

1 EXXON VALDEZ OIL SPILL
2 TRUSTEE COUNCIL
3 Public Meeting
4 Friday, May 29, 2009
5 9:00 o'clock a.m.
6 441 West 5th Avenue, Suite 500
7 Anchorage, Alaska
8 TRUSTEE COUNCIL MEMBERS PRESENT:
9 U.S. DEPARTMENT OF AGRICULTURE, MR. STEVE ZEMKE for
10 U.S. FOREST SERVICE (Chair) MR. JOE MEADE, Supervisor
11 STATE OF ALASKA - DEC: MR. LARRY HARTIG
12 Commissioner
13 STATE OF ALASKA - DEPARTMENT MR. TOM BROOKOVER for
14 OF FISH AND GAME: Commissioner Lloyd
15 U.S. DEPARTMENT OF INTERIOR: MR. KIM ELTON
16 Senior Advisor
17 STATE OF ALASKA - MR. CRAIG TILLERY for
18 DEPARTMENT OF LAW: MR. RICHARD SVOBODNY
19 U.S. DEPARTMENT OF COMMERCE, MR. CRAIG O'CONNOR for
20 National Marine Fisheries Svc: MR. JAMES W. BALSIGER
21 Administrator, AK Region
22 Proceedings electronically recorded, then transcribed by:
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1	STAFF PRESENT:	
2	ELISE HSIEH	Interim Executive Director
3	CHERRI WOMAC	Associate Coordinator
4	CATHERINE BOERNER	Science Coordinator
5	MICHAEL SCHLEI	Data Systems Manager
6	BRENDAN MCGEE	Analyst Programmer
7	RENEE JAMES	Administrative Manager
8	LINDA KILBOURNE	Administrative Assistant
9	CARRIE HOLBA	ARLIS Librarian
10	DEDE BOHN	USGS
11	PETE HAGEN	NOAA
12	CAROL FRIES	ADNR
13	GINA BELT	Department of Justice
14	GARY WHEELER	National Park Service
15	NANCY WALSH	USF&W Service
16	JENNIFER KOHOUT	USF&W Service
17	DOUG MUTTER	Department of the Interior

1	TABLE OF CONTENTS	
2	Call to Order	04
3	Approval of Agenda	04
4	Approval of May 13, 2009 Minutes	05
5	Public Advisory Committee Comments	06
6	PUBLIC COMMENT	
7	(NONE)	
8	Investment Working Group	12
9	Best Small Parcel	51
10	English Bay	58
11	Sitkalidik Island Briefing	53
12	Chokwak II Property	98
13	CYP1A1 Gene Proposal	101
14	Adjournment	124

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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P R O C E E D I N G S

(Anchorage, Alaska - 05/29/2009)

(On record - 9:00 a.m.)

CHAIRMAN ZEMKE: It's 9:00 o'clock and I

want to welcome everybody here to the March -- or March,
May 29th, 2009 Trustee Council meeting. And to begin with,
I'd like to, for the record, call roll to establish the
trustees that are in attendance. So I guess it would be --
first would be Larry Hartig.

MR. HARTIG: Here.

CHAIRMAN ZEMKE: Be Craig O'Connor.

MR. O'CONNOR: Here.

CHAIRMAN ZEMKE: Be Craig Tillery sitting
in for Richard Svobodny.

MR. TILLERY: Yes, I'm here.

CHAIRMAN ZEMKE: Kim Elton.

MR. ELTON: Here.

CHAIRMAN ZEMKE: And then Tom *Burkheimer*
[sic] -- or how do you pronounce your last name?

MR. BROOKOVER: Brookover.

CHAIRMAN ZEMKE: Brookover.

MR. BROOKOVER: Here.

CHAIRMAN ZEMKE: For Denby Lloyd. And then Steve
Zemke sitting in for Joe Meade. I'm chairing today's
meeting and I'd like to thank everybody for their

1 attendance here today and, well, I guess we'll move right
2 on to the agenda. So item number two is the consent
3 agenda, and the first one is approval of the agenda as
4 written. And I can see Elise has her hand up. Yes?

5 MS. HSIEH: If we end up having time, I
6 would like to suggest adding as a last item a discussion of
7 a re-authorization of the funds for the Chokwak to a small
8 parcel, a parcel which has already been authorized by the
9 Trustee Council but the transactions of which, due to a
10 death of the owners, is taking longer than expected,
11 so.....

12 CHAIRMAN ZEMKE: Okay. I think we have
13 time for that, unless I hear any objections. Where we
14 would like to put that in the agenda? Right after maybe
15 item 8, so dealing with all the parcel materials so we can
16 move that in as item number 8A or the Chokwak parcel. So
17 with that amendment, do I hear any objections to the
18 approval of the agenda.

19 MR. HARTIG: Move it be approved.

20 CHAIRMAN ZEMKE: Hearing none, the agenda
21 is approved as amended. Moving on to the second item on
22 the consent agenda is approval of the meeting notes for May
23 13th, 2009.

24 MR. HARTIG: I'll move to approve.

25 MR. O'CONNOR: Second.

1 CHAIRMAN ZEMKE: Okay. Is there any
2 discussion on the.....

3 (No audible responses)

4 CHAIRMAN ZEMKE: Okay. Hearing none, then
5 I -- and then hearing no objections, the meeting notes of
6 May 13th, 2009 are approved as written. Okay. Moving on
7 to item number 3, public advisory committee comments. And
8 Stacy Studebaker is here to provide us with those. Thank
9 you, Stacy.

