 you're on the record here, sorry.

9 MR. WALKER: At the moment it's included in
10 the data policy as a reference to the data destruction.

11 MS. McCAMMON: Oh, I see at the bottom of
12 Page 1.

13 MR. WALKER: Right.

14 CHAIRMAN TILLERY: Right. I noticed that.
15 I think that -- it seemed to me it sort of deserved one of
16 these big headings and people understand when they start
17 that they have an obligation to retain those samples,
18 retain those data as long as we're under a court order
19 requiring them to do so.

20 MR. WALKER: Yes.

21 CHAIRMAN TILLERY: There won't be any
22 misunderstanding and discussions at the end of it.

23 MR. WALKER: I was unclear of it in terms
24 of whether it should be more explicit in this policy. Is
25 what is the nature of data that this paragraph would apply

00124

1 to versus other projects where it would not apply under
2 data destruction.

3 CHAIRMAN TILLERY: Yeah. Well, you have
4 copies of what has to be kept and if you have any questions
5 about them, either myself or Gina can certainly explain
6 those.

7 MR. WALKER: Yes.

8 CHAIRMAN TILLERY: It's not simple.
9 Actually the restoration stuff is fairly well set out, some
10 of the older stuff is not as easy, but I'll be happy to
11 talk to you, give one of us a call.

12 MR. WALKER: Right.

13 MS. McCAMMON: So is the question about --
14 I mean, certainly if the project is related to lingering
15 oil effects would be subject to that. What if you were
16 doing a GEM study that did not have a direct relation to
17 lingering oil effects or the reopener or actual oil injury;
18 is that still subject to the data destruction policy?

19 CHAIRMAN TILLERY: I'll have to get a copy
20 of my order, but essentially anything that's going to come
21 out of this Council, any studies, we're going to need to
22 pass on it before it gets destroyed, data or samples. And
23 in most cases we've had -- Exxon has actually been very --
24 and their attorney has been very accommodating to us in
25 terms in getting some quick decisions, yes, it's okay to

00125

1 get rid of those or, no, we would like a copy of it. So it
2 hasn't been a major problem. In fact, I just got another
3 call from the university about week ago, they want to go
4 through another round on some stuff, and we did a major
5 round with them last year. So it's not a big problem, but
6 there has been some very surprised researchers to find out
7 that when they want to stop paying for storage for some
8 sample that they can't just do that, and so it needs to be
9 a real clear understanding up front.

10 MS. McCAMMON: So all EVOS projects, EVOS
11 data, samples, are subject to the data destruction policy,
12 but you may or may not actually have to keep them.

13 CHAIRMAN TILLERY: Yeah, the odds are in
14 most cases we can probably work it out, so if it doesn't
15 make any sense they won't have to keep it. It's typically
16 not a problem, but we got to look at it and we, in almost
17 all situations, would want to have Exxon and private
18 plaintiffs have a chance to pass on it, too.

19 MS. McCAMMON: And this is through 2006,
20 through the litigation?

21 CHAIRMAN TILLERY: This is through the end
22 -- yeah, 2006, that would be optimistic.

23 (Laughter)

24 MS. McCAMMON: Can we say that?

25 CHAIRMAN TILLERY: Through the end of the

00126

1 litigation.

2 MS. McCAMMON: Which is -- I mean, the
3 latest it could be would be if a claim was filed 2006 or
4 whatever.

5 CHAIRMAN TILLERY: 2006 for us.....

6 MS. McCAMMON: Okay.

7 CHAIRMAN TILLERY:but remember
8 there's some other things that are still ongoing dependent
9 upon the private litigation.

10 MS. McCAMMON: Are we keeping it for the
11 private litigation, too?

12 CHAIRMAN TILLERY: Some of the stuff would
13 be of relevance to private litigation. Under the
14 inconceivable circumstance -- if the U.S. Supreme Court
15 were to say, why don't you have a new trial, for example.

16 MS. McCAMMON: Oh, gosh.

17 CHAIRMAN TILLERY: Yeah, right.....

18 (Laughter)

19 CHAIRMAN TILLERY:I know, but that's
20 the possibility we have to deal with and that's what the
21 orders talk about the end of.