10 MS. STUDEBAKER: I don't think I need a
11 microphone. All right. Oh, I do need a microphone.

12 REPORTER: Two of them. You've got two of
13 them.

14 CHAIRMAN ZEMKE: In stereo.

15 MS. STUDEBAKER: Okay. Well, good morning
16 everybody and I'm Stacy Studebaker, the PAC chair and I
17 have some very important business to report this morning
18 about a field trip that we took yesterday, which was
19 spectacular. We haven't had any business meetings since
20 the last Trustee Council meeting, so I don't have any real
21 business to report, but I wanted to give you the highlights
22 of the field trip yesterday. Some of you were able to make
23 it, which I was so glad about, and I'm sorry the rest of
24 you didn't make it because it was pouring rain when we
25 started out and then we ended up with a sunny day and got

1 to all the places that we wanted to. In particular, we got
2 the new PAC members to two locations in Prince William
3 Sound to feel, smell and experience the lingering oil. Two
4 places we visited were Northwest Bay on Eleanor Island and
5 the so-called Death Marsh in the Bay of Isles on Knight
6 Island, two locations. About 10 PAC members participated
7 as well as the trustees members and Doug Mutter and Jeep
8 Rice and Mandy Lindeberg were our PI's and scientists that
9 came along that did an excellent job in explaining what we
10 were seeing and relating that to the non-recovering,
11 particularly of sea otters. Very, very interesting.

12 So, we got an enlightening, educational,
13 and to some, a very emotional experience, particularly at
14 the Death Marsh area where it didn't take much to uncover
15 the lingering oil. I mean, just basically taking a spoon
16 and just scraping off about an inch of sediments and the
17 oil pouring in. Sheen as well as oil, and the smell coming
18 up in your face. It was a very vivid, good experience, I
19 think. It's one thing -- and I've been on the PAC for 14
20 years now -- it's one thing to read about the lingering oil
21 and all the studies that are done, but to actually get out
22 there and put your hand in it and smell it and see it and
23 then look around at how it's affecting the intertidal life
24 and that kind of thing, as a biologist myself, you know, it
25 was pretty -- pretty stark to see this particular area, the

1 Death Marsh area, the Bay of Isles.

2 So it was a stark reminder that the oil
3 spill is far from over, and that was unquestionable among
4 all the PAC members who were there. The persistent
5 lingering toxicity of the oil continues to impede the
6 recovery of various animals, particularly the ones that
7 target the intertidal in those heavily oiled areas, the
8 otters and the harlequin ducks.

9 So the big question I guess on everybody's
10 minds after the field trip, we had two hours coming back to
11 Whittier, and a lot of good discussion after we had seen
12 and felt the oil, the big question on everybody's minds is
13 what do we do about this, you know, where do we go from
14 here. You know, and that's the big question I think that
15 you all face in the coming year of two, is where do we go,
16 what do we do with this lingering oil. What are we doing
17 to do. A big decision and the PAC looks forward to a
18 dialogue in working with you in deciding and charting that
19 course. And I hope at some point that we can have a joint
20 meeting about this particular issue. I think it would be
21 good. We haven't had a joint meeting between the PAC and
22 the trustees in many years, so it's hard to pull it off.
23 It's hard -- it took four years to pull off this field
24 trip, and I hope that we can pull of a joint meeting at
25 some point. And that's about all I have to say, unless any

1 of you have any questions. I'll be here all day if you
2 have questions to ask during your dialogue.

3 MR. HARTIG: And I'm glad you were able to
4 make the trip. I know I and some of the others went about
5 two years ago and I had the same reaction when actually
6 seeing it.

7 MS. STUDEBAKER: Yeah. There's one thing I
8 forgot to say. I wanted to give big kudos to Cherri Womac
9 for pulling this -- for nailing down all the details,
10 because it was just a seamless trip. I mean, everything
11 was just right on time and I've been on other field trips
12 that she's organized, and I can't imagine a better person
13 to do such a thing. And so anyway, kudos to her and her
14 staff for pulling -- helping us pull that off, getting all
15 of us from these far-ranging areas to one central point and
16 then getting us out there and coming back, and then getting
17 everybody home safely and timely. Any other questions?

18 MR. O'CONNOR: Stacy.

19 MS. STUDEBAKER: Yeah.

20 MR. O'CONNOR: How many PAC members went?

21 MS. STUDEBAKER: About ten. About eight or
22 ten.

23 MR. O'CONNOR: Okay.

24 MS. STUDEBAKER: So it was good
25 participation. Yeah. And a lot of them were new.....

1 MR. O'CONNOR: Yeah.

2 MS. STUDEBAKER:that really needed to
3 get out there and see that.

4 CHAIRMAN ZEMKE: Any other questions for
5 Stacy?

6 (No audible responses)

7 CHAIRMAN ZEMKE: Hearing none.

8 MS. STUDEBAKER: Great.

9 CHAIRMAN ZEMKE: Thank you very much,
10 Stacy.

11 MS. STUDEBAKER: Thank you.

12 CHAIRMAN ZEMKE: I guess Elise, the idea
13 about having a joint meeting between the Trustee Council
14 and the PAC is a good idea. It's my view and maybe you can
15 help facilitate that.

16 MS. HSIEH: Stacy and I have been talking
17 about the timing.

18 MS. STUDEBAKER: Yeah.

19 MS. HSIEH: And we're actively working on
20 it, so.....

21 CHAIRMAN ZEMKE: Okay. Thank you. I guess
22 now the PAC committee comments are done. Thank you again,
23 Stacy, for your comments.

24 MS. STUDEBAKER: You bet.

25 CHAIRMAN ZEMKE: And now moving on to

1 public comment period. If you'd like to invite first
2 members of the audience here who want to make comment on
3 any matter, please limit it to three minutes and try to
4 stay on task. And then after that I'll move on to the
5 phone line and ask for comments there. First, here in the
6 audience, anybody who would like to speak?

7 (No audible responses)

8 CHAIRMAN ZEMKE: Hearing none, is there
9 anyone on the phone line who would like to give public
10 comment?

11 (No audible responses)

12 MS. HSIEH: We'll want to check again at
13 10:10 because on.....

14 CHAIRMAN ZEMKE: Oh.

15 MS. HSIEH:the agenda -- we had.....

16 CHAIRMAN ZEMKE: Oh.

17 MS. HSIEH:made the meeting an hour
18 earlier, but left the.....

19 CHAIRMAN ZEMKE: Really?

20 MS. HSIEH:same notice. So we'll
21 just check in again at 10:10.

22 CHAIRMAN ZEMKE: Okay.

23 MS. HSIEH: Thank you.

24 CHAIRMAN ZEMKE: Thank you. Maybe at the
25 end of the meeting. Do you think that will be at 10:10?

1 No.

2 MS. HSIEH: We'll see.

3 CHAIRMAN ZEMKE: Anyway. Okay. Thank you
4 very much for that comment. Okay. I guess that will end
5 this portion of the public comment period and we'll revisit
6 it again at 10:10. Now we'll move onto item number 5, the
7 investment working group and got Craig Tillery, I guess, is
8 going to start that off and then we'll have -- maybe have
9 Gary Bader and Bob Mitchell, Department of Revenue, giving a
10 PowerPoint presentation. So with that, Craig, can you give
11 us a little bit.....