22 MS. McCAMMON: You know, it does raise a
23 whole other question about sample storage and all, too.
24 And we talked a little bit about it with 100-year program
25 or whatever, you know, who pays for the storage and what

00127

1 are we -- are we developing a program that's going to cost
2 6,000,000 a year to store everything?

3 MR. WALKER: Well, I guess to summarize my
4 understanding is it will apply unless we evaluate and
5 decide it does not apply, which could be in terms of
6 process right off the bat, but where it becomes gray to me
7 is related to the Exxon Valdez oil spill is, I guess, you
8 could assume anything that geographic area could be related
9 and, therefore, any sample.....

10 CHAIRMAN TILLERY: No, it's projects funded
11 by this Council.

12 MR. WALKER: Correct, but in terms of any
13 studies funded by this Council in the spill area, which I
14 think was in Molly's.....

15 CHAIRMAN TILLERY: Any studies funded by
16 this Council.....

17 MS. McCAMMON: Any studies.....

18 MR. WALKER: Any data collected.

19 CHAIRMAN TILLERY:regardless of what
20 any -- almost all of them are in the spill area, but if
21 they're not, there's a reason they're not and they're still
22 relevant to the restoration.

23 MS. McCAMMON: Okay, we'll add one. And it
24 will probably be a surprise to 90 percent of our PIs,
25 current PIs.

00128

1 MR. BALSIGER: Well, Mr. Chairman, I guess
2 if you really think it's going to be a surprise to the PIs,
3 we should make a fairly broad announcement of it.

4 MS. McCAMMON: Well, it will be in there.

5 CHAIRMAN TILLERY: I've done that.

6 MS. McCAMMON: We've done it.

7 MR. BALSIGER: That's why I don't think it
8 should be a surprise, but.....

9 CHAIRMAN TILLERY: It shouldn't be, but
10 every time I make one of those announcements it appears to
11 be a surprise to some of them or every time that --
12 fortunately, you know, I think they've been doing -- we've
13 been in pretty good shape on that. It does seem to be a
14 lot of misunderstanding out there.

15 MS. McCAMMON: Actually one of the things
16 that Bob has suggested with this is that when the Council
17 approves funding that -- was it when they submit the
18 proposal that they sign a little sheet of paper that I have
19 read the data policy and concur with it. Signed here.

20 CHAIRMAN TILLERY: That's actually kind of
21 what I'm getting at.

22 MS. McCAMMON: Yeah.

23 CHAIRMAN TILLERY: I want this to be a part
24 of what they sign -- yeah.

25 MS. McCAMMON: Okay. And then the other

00129

1 major change is in the report writing procedures and
2 there's lots of little pieces of that, but the major piece
3 of it is revising the process for annual reports. Right
4 now what happens with an annual report is that it's pretty
5 much the same as a final report, you have to analyze your
6 data to date and just kind of the process for it is very
7 similar. It's pretty extensive. They get peer reviewed.
8 The peer review comments do not have to be incorporated
9 into a revised report, but the annual report with the peer
10 review comments kind of stapled to it, ends up going into
11 the library. We have a real problem with late annual
12 reports and one of the original reasons for an annual
13 report is so that you can review the progress of the study
14 and figure out whether it needs to be tweaked or whether
15 it's on track or having problems or do you want to continue
16 it. But these reports are often either so late, the peer
17 review is late, that they are not useful for that at all,
18 they're not used for that purpose.

19 And so we took a look at it and thought
20 what we really need. And we need just a brief here's two
21 pages, here's what's happening, it's on track, if not,
22 here's why, here's why not, here's the kind of data we
23 have, you know, just some very few things. Mainly from a
24 project management perspective to see if -- to troubleshoot
25 if there's any kind of potential problems. So we're pretty

00130

1 dramatically revising that process. And then those reports
2 would be available on our website, they would not go to be
3 published in a hardcopy and be sent out to library.

4 MR. GIBBONS: Would there be a set format
5 that they would follow?

6 MS. McCAMMON: Yes. And we've gone through
7 this with all of the agencies and they're ecstatic about
8 having simpler reports.

9 The one item that we're still looking at is
10 this concept of multiple-year awards. And we haven't
11 fleshed out all the issues yet and I don't think we're
12 going to get it done this fiscal year and it'll probably be
13 for next fiscal year. But that is -- right now the
14 Council, say, a three-year project comes in and the Council
15 approves year one, assuming that the full three years will
16 be funded, but they only approve year one. And then year
17 two the proposer has to come back with a full project
18 proposal, peer reviewed, goes through the whole process
19 again, year three the same thing. In almost all cases the
20 projects go forward, but they get tweaked a little bit and,
21 in some cases, projects have been ended midstream.

22 Under another scenario, and we're looking
23 at how to actually do this. You would fund a three-year
24 proposal, do an annual report, you'd review that, there
25 would be some process that if there were some major

00131

1 problems you would have the ability to end it. That's part
2 of what we're still hung up on. We're not quite sure how
3 to do that, but it wouldn't keep coming back to the Council
4 every year, it would only come the first year. And if
5 there were a problem with it, it would come back to you.
6 Or if there was a requested increase in the budget it would
7 come back to you, but otherwise it wouldn't.

8 The other issue, kind of tied with that is
9 that whole issue of carry forward from year to year. And
10 those of you who were here in the early years knew that we
11 had a real difficulty keeping a handle on funds and where
12 they were and making sure they were invested and just
13 keeping all of our books in order and have spent a lot of
14 time doing that and are very comfortable, we have a clear
15 handle on where the funds are now. And so when you start
16 allowing carry forwards it starts complicating things. So
17 we need to make sure there's processes in place so we can
18 keep track of that. So that probably will come back next
19 year, I don't think we'll get that ready for you for this
20 year.

21 But the one thing that I wanted to, in
22 particular, talk about is the GA and project management and
23 the liaisons. And, Frank, you have the spreadsheet that
24 was faxed to you yesterday.

25 MR. RUE: Right.

00132

1 MS. McCAMMON: And what I wanted to show
2 you here and what is -- it just shows some differences,
3 some comparisons. This information on the left side is for
4 FY02 and it goes down by the Trustee agencies. It
5 indicates what they received in terms of project funding.
6 And by project funding it does not include the admin
7 budget, habitat support, data management, GEM planning, any
8 of those kind of items, it's strictly kind of hard core
9 projects. How much general administration was received
10 using the current formula, how much project management
11 funds were received. In the last year and some of the
12 years preceding there were two months of liaison funding
13 for the six Trustee agencies, that was included. And a
14 total FY02 project support.

15 What's being proposed for this year is to
16 revise the general administration formula to the nine
17 percent and so what you have in that second column are the
18 project funds under Phase I, not for Phase II, they haven't
19 come in yet, but for Phase I. And the recommendation for
20 project management, which again is based on whether you
21 have projects that go through your agency or not. And it's
22 anticipated at this point, at least to now, Forest Service
23 and DEC don't have any projects going through them. And,
24 in reality, the major kind of either research entities or
25 pass-through entities are NOAA and Fish and Game. So they

00133

1 get more project management.

2 And then the final number, if you assume
3 that for Phase II each agency gets the same amount of
4 project funding, which won't happen. That's a big
5 assumption. Then it kind of estimates how many dollars
6 would be received there. And the purpose of all this is
7 because in the 100 administrative budget I am proposing the
8 elimination of the liaison position, the two months of
9 funding there. And what I wanted to show you is that in
10 most cases agencies will be receiving, if they are managing
11 projects, will be receiving about the same amount of money,
12 it will just be coming from a different source, either from
13 increased general administration or through their project
14 management costs.

15 And it's kind of hard to give you exact
16 numbers since we don't have those numbers yet. But I think
17 this reflects the kinds of activities that the agencies are
18 doing now. I think we'll get a lot of agency participation
19 at our subcommittee level in actually developing the
20 program and that's really where we need the bulk of the
21 agency work at this time. And then those agencies that do
22 manage projects, which are mainly NOAA, Fish and Game,
23 somewhat at Department of Interior mainly because it gets
24 divided between USGS and Fish and Wildlife Service, there's
25 a lot of coordination needed there.

00134

1 MR. RUE: Mol.....

2 MS. McCAMMON: But I think this kind of
3 ties in with trying to reduce costs, streamline. We tried
4 to make all of these procedures simpler, reports simpler to
5 reduce the workload.