12 MR. TILLERY: Yeah, I just read the agenda.

13 CHAIRMAN ZEMKE: I'm glad you approved that
14 before, so.....

15 MR. TILLERY: The Investment Working Group
16 for -- is basically just a group designed to provide a
17 somewhat more streamlined method of looking at the Trustee
18 Council investments, make sure that they're being maximized
19 consistent with safety principles. The guiding document is
20 the investment polices thing, which people might want to
21 take a look at, if you haven't, as a Trustee Council
22 member. These were adopted by the Trustee Council many
23 years ago. It consists of one state, one federal council
24 member or designee as determined by the council.
25 Appropriate state and federal officials and two investment

1 experts who are intended to be independent. Typically that
2 will be like the head of the Permanent Fund and state
3 investment -- chief state investment officers, the head of
4 the pension board, something like that. Every once in
5 awhile we've had actually an outside private person doing
6 that.

7 To figure out what we're kind of doing with
8 our investments is probably the most important thing,
9 because we had some discussion and this has become
10 highlighted by the most recent turmoil in the economic
11 markets. And I think virtually everybody has had some
12 experience with their retirement plans or some other reason
13 to know that things are not going well. Things are also
14 not going well for the Trustee Council's investments. But
15 to sort of figure out why we are where we are, which is to
16 say that we're not just sitting there in government
17 treasury securities, you need to have a little bit of
18 history, which goes back to the fact that we were
19 originally required under federal law to invest in the
20 court registry investment system that by investing that we
21 were restricted to treasury certificates. We were getting
22 a very meager return and we were paying extraordinarily
23 high fees for that very meager, safe investment return.
24 For a number of years we tried to get authority to invest
25 it -- the idea, the funds in a sort of wider investment

1 authorization with the idea that the Trustee Council's
2 mission was going to be a longer term than was originally
3 anticipated. In 1999, through Public Law 106-113, pushed
4 by Sen -- then Senator Murkowski, we were allowed to invest
5 the joint funds in -- outside of the U.S. Treasury, limited
6 to income producing assets classes, debt obligations,
7 equities securities and such, that have been determined by
8 a unanimous vote of the council to have a high degree of
9 reliability and security, and was also -- and this is kind
10 of what's important -- was the joint trust fund is to be
11 managed and allocated consistent with the resolution of the
12 council adopted March 1st, 1999 concerning the restoration
13 reserve, which was the money we had been setting aside, is
14 more of a long term uses. The -- that resolution says that
15 the monies are to be invest -- allocated as follows with 55
16 million of the estimated funds remaining after October 1st,
17 2002, and the associated earnings thereafter as a long term
18 funding source -- with the key emphasis being long term --
19 for -- with a sig -- for habitat protection with a
20 significant portion to be used for small parcel habitat
21 protection. The remaining balance -- which I think at the
22 time we had anticipated to about maybe a hundred -- a
23 little over a hundred -- between a hundred and 125 million
24 was to be managed.

25 So the annual earnings adjusted for

1 inflation will be used to fund annual work plans that
2 include a combination of research monitoring and general
3 restoration. Thus, you got kind of a two-fold mandate.
4 One of them is arguably a short term liquidity to be able
5 to get to the money for habitat restoration purposes. And
6 secondly, a long term endowment to generate future income.
7 And that is what has essentially guided the investment
8 strategy to this date, the need to have an investment
9 income that can be inflation-proofed and still leave a
10 return of four to five percent for the Trustee Council to
11 use on an annual basis. So with that, I'll turn over to
12 whoever. Yes, Gary.

13 CHAIRMAN ZEMKE: Thank you, Craig.

14 MR. BADER: Thank you, Mr. Tillery, for the
15 introduction. Mr. Chair, for the record, my name is Gary
16 Bader. I'm Chief Investment Officer of the Department of
17 Revenue, Treasury Division. With me is Bob Mitchell who is
18 a senior investment officer in my unit. The Department of
19 -- Alaska Department of Revenue manages 30 billion dollars,
20 has about 40 accounts that we manage, three of which we
21 manage for the Exxon Valdez Oil Spill Trust Council. Today
22 there's roughly 145 million dollars and it is in three
23 accounts. Our job is to implement the investment policy
24 set by this council. Currently we are invested in an
25 investment policy that is roughly -- that is 47 percent

1 domestic equities, 20 percent international equities, and
2 33 percent fixed income securities. We attempt to stay
3 within certain bands approved by the council in the
4 management of those monies. In other words, we don't
5 invest to that target every day. It drifts back and forth
6 depending on the vagaries of the market. But when we get
7 outside the bands or very near, close to the bands, getting
8 outside the bands, we communicate with the executive
9 director and seek director to re-balance. Typically we
10 make a suggestion to the executive director and typically
11 the suggestion is followed by a direction from the
12 executive director to re-balance and to get into -- back
13 closer to the target allocation that has been set by the
14 board -- by the council and their investment advisors.

15 As I said earlier, Mr. Mitchell is a senior
16 investment officer in the portfolio section of the
17 Department of Revenue. He's a chartered financial analyst.
18 He manages fixed income securities for us, the value of
19 which may range anywhere from 10 to 16 billion dollars,
20 depending upon market conditions. Mr. Mitchell has prepared
21 a short presentation for you today. We understand you may
22 desire to have some discussion on the -- about the
23 investment policies as Mr. Tillery recently laid out, but
24 for now, our direction is the policy that is on record and
25 Mr. Mitchell will make his presentation.