6 Frank.

7 MR. RUE: Yeah, Molly, maybe talk a little
8 bit about functions that you expect to have agencies still
9 perform or not perform. If liaison funding goes away, what
10 were some of the -- are the function of the liaisons to go
11 away or you said something about working in subcommittee.
12 It seems to me it's helpful to have a point of contact in
13 the agencies who can help you, you know, work through those
14 general policy issues or questions that we need to interact
15 with you on.

16 MS. McCAMMON: We have a lot fewer policy
17 issues than we did before, number one. In a lot of cases I
18 work directly with the Trustees on a number of those policy
19 issues or I work with a specific person in a department who
20 has the expertise in that particular policy. I don't think
21 it's been -- when it comes to the actual project it is
22 helpful to have one person there with the actual project
23 who is dealing with them internally, but I think a lot of
24 the liaison function has either gone away, been subsumed
25 into the project management.....

00135

1 MR. RUE: Right.
2 MS. McCAMMON:or is being done by a
3 multitude of people in different capacities.
4 MR. RUE: So we may have a lead project
5 manager or whatever, who is in charge of making sure
6 everything happens and with all the projects that come
7 through our department and that's the person you'd have
8 contact with.
9 MS. McCAMMON: Right.
10 MR. RUE: What's going on and has some lead
11 responsibility, that kind of thing.
12 MS. McCAMMON: Right.
13 MR. RUE: All right.
14 MR. GIBBONS: Mr. Chairman.
15 CHAIRMAN TILLERY: Mr. Gibbons.
16 MR. GIBBONS: A follow-up question to that
17 question by Mr. Rue is about NEPA. So the way I read this,
18 I hope NEPA has been built into the project costs for
19 activities that are above mean high tide in Prince William
20 Sound because we're not funded to do any of that now. And
21 so just a head's up that those need to be built into the
22 project costs and that the NEPA work will be borne by the
23 project and not by, say, if it's uplands, National Forest
24 Systems. So that's just a reality of going this way. I
25 just wanted to point out.

00136

1 MS. McCAMMON: Yeah.
2 MR. RUE: A couple of other issues I'll
3 certainly want to talk to Molly about, how it would affect
4 the funding. This is Frank, Mr. Chairman. Are which
5 projects should agencies manage versus Molly's office
6 manage. I mean I think that's -- I'm not personally real
7 clear on how we choose those thing, I just need to sit down
8 with Molly and figure out how we want to go. That's one
9 question I'll have to work through with you, Molly.
10 MS. McCAMMON: Well, the only projects that
11 we manage, at this stage, are the administration budget,
12 data management, science management, ARLIS. I think that's
13 about it.
14 MS. HILLSTRAND: Hello.
15 MS. McCAMMON: Hello, you're on a
16 teleconference.....
17 MS. HILLSTRAND: Okay.
18 MS. McCAMMON:for the Exxon Valdez
19 Oil Spill Council.
20 MS. HILLSTRAND: Yes, ma'am.
21 MS. McCAMMON: Okay. Is that where you
22 wanted to be?
23 MS. HILLSTRAND: Yes, ma'am.
24 MS. McCAMMON: Were you here to offer
25 public comment?

00137

1 MS. HILLSTRAND: That's what I came -- I
2 just dialed in for it, yes.

3 CHAIRMAN TILLERY: The public comment
4 period actually sort of opened and closed earlier this
5 morning, if you do have -- we've been asking people to keep
6 it down to just two or three minutes. If you would like to
7 make a comment, I'd be happy to reopen public comment at
8 this time.

9 MS. HILLSTRAND: Okay. Very, very short
10 and sweet.

11 CHAIRMAN TILLERY: Okay. Please go ahead,
12 then. You need to tell us your name and spell it for the
13 court reporter here.

14 MS. HILLSTRAND: Okay, my name is Nancy
15 Hillstrand, H-I-L-L-S-T-R-A-N-D, and I'm in Homer, Alaska,
16 calling about the recovery factor of the harlequin duck.
17 And I believe that that animal is not fully recovered and I
18 can see that from home, especially, which is actually in
19 Cook Inlet, but also from Prince William Sound where, you
20 know, being at the conference over time I've watched and --
21 you know, watch pretty closely and I've noticed that the
22 counts are still not recovered and I really hope that
23 you'll leave that as not recovered so we can make sure and
24 rehabilitate these creatures.

25 CHAIRMAN TILLERY: Okay. Is that.....

00138

1 MS. HILLSTRAND: That's all, and I thank
2 you very kindly.

3 CHAIRMAN TILLERY: Okay. Are there
4 questions of Ms. Hillstrand?

5 (No audible response)

6 CHAIRMAN TILLERY: Okay. Well, thank you,
7 appreciate it very much.

8 MS. HILLSTRAND: Thank you very much. Bye-
9 bye.

10 CHAIRMAN TILLERY: Good bye. Okay, Molly.

11 MS. McCAMMON: Where were we?

12 MR. RUE: I think you had answered my
13 question on the liaison.

14 MS. SCHUBERT: About which projects.

15 MS. McCAMMON: Yeah.

16 MR. RUE: Yeah, about which projects you
17 fund, which ones we do, that sort of stuff.

18 MS. McCAMMON: So those are the only ones
19 that we manage. It is a question because the project
20 management, how that -- that category developed was because
21 we were looking at all of the individual projects and in a
22 lot of them was this half a month or one month of project
23 manager and when we started kind of asking questions about
24 this, and I think it was like six years ago or so. Often
25 they were the same people, not always. But in order to --

00139

1 but they had the function of overseeing internally either
2 making sure a contract got written, approving invoices,
3 reviewing invoices and making sure the project was on
4 track. Dealing with the reports and the logistics. And so
5 we pulled that funding out into one budget so you can see
6 it more closely, what the actual cost was. And then as our
7 program reduced over time see how that cost also reduced.
8 But it started out originally within individual budgets.
9 But I think it's been helpful having the specific project
10 because we know who the person is, we know who the contact
11 is, they know kind of our rules and processes and it has
12 been helpful having that particular individual.

13 MR. RUE: I guess -- yeah, my question,
14 Molly, is that as we move into GEM is it time to think
15 about should it be your office really be managing some of
16 these projects? I mean, why does it come through NOAA,
17 Fish and Game, Interior?

18 MS. McCAMMON: Well, the problem is
19 that.....

20 MR. RUE: Remind me what I'm forgetting.

21 MS. McCAMMON: Yeah, the Trustee Council is
22 not an entity that can give out contracts or grants. If we
23 had granting authority we probably could do that, we don't
24 have granting or contracting authority, we only have it
25 through the Trustee agencies. And so we can do -- and we

00140

1 actually do a lot of the troubleshooting when it comes to
2 various issues. A certain proportion of them are done
3 internally and then a lot of them do come to our office and
4 Sandra Schubert, in particular, does a lot of that as part
5 of her position.

6 MR. RUE: Right.

7 MS. McCAMMON: But we cannot write a
8 contract for Fish and Game.

9 MR. RUE: Or for the university.....

10 MS. McCAMMON: Or for the university or
11 NOAA or something like that. We cannot approve payment of
12 an invoice for you.

13 MR. RUE: Okay. Or for someone that we're
14 managing.

15 MS. McCAMMON: Right.

16 MR. RUE: Huh, okay.

17 CHAIRMAN TILLERY: Okay. Other?

18 MS. McCAMMON: No, those are the main
19 things I wanted to highlight. And, again, these we have
20 gone through, they've all been reviewed by various agency
21 people, either the data people or the financial people or
22 the work force. And we've responded to everyone's comments
23 at that time and they're out for review again? I'm asking
24 Sandra right now. And they're out now.....

25 MS. SCHUBERT: (Indiscernible) by the end

00141

1 of next week.

2 MS. McCAMMON: Right. And the idea is that
3 these would come back to you for final adoption in July.
4 And the reason for that is a lot of these things get
5 incorporated into the invitations and then into our final
6 award contracts with various proposers.