1 MR. MITCHELL: Thank you, Mr. Bader. My
2 name is Bob Mitchell and the role that I play is primarily
3 as the manager of the fixed income or bond component of the
4 asset allocation, which we'll get into in a little more
5 detail. There are three main areas I want to cover in my
6 presentation. First is to update the board on the
7 investment performance of the three funds that are
8 entrusted with the Treasury Division. The second is to
9 present the 2009 capital market assumptions that have been
10 prepared by our general consultant, Callan & Associates.
11 And three, is to take those assumptions that we rely on and
12 generate a range of -- thank you -- a range of asset
13 allocations that demonstrate what various options would
14 look like, but then to recommend an asset allocation for
15 consideration by the council that would be consistent with
16 its policy mandate.

17 Page 2 of our presentation provides return
18 information as of the end of April 30th over various time
19 periods for the three investment accounts as well as for
20 the sub-components of those investment accounts. The first
21 three items are the three investment funds, the research
22 fund, the habitat fund and the Koniag fund. You can see in
23 the second column an estimate of the market value as of
24 April 30th of this year. My comments are going to focus on
25 the one year returns but I'm certainly willing to address

1 any other time periods. 2008 was a period of extreme
2 negative returns for equity. The fact if you look over a
3 200 year period, it's one of the I think three or four
4 worst years in terms of equity market performance that the
5 markets have experienced. The orientation in terms of
6 asset allocation for these three funds is roughly one-third
7 bonds, two-thirds of a combination of domestic and
8 international equities. Given the exposure to equities, it
9 was affected by the performance of the equity markets
10 during this time period. You can see that reflected in the
11 performance of the three funds. The research fund, for
12 example -- basically all three funds had a return that was
13 roughly minus 23 percent over the year ending April which
14 reflects a lot of -- you know, most of that period was
15 during the tumultuous periods in late '08, 2008.

16 Touching briefly on the sub-components of
17 the asset allocation, the first item is broad market fixed
18 income, that is, the bond allocation. That is, they're two
19 of the three components that are actively managed, meaning
20 they're managed in a way to -- in an attempt to outperform
21 relevant benchmark indices over time. The fixed income
22 portfolio which I am the portfolio manager for
23 underperformed during that period of time, primarily given
24 its yield orientation. To touch briefly on that, we manage
25 bond portfolios to outperform indexes by out-yielding the

1 relevant indexes. And the way we do that primarily is to
2 under-weight treasury and government agency securities with
3 shorter maturities and substitute those with other
4 investment grade bonds. During this period, and it
5 actually stretches back from July of 2007 through the end
6 of 2008, it was a period of unprecedented under-performance
7 of those non-treasury, non-government securities versus
8 treasuries and government. So, the investment style that
9 we've employed that has essentially out-performed for
10 decades under-performed, in our opinion, pretty sharply, in
11 unprecedented fashion, particularly as you move through the
12 end of the last six months of 2008. As a result, we have
13 underperformed during this time period. Having said that,
14 since the beginning of 2009, there has been a reversal. So
15 we've actually clawed (ph) back some of the under-
16 performance through to -- actually, to this day, we
17 continue to outperform through May. We're still
18 underperforming out index over these time periods, but we
19 believe that -- we still believe in our approach and we
20 believe that in time that that will -- we will again be
21 outperforming the index.

22 The second component is an actively managed
23 component that -- for international equities. One thing
24 I'll mention is the -- though the performance of the three
25 portfolios is sharply negative for the year, they've

1 outperformed their benchmark indices and it's largely due
2 to the results of the active management of the
3 international equity component. In this component of the
4 asset allocation, the manager is trying to position the
5 equity -- international equity portfolio to be different
6 from the index in an attempt to outperform over time and
7 over this period, outperform by over five percentage
8 points. That largely contributed to the out-performance of
9 the three EVOS funds versus a target benchmark, which would
10 be a weighted benchmark of indexes that are weighted in
11 proportion to the target asset allocation.

12 The last -- well, the cash component I want
13 to touch on as well. The cash component is invested in a
14 short term pool, also managed by my team. Year-to-date --
15 well, fiscal year-to-date, we are essentially index-like.
16 But if you were to look at this report, it would imply that
17 we have underperformed by almost 7 percent, and I feel that
18 that merits some explanation. The reason for this apparent
19 under-performance is due to the timing of cash flows.
20 We've experienced additional volatility primarily from
21 September through December in performance. And
22 unfortunately the times with -- during which EVOS funds
23 were invested in cash happened to coincide with those
24 downside periods of the volatility. So, as a result, the
25 cash component appears to have underperformed dramatically.

1 I'll note that, A, the underlying investments that -- the
2 underlying fund that this cash is invested in is index-
3 like, essentially. And the other thing I would mention is,
4 it's a de minimus component of the asset allocation for the
5 fund, so it doesn't explain any performance of the
6 portfolio.

7 The last component is the Russell 3000
8 index. This is a -- what we call a passively managed
9 component. It is an investment portfolio whose objective
10 is to closely match the returns of the underlying index.
11 So, you would expect that the performance of this fund
12 would largely track the performance of the index over time,
13 and indeed that's the case.

14 On page 3 is the beginning of two pages of
15 presentation that go over the capital market assumptions
16 that have been provided by our general consultant, Callan
17 Associates. There are a number of asset classes that are
18 represented on this sheet, three of which are asset classes
19 that the EVOS funds are invested in. Those three asset
20 classes are the first one, broad domestic equity. The
21 second asset class is international equity. And the last
22 asset class is domestic fixed. On this sheet you see two
23 of the three components that we rely upon in terms of
24 investment assumptions for building portfolio asset
25 allocations models. The first of those is return. In the

1 models is standard deviation. Returns don't go up the same
2 amount every year, and that was vividly demonstrated over
3 the past year. So in terms of building models, we make an
4 estimate for that uncertainty or the variability of returns
5 over time, and that is standard deviation. So, for
6 example, again, looking at the domestic equities, the
7 standard deviation is 16.4 percent, so we would expect that
8 over time the long term return would vary if you look at
9 one plus or minus, one standard deviation about its
10 geometric return of 9.48 percent plus or minus 16.4
11 percent. And given the math, it's -- that would -- the
12 assumption would be that the long term return would be
13 within that corridor two-thirds of the time. So,
14 incorporating risk allows us to penalize an asset class for
15 that uncertainty. So you're not just looking at the return
16 estimate and kind of gravitating towards the ret -- you
17 know, the asset classes that have the highest return.