7 CHAIRMAN TILLERY: Molly, this nine percent
8 GA, does that apply to the university?

9 MS. McCAMMON: No, it only applies to the
10 Trustee agencies. Subcontractors, universities are all
11 separate GA. And what we found was that right now if you
12 averaged out our current rate, agencies are receiving about
13 eight percent right now on an average. But, no, the
14 university is still subject to our agreement of 25 percent
15 and with other universities it's negotiable, some are 50
16 percent, some will go for 30, some waive it, it depends.

17 CHAIRMAN TILLERY: Okay. Is there anything
18 further then on this item?

19 MS. McCAMMON: Not unless you have specific
20 questions.

21 CHAIRMAN TILLERY: Any questions? Mr.
22 Gibbons.

23 MR. GIBBONS: Yeah, I'll bring it up, since
24 we discussed it several meetings ago, is this question of
25 allowing bonuses for GA funds. And we had a pretty good

00142

1 discussion on that, if I recall, and the decision was not
2 to do that. And so I'm curious why we're turning, flip-
3 flopping it around now, and allowing that to occur? So
4 just a little maybe thought process through that.

5 MS. McCAMMON: Well, I don't think the
6 decision at the time, and I'll have to remember about it,
7 it was not to pay for bonuses that had been given last
8 year.

9 MR. GIBBONS: Right.

10 MS. McCAMMON: And under our current
11 procedures not to allow them, but to look at them in light
12 of the revised procedures, so that was part of our
13 direction at that time. So we did look at them in light of
14 the new procedures, we talked to that auditors, we talked
15 to the agency people, this is acceptable under Federal
16 rules, they're allowable costs. And so one way of
17 acknowledging that these are allowable costs, but even
18 though they're not consistent across all six Trustee
19 agencies, was to say, go ahead if you want to, they just
20 have to come out of GA.

21 And I suppose another way of saying it is
22 this is not an allowable direct cost and they could still
23 pay for them out of GA, it's just explicit here.

24 CHAIRMAN TILLERY: I think our previous
25 thing was it wasn't -- they couldn't pay them out of

00143

1 project funds, but GA is -- they can do whatever they want
2 to do with it.

3 MR. GIBBONS: So, but the other GA.....

4 MR. RUE: As I recall, the request we got
5 was someone wanted an amendment to their budget to add the
6 money.....

7 CHAIRMAN TILLERY: Right.

8 MS. McCAMMON: To their direct costs.

9 CHAIRMAN TILLERY: I think this is
10 consistent with that discussion.

11 MR. GIBBONS: Okay, but I thought I heard
12 Molly just say, too, now the GA has gone from eight to nine
13 percent, so it's gone up, generally, to the agency, so is
14 that with this in regard or just because of the -- why not
15 eight percent across the board than nine?

16 MS. McCAMMON: Well, that was in response
17 to comments received from agencies, like yours, saying that
18 the eight percent was awfully low and so I was trying to
19 accommodate, to be responsive somewhat, that it is a fairly
20 low percentage of GA.

21 MR. GIBBONS: Well, if it's averaging
22 eight, you can see we have a lot of projects coming up --
23 on line, so, you know, if it's been eight, I'm just saying,
24 you know, why did you make it nine rather than just keep it
25 at eight the way it was?

00144

1 CHAIRMAN TILLERY: I appreciate Mr. Gibbons
2 selfless attitude in this and.....

3 MS. McCAMMON: It's up to you.

4 CHAIRMAN TILLERY:if it's been eight
5 percent, I'm not sure why we -- I was going to try to
6 figure this out, I was kind of working the math out in my
7 head and I thought it was actually -- we were going to be
8 paying less, but it sounds like we're paying more.

9 MS. McCAMMON: Paying a little more, it's
10 about eight percent now, eight to eight and a half,
11 depending on which year.

12 MR. RUE: That's a pretty low -- I don't
13 know, it's -- I think we do anywhere from -- we have a
14 negotiated rate of 12, I think, with Federal contract, we
15 do somewhere in the neighborhood of -- I can't remember,
16 Jim, you might -- six to nine now, I can't remember.

17 CHAIRMAN TILLERY: Mr. Balsiger.

18 MR. BALSIGER: Well, I was thinking it
19 might help out the Forest Service if we put them back in as
20 long they do our NEPA process for us.

21 (Laughter)

22 MR. RUE: We'll give them eight percent of
23 zero.

24 MR. GIBBONS: I'm glad to give that up,
25 that whole thing, you guys can have that.

00145

1 MR. RUE: Eight percent of zero, there you
2 go.
3 CHAIRMAN TILLERY: Okay. Anything else?
4 MS. McCAMMON: No, that's it.
5 CHAIRMAN TILLERY: Any further comment?
6 Mr. Balsiger.
7 MR. BALSIGER: I did have one question.
8 This equipment list where we don't keep track of less than
9 5,000. Is that retroactive now or what can you do with all
10 these 700 computers that are on the books?
11 MS. McCAMMON: The proposal is retroactive,
12 yes.
13 MR. BALSIGER: Okay. That was going to be
14 my suggestion.
15 MS. McCAMMON: Yeah.
16 CHAIRMAN TILLERY: Okay. Nothing else?
17 (No audible response)
18 CHAIRMAN TILLERY: I think we have now come
19 to the end of the agenda and it would be probably time for
20 a motion to adjourn.
21 MR. GIBBONS: Recess?
22 MR. BALSIGER: Well, Mr. Chairman, I did
23 have one other brief comment. I noticed under the rules of
24 order where it talks about the Chairman, it doesn't say
25 there's an obligation to rotate between the Federal and

00146

1 State guys, so.....

2 CHAIRMAN TILLERY: Oh, it does.

3 MR. BALSIGER: I didn't see it.

4 CHAIRMAN TILLERY: It's in somewhere, it

5 really is.

6 (Laughter)

7 MR. BALSIGER: And so.....

8 CHAIRMAN TILLERY: I forget where, but it's

9 in there.

10 MS. McCAMMON: You know.....

11 CHAIRMAN TILLERY: I know we had it in

12 there, Molly.

13 MS. McCAMMON: Did we take it out?

14 MR. GIBBONS: Well, I was about to.....

15 MS. SCHUBERT: Didn't take it out, but I

16 don't remember seeing it in there.

17 MS. McCAMMON: I don't think it was in

18 here, maybe it's in.....

19 MR. RUE: Permanent Federal chair.

20 MS. McCAMMON: You know, it might be in the

21 MO stuff.

22 CHAIRMAN TILLERY: No.

23 MS. McCAMMON: No?

24 CHAIRMAN TILLERY: No, it's not in there.

25 MR. BALSIGER: I may be able to offer a

00147

1 motion relative to appropriate section.

2 CHAIRMAN TILLERY: Not if -- you have this
3 agreement.

4 (Laughter)

5 MS. SCHUBERT: We can put it in there.

6 MR. RUE: Are you volunteering, Jim?

7 MS. McCAMMON: He was.

8 MR. BALSIGER: No, no.

9 CHAIRMAN TILLERY: I know I saw in here
10 somewhere, it should be in here somewhere. It's not there.
11 Anyway, Ms. Pearce.

12 MS. PEARCE: Different topic?

13 CHAIRMAN TILLERY: Yes, adjournment.

14 MS. PEARCE: No, not yet. Having heard the
15 public comments on the injured resources and services and
16 had the chance only, frankly, to scan the comments that
17 came in by fax and email and letter, I'm struck by the fact
18 that I was expecting more comments, which is kind of
19 interesting. I don't know whether it's summer in Alaska or
20 quite what's happening. But I would like to hear back from
21 Mr. Spies his comments, once he's had an opportunity to go
22 through them in detail, too, before I'm tasked with voting
23 on a decision whether to make changes and his
24 recommendation -- the recommended draft to us or quite what
25 to do next. You said we were expected to take action at

00148

1 the July meeting; is that correct?

2 MS. McCAMMON: Uh-huh. (Affirmative)

3 MS. PEARCE: Could he, and we only got
4 three weeks until that, what -- how have you handled this
5 in the past, since I'm the new kid on the block?