18 For comparison purposes, the 2008 capital
19 market assumptions -- and by the way, these are produced
20 annually by our consultant -- are listed for reference in
21 the far right of the sheet. One thing I'll note is the
22 return estimates you see for 2008 are geometric returns.
23 Risk would be the standard deviation. The difference, by
24 comparing the three asset classes, is essentially that the
25 equity return estimates have increased between 2008 and

1 2009. And that's largely due to the fact that equities
2 have had such poor performance, the perspective performance
3 going forward has been ratcheted up to reflect the lower
4 valuations of equities today than they were when the 2008
5 capitol market assumptions were made.

6 The -- in terms of risk, the risk is
7 slightly lower for domestic equities, very slightly higher
8 for international equities, and significantly higher for
9 fixed income. I think in part that reflects the increased
10 volatility that we've experienced in fixed income over the
11 past year and projections that that type of volatility may
12 be with us for some time. Are there any questions about
13 this sheet?

14 (No audible responses)

15 MR. MITCHELL: Page 4 is the third
16 component. I won't spend a lot of time on this, but I want
17 to present it for informational purposes. This shows
18 assumed correlations between the asset classes. This is
19 the third component that we use in our models and it's an
20 assumption of the tendency of asset classes to have similar
21 performance or dissimilar performance over time. And
22 essentially what this allows us to do is to build in the
23 effects of diversification over time. So when you combine
24 just asset classes that behave dissimilarly, like stocks
25 and bonds, they're going to have a relatively low

1 correlation, and that low correlation helps to mitigate the
2 volatility of the overall portfolio. So this is an
3 important component of the overall inputs that we use for
4 our asset allocation process.

5 Page 5 shows the results of the work that
6 we've done using the 2009 capital market assumptions as the
7 input. What we've done is we've taken the return, risk and
8 correlation assumptions for the three asset classes. We
9 have run 5000 simulations over a 10 year period using those
10 inputs and tried to address 11 different objectives that
11 you see on this chart. The top box shows the target asset
12 allocation that achieves that objective what we call most
13 efficiently. For the majority of these cases -- and I'll
14 highlight the exceptions -- the objective is to build a
15 portfolio that has an expectation for a particular return
16 while minimizing the standard deviation of those returns,
17 or uncertainty about the future. For example, in -- you
18 know, these scenarios are numbered 1 through 11. If you
19 look at the first scenario, the allocation of 25 percent
20 domestic equities, 12 percent international equities, a 63
21 percent bonds would be expected to return seven percent
22 over a 10 year period with the expected deviation about
23 that estimate of about seven percent. And then below is
24 some additional descriptive information that shows the
25 probability of a loss or a return of below zero over

1 various time periods. As you move from scenario 1 to
2 scenario 11, in general the return expectation is
3 increasing. And if you focus on the -- just the bond
4 component in -- of 63 percent in the first scenario, as you
5 increase the required return, that bond component will tend
6 to decrease as it gravitates more towards an equity
7 orientation to achieve that investment objective. So
8 scenarios 1 through 3, and scenario -- essentially all the
9 yellow scenarios are targeting a return and minimizing the
10 standard deviation of returns and presenting it in a
11 recommended asset allocation to achieve it. The blue
12 boxes, there are three blue boxes, scenario 4, 7 and 8.
13 Scenario 4 is our recommendation to you based on your
14 policy to achieve a five percent after inflation return
15 over time which would overcome the effects of inflation and
16 the five percent spending rule is in place. So that would
17 be a change from last year, which is scenario 7. Scenario
18 7 shows the existing target asset allocation, which is
19 based on 2008 capital market assumptions. We ran that to
20 show what the change in assumptions between 2008 and 2009
21 would have in terms of the effect on the expected return
22 and standard deviation. Incidentally, the target return of
23 7.75 is what we would consider to be the expected return
24 target we should be shooting for, given an expectation of a
25 2.75 percent inflation. And the Callan capital market

1 assumptions are essentially built with inflation as the
2 foundation with bond and stock returns, return expectations
3 as a function of what the underlying inflation expectation
4 was. So these returns are consistent with each other and
5 with the inflation estimate. So based on that, we can take
6 the 2.75 percent, add 5, and get to a 7.75 percent target.

7 As you can see in scenario 7, given that
8 the equity return expectations have increased, what was a
9 7.75 return target last year, given the new inputs, is now
10 expected to return 8.26 percent over the -- you know, the
11 intermediate horizon. And the standard deviation that that
12 produced last year was 11.32 percent. So not only has the
13 expected return increased for the existing asset allocation
14 but the uncertainty or variation about that expectation has
15 also decreased, relative to last year's capital market
16 assumptions.

17 In scenario 8, we chose to target the risk
18 that the -- our models generated last year, which is 11.32
19 percent. And we said, well, what if we froze that and
20 tried to maximize the expected return given that risk
21 tolerance. And that results in the asset allocation that
22 you see in scenario 8. Scenario 7 and 8 are very similar
23 to each other in terms of their overall equity orientation.
24 The expected return is slightly higher in scenario 8
25 however it's -- if you look at scenario 4, which is the

1 most efficient portfolio to achieve a five percent real,
2 i.e. achieve a five percent inflation adjusted return with
3 a minimum of uncertainty, the equity orientation, because
4 the capital market assumptions have become higher for
5 expected return for equities, is much lower. In fact, it's
6 about 11 percent lower. And you can see by just looking at
7 the bond allocation that it would go from a current target
8 of 33 percent to about 44 percent.

9 On page 6 I can tie this all together. The
10 council has two driving policies that we utilize the
11 establish the expected return. First is to maintain the
12 inflation adjusted spending power of the funds over time
13 and to overcome the effects of its spending policy which it
14 has defined as five percent. So, we utilize the capital
15 market assumptions that we get from our general consultant
16 to develop an asset allocation that will achieve that with
17 a minimum of uncertainty. And based on that, it comes up
18 with -- we have developed an asset allocation that has a 38
19 percent broad market equity orientation, 18 percent
20 international equity orientation, and a 44 percent
21 allocation to domestic bonds.

22 One last point I'll make is that the three
23 funds that we manage have the same objective, and that's
24 how we're managing them. And so their asset -- the target
25 asset allocations for the three funds remain the same. And

1 that concludes my prepared remarks. I'd be happy to
2 address any questions that any council member might have.

3 CHAIRMAN ZEMKE: Mr. Tillery.

4 MR. TILLERY: Yeah. So do I understand
5 then that the state pension funds are being invested -- or
6 you're moving to the allocation number 4?

7 MR. BADER: Mr. Tillery, the state pension
8 funds are not going to that. One thing that kind of jumps
9 out of this methodology is kind of an old saw, buy low/sell
10 high. And what this methodology is putting before you is
11 you have equities that you buy high and reducing them or
12 selling low. The state pension fund -- and what drives
13 that? As Mr. Mitchell explained, the change in the
14 assumptions about what stocks will earn in the future. And
15 you're only trying to get -- you know, we're trying to get
16 your policy target of five percent real so you don't need
17 as many equities. The recommendation to the Alaska
18 Retirement Management Board will not have them paring back
19 equities in the same amount, no do I believe the Permanent
20 Fund Board would, although they're making a major change in
21 their asset allocation. But that's one of the reasons, as
22 you recall when the Investment Advisory Committee got
23 together, struggled with this. The methodology, the policy
24 says try to get five real. And in this environment, after
25 the big declines in the market with a projection of higher

1 returns for equity by the consultant, Callan Associates,
2 drives you to a lower equity allocation. So our
3 recommendation is based on your policy, but we feel
4 compelled to point out to the council this anomaly between
5 where the policy drives you and what the consultants are
6 expecting in the market in the future.

7 MR. TILLERY: So we could do better if we
8 don't change -- if we change our five percent real
9 potentially?

10 MR. BADER: The -- using the consultant's
11 expectations, if you're stuck with your current policy, the
12 expectation is that you would do better.

13 MR. TILLERY: Okay.

14 MR. BADER: But it would not be consistent
15 with your policy.

16 CHAIRMAN ZEMKE: Yeah, at the same time, it
17 would be more projected risk in maintaining that balance?

18 MR. BADER: That is correct.

19 MR. HARTIG: On that projected risk, is
20 most of that going to occur over the next year or is it
21 pretty spread out over the five years? Or is there any way
22 to predict that?

23 MR. BADER: The -- I mean, the odds are
24 that over five years there would be less volatility than
25 you would experience in one year heading for your target.

1 The longer period of time, the more likely that the
2 probabilities would even out. But in one year you could do
3 far better or far worse. They will converge over time.

4 CHAIRMAN ZEMKE: And I guess a question,
5 the projected return is based on a January 1, 2009 kind of
6 aspects or the April?

7 MR. BADER: Projected return is based on --
8 well, we set the model trying to get the projected return,
9 which would be five real, okay, using the consultant's
10 projections. And so we say to get that 7.75 -- actually,
11 it turned out 77 -- but to get that 7.75, what blend of
12 assets could we invest, expect to get that return, and have
13 the lowest volatility. So that is how that is determined.
14 So that's just kind of backwards, saying what do you want
15 to the outcome to be, well, how can you get there using the
16 assets you have available.

17 CHAIRMAN ZEMKE: I guess the question is
18 kind of the short term return, you know, since January 1st,
19 the fund has actually clawed (ph) back some of the losses
20 that occurred in the last quarter of '08.

21 MR. BADER: Yes.

22 CHAIRMAN ZEMKE: Now if we converted over
23 to this new asset allocation in this point in time we could
24 actually have incurred or gained those returns that we've
25 got for the first quarter and then the rest of the year we

1 would kind of have a more conservative approach and that
2 seems like it would take away some of the potential
3 volatility that we experienced at least in the very short
4 term.

5 MR. BADER: Right.

6 MR. O'CONNOR: I guess the question that I
7 had, Mr. Chairman, do you we need to be more prepared to
8 respond to exigent circumstances than we have been? Should
9 we be making an annual decision with certain modifications
10 that you might recommend at some point along the road or
11 should we be more engaged on a regular basis, in
12 consultation with you guys?

13 MR. BADER: We typically at the Department
14 of Revenue have followed the strategic policy that is set
15 by boards and our commissioner, and I believe that is the
16 same at the Alaska Permanent Fund. Even an event such as
17 9/11, you know, when there is a shock to the system,
18 markets closed and so on and so forth, the market responds
19 and this, we believe, discounts in the changes that
20 everybody knows about before you can take action. By the
21 time you take action, the market will have discounted in
22 everything that you know. And we do not typically take the
23 position that we can guess the direction of the market --
24 or project it, I guess -- from point A to point B. We will
25 say over time we expect this. As Mr. Mitchell explained, we

1 did not -- we had no way of seeing that the markets were
2 going to seize up the way they did this past year. And
3 what that lead to was out-performance of investments in
4 treasuries. Everybody wanted treasuries. At one time a
5 treasury bill was yielding zero but it was safe and people
6 were opting for that over the unknown. That is changing.
7 We believe that it will revert to historical norms and
8 that's why Mr. Mitchell in his portfolio is pretty much
9 trying to stay the course. So we would certainly advise
10 the council if something happened in the market that we
11 felt changed everything in terms of the strategic direction
12 that you advised us to go with. But generally by the time
13 you know it, it's too late to act.