6 MS. McCAMMON: Well, the last time we did
7 the major change was in '99 and we didn't have -- there
8 were only two species that generated any public testimony
9 and I think it was pink salmon and sockeye, actually, at
10 that time. So I'm not even -- there was some public
11 comment and basically the Council responded and kept them
12 on the recovering list instead of putting them on the
13 recovered list. And, basically, were more cautious about
14 it. That was the major -- I think the kinds of comments
15 and the issues this time are much more complex. There's
16 more of them, more species, they're more complex, so I
17 think they do require a response from Dr. Spies to you all.
18 And we can do that within, probably, the next week. We
19 also have to think about just talking to each other and
20 decide -- and also get the information from the intern we
21 have working on this research project, Carrie, who I don't
22 think is here any longer, and see if we're going to
23 continue with the same recommendation, change some of the
24 categories, change some of the definitions, propose that
25 some of these be changed, but basically take that into

00149

1 consideration.

2 So I'm not sure, we may not be ready for
3 action on July 9th.

4 MS. PEARCE: Because the three specific
5 policy questions that you had.....

6 MS. McCAMMON: Yeah.

7 MS. PEARCE:I think we would like to
8 hear his take on those also.

9 MS. McCAMMON: Okay.

10 MR. RUE: I think these are good points and
11 maybe a suggestion would be, if it isn't too much work,
12 Molly, if someone could summarize the comments by
13 species.....

14 MS. McCAMMON: Right.

15 MR. RUE:and Dr. Spies' response to
16 those points, that would be helpful and then, I think, Drue
17 just mentioned the three policy issues you raised, to lay
18 those out, put them on a piece of paper and any suggestion
19 -- his suggestions on those would be good preparation and
20 the intern's work would be the other good piece of work and
21 then your suggestion on other categories. And I would
22 suggest we each give you three thoughts we might have in
23 the next couple of weeks on other categories, if we have
24 the energy and desire as an assignment to ourselves. Would
25 that be helpful?

00150

1 MS. McCAMMON: Yes, definitely. Because, I
2 mean, what this really has become is -- I mean, people are
3 looking to this report as a report on the health of these
4 species, whether it's from the oil spill or something else
5 going on. And so it does complicate things when we're
6 trying to focus on oil spill effects, but it's very
7 confounded by other things going on, and how we clearly
8 articulate that, I think, is a key part of it.

9 MR. RUE: And I think we ought to remind
10 ourselves of how we use this list. Right, that's exactly
11 right.

12 MS. McCAMMON: Right. And it's not an
13 endangered species list.

14 MR. RUE: Right.

15 MS. McCAMMON: Okay. But, yeah, any
16 specific comments from either you or your agencies or
17 whoever, we need those right away.

18 (Whispered conversation)

19 MS. McCAMMON: There's a sidebar
20 conversation going on.

21 CHAIRMAN TILLERY: It is that.

22 MS. McCAMMON: Attorney.....

23 CHAIRMAN TILLERY: Attorney/client.

24 MS. McCAMMON: Yeah.

25 CHAIRMAN TILLERY: Except she's not my

00151

1 client.

2 (Laughter)

3 CHAIRMAN TILLERY: Gina rolls her eyes.

4 MS. McCAMMON: But it's not private, it was
5 on the teleconference.

6 CHAIRMAN TILLERY: Attorney/former client.

7 Is there anything else before someone moves to adjourn?

8 (No audible response)

9 MR. BALSIGER: Mr. Chairman, I move we
10 adjourn.

11 MS. PEARCE: Second.

12 CHAIRMAN TILLERY: It's been moved and
13 second that we adjourn. All in favor say aye.

14 IN UNISON: Aye.

15 MR. RUE: Thank you, Craig.

16 (Off record - 2:00 p.m.)

17 (MEETING ADJOURNED)

00152

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
6 the state of Alaska and reporter for Computer Matrix Court
7 Reporters, LLC, do hereby certify:

8 THAT the foregoing pages numbered 4 through 151
9 contain a full, true and correct transcript of the Exxon
10 Valdez Oil Spill Trustee Council's Meeting recorded
11 electronically by me on the 14th day of June 2002,
12 commencing at the hour of 10:05 a.m. and thereafter
13 transcribed by me to the best of my knowledge and ability.

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

16 EXXON VALDEZ TRUSTEE COUNCIL
17 451 W. 5th Avenue, Suite 500,
18 Anchorage, Alaska 99501;

19 DATED at Anchorage, Alaska this 28th day of June
20 2002.

21 SIGNED AND CERTIFIED TO BY:

22

23

24

25

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 04/17/04