14 MR. O'CONNOR: So how do we antic -- we
15 don't antici.....

16 MR. BADER: How do know that?

17 MR. O'CONNOR: How do we know -- yeah, how
18 do we guess better?

19 MR. BADER: Well.....

20 MR. O'CONNOR: I'm being facetious.

21 MR. BADER: Yeah. I actually think your
22 approaches have been very well relative to other similarly
23 situated funds. If you had let's say the decision made
24 many years ago which Mr. Tillery referenced where it was
25 substantially invested in government securities, it would

1 have been a great year last year. But you'd be yielding
2 probably less than the rate of inflation right now if you
3 stuck with that policy. And for all the intervening years
4 you would have been there too. So I think your policies
5 have been good. Very few people escaped what happened to
6 the market last year. I don't know of any institutional
7 funds that can boast about their returns.

8 MR. O'CONNOR: At least we're not going to
9 jail. The -- I guess my last question at this point is the
10 -- do you feel comfortable that we have a reasonable focus
11 to our investment strategy and that we're doing -- we're
12 responsible for the public first here. It's a small piece,
13 but nonetheless we're responsible for it. Do you feel as
14 though we're exercising that responsibility appropriately
15 given what you as an expert in the financial field would
16 think would be an appropriate way to manage? Are you
17 comfortable with what we're doing?

18 MR. BADER: I can answer that question
19 affirmatively and say that what you are doing, regardless
20 of which if you decided to change your policy, what you are
21 doing are following methodologies used by the largest
22 pension funds and by many endowments. You're trying to
23 find the most efficient mix of investments that will
24 balance your risk and your rate of return. You can take
25 more risk and volatility and perhaps -- and likely get a

1 higher return, or you can lower your risk and get a lower
2 return. The only thing that we would probably offer up is
3 just an analogy. I used to teach kids how to drive and one
4 of the things that they would tend to do is not look very
5 far down the road and oversteer all the time. I think
6 having a long term asset allocation and a consistent
7 approach will keep from overcorrecting many times along the
8 way. So I think an asset allocation or a policy set by
9 this council and implemented through your executive
10 director to a Department of Revenue staff makes -- I think
11 puts you in a very sound fiduciary role.

12 MR. TILLERY: Mr. Chairman.

13 CHAIRMAN ZEMKE: Sure.

14 MR. TILLERY: One question is, do you think
15 -- and this is a pretty -- would be a pretty dramatic shift
16 going back to allocation four. Is that over-steering -- in
17 other words, if our -- is our goal driving the asset
18 allocation in a way that's not as good?

19 MR. BADER: I don't think it's your goal
20 that's driving it that way, I think it's the extraordinary
21 market that we had last year and the consultant's
22 projection that it isn't going to continue that way, which
23 is creating the tendency to get down to asset allocation
24 four. I think your goal of a five percent real rate of
25 return is a very sound goal over time. I wouldn't think in

1 the long run that you would want to have it be any higher
2 than that. You would be really reaching out further than
3 most institutions choose to do. In this case, I think if
4 you -- if the council were to say, understanding that four
5 is goal and understanding that we have a long term vision
6 we choose to approach four in a incremental fashion, would
7 be a way that you wouldn't have to make such a large 11
8 percent jump in domestic equities, for example. I don't
9 know if that was respon -- I hope that was responsive.

10 MR. TILLERY: How would you approach it in
11 an incremental fashion by not going from seven to four but
12 by going from seven to five or something?

13 MR. BADER: I'd go from seven to -- well,
14 that number six is kind of an anomaly because it jumps up
15 there with the equities, which is something I don't believe
16 you should be doing. But perhaps going to somewhere
17 between seven and probably five.

18 MR. TILLERY: Mr. Chairman.

19 CHAIRMAN ZEMKE: Yes.

20 MR. TILLERY: Another thing. I think the
21 council has two fundamental questions, one of which is, in
22 -- for this, for purposes of our current goals, do we want
23 to go to an allocation that I think fits within our long --
24 with what we do, it's been our strategy, it's been what
25 we've done. It seems to, personally, go against anything I

1 think is probably the right thing to do. On a personal
2 level, I wouldn't be adopting something like that for my
3 own finances, but it does seem to be instit -- so maybe
4 perhaps institutionally sound and -- but the other thing we
5 have to decide is, do we still have that same goal. Is
6 that where the council is headed. And that's not an issue
7 that we can, you know, decide here. But it's certainly an
8 issue that needs to be considered.

9 MS. HSIEH: Ex.....

10 MR. O'CONNOR: You're talking about the
11 five percent?

12 MS. HSIEH: Gary.

13 MR. BADER: I'm talking about the five
14 percent. The idea that we're investing this for a long
15 term, steady rate to fund program.

16 MS. HSIEH: Except, Gary, weren't you
17 suggesting, similar to your driving analogy and similar to
18 what the other funds that you mentioned are doing, looking
19 over a longer period of time, our current mix might end up
20 yielding the 7.75 again? I mean, right now we sort of --
21 we swung way back, now we're swinging this way. Over a
22 longer term, I mean, is this the time to be overcorrecting,
23 it seems to me?

24 MR. BADER: Well, we're only looking out
25 five to ten years with this. And the current mix, as it is

1 demonstrated here, would be expected to reach your goal and
2 then some.

3 MS. HSIEH: And then some. Okay. So more
4 incremental.

5 MR. BADER: It would be a more volatile
6 trip.

7 MS. HSIEH: Okay.

8 CHAIRMAN ZEMKE: Mr. Hartig.

9 MR. HARTIG: Just playing around
10 theoretically a little bit, running a couple of other
11 scenarios. If we were going to take some portion, you
12 know, a substantial portion, 145 million, whatever there is
13 on the table now, and spend that, you know, on projects,
14 and do that in a more of one to three year time frame, that
15 it would be less likely that we would recoup some of that
16 loss in 2008, is there a strategic way to approach that so
17 that you would minimize that loss, but at the same time not
18 going along with what risk you're taking on?

19 MR. BADER: I'm sure that we could model
20 something like that for the council. The -- I think I
21 could say off the top of my head what that would be. The
22 current approach is intended to allow you to make five
23 percent grants each year and still not -- and still recover
24 inflation. And basically earn the grant money back and be
25 adjusted for inflation. If you made larger grants the

1 asset allocation would be the same, unless you're trying to
2 recapture all the money. Made larger grants and trying to
3 earn a higher rate of return to get back to where you were,
4 then you would need an asset allocation like seven or
5 eight.

6 MR. HARTIG: And this, again this,
7 theoretically we were going to go to the 10 or maybe even
8 20 percent, you know, amount that we have there that we're
9 going to spend each year, so that eventually we would be
10 liquidating down. Has that changed the investment strategy
11 significantly?

12 MR. BADER: I'm not sure I understand the
13 question, but we wouldn't be recommending going to 10 or 11
14 because of the.....

15 MR. HARTIG: No.....

16 MR. BADER:probability of.....

17 MR. HARTIG:changing the idea that,
18 you know, that if we do intend to liquidate, you know,
19 within say a five to ten year period. You know, that
20 change is kind of on the premises here -- and again, this
21 is theoretical.

22 MR. BADER: Uh-huh.

23 MR. HARTIG: Say we were going to do that,
24 and so that -- but we didn't want to just draw out
25 something -- all the first year or, you know, a lump sum in

1 any particular year, we're going to gradually work down.
2 So we're going to spend 20 percent rather than five percent
3 a year. So we're actually spending more than our return on
4 our investment and liquidating the principle. Would there
5 be -- if we were going to do that, would that change how we
6 are invested?

7 MR. BADER: I believe it would and I
8 believe it would drive you toward a more conservative asset
9 allocation because your probability of loss in any one year
10 is less. And if you said -- let's just say we had a 150
11 million dollars and you wanted it all spent -- you know,
12 you wanted to make 50 million dollars a year in
13 distributions, the only way to be sure that that 50 million
14 dollars a year is going to be there, that you won't suffer
15 from a market, is to go more conservative, not more
16 aggressively.

17 MR. HARTIG: Yeah, the other concern I have
18 there is that, you know, we took a big hit in 2008, and if
19 there's an opportunity to recoup that, you know, by saying
20 -- staying invested five years versus, you know, starting
21 to liquidate more of your principal, and you have a choice,
22 you know, would you stay in the market and just delay some
23 of your expenditures and try to recoup that? And would
24 that be -- should that be a factor in our decision making?

25 MR. BADER: Well, I would stay the course.

1 I personally think that, you know, if you held on to the
2 stocks and you got to the point that you are and the
3 investment consultant is saying we think the odds are
4 greater that the market is going up than they were last
5 year -- and I guess it's not seeing odds on the market, but
6 the expected return is greater, I wouldn't be selling those
7 equities. I would probably be sticking right with your
8 current target and staying the course. But that's not your
9 investment policy.

10 CHAIRMAN ZEMKE: Given the way the market
11 is moving, would you say by next year we're probably going
12 to have the same discussion about whether we want to move
13 the asset allocation around? Would figure we'd be at the
14 five real again next year with that -- given that we want
15 five percent real?

16 MR. BADER: Five -- yeah, I think five real
17 next year. Hopefully, we'll take more equities, that the
18 market will have gone up, and the projection by the
19 consultant will be for a less robust equity market and so
20 that you probably would be buying equities next year.

21 CHAIRMAN ZEMKE: So in some ways that would
22 argue that we shouldn't -- we should at least go
23 incrementally rather than.....

24 MR. BADER: Yes.

25 CHAIRMAN ZEMKE:completely into the

1 new investment scenario. Mr. Elton.

2 MR. ELTON: Thanks. I mean, I may be the
3 person at the table here who knows the least about the
4 numbers and the history, and I may not be the best investor
5 either, but I guess the question that I have is that if you
6 don't know the numbers and you don't necessarily know the
7 history, you really do want to know the consultants upon
8 whose advice you're relying. Which brings me to the
9 question that troubles me to some extent, and that is that
10 Callan has been purchased by Mercer (ph). The state has
11 significant issues with Mercer and is seeking significant
12 amounts of money back from Mercer. Has there been any
13 change in leadership or the management philosophy of Callan
14 post the Mercer purchase?

15 MR. BADER: Actually, just recently, Mr.
16 Elton, they cancelled their merger.

17 MR. ELTON: Oh, they did.

18 MR. BADER: And so Callan is the same team
19 and Mr. O'Leary is the same consultant on the state's team
20 as it has been in the past. So it looked like there was
21 going to be the change that was announced, got wide
22 publicity. The termination of the merger didn't get as
23 wide of publicity.

24 MR. ELTON: All right. But I consider that
25 good news. Thank you, Mr. Bader.

1 CHAIRMAN ZEMKE: I had one other question.
2 It might actually be for Ms. Hsieh. The Koniag investment
3 fund is somewhat a little different from some of the others
4 in that essentially we have a fixed obligation already
5 throughout the -- to the end of the fund expenditure. So
6 does the 35.7 million dollars that's currently in that
7 fund, is that enough to cover the.....

8 MS. HSIEH: I'm going to defer to Carol who
9 is more familiar with the current numbers.

10 MS. FRIES: I think it -- I think that's
11 sufficient to cover the annual obligations to maintain that
12 easement through 2020.

13 CHAIRMAN ZEMKE: Okay.

14 MS. FRIES: But then the way the agreement
15 is set up, at the end of the term, the Koniag and Fish and
16 Wildlife Service have the option to sell and purchase the
17 parcel in fee and the purchase price is the amount of money
18 remaining in that specific account. So essentially the
19 purchase price is fluctuating.

20 CHAIRMAN ZEMKE: Yeah, I guess that would
21 be the only argument on that one. We might want to go more
22 conservative on that account versus others just so that we
23 could -- that the funds are sufficient to fully cover that,
24 not having to take it out of the other investment accounts,
25 but that's just speculation. Okay.

1 MR. TILLERY: Well, we wouldn't, Mr.
2 Chairman, in terms of the yearly payments. I don't know
3 what the numbers are on there but I think Carol's
4 suggestion is probably enough. In terms of the final
5 payment, you would never have to take it out of any other
6 account because the final payment number is simply.....

7 CHAIRMAN ZEMKE: What's left.

8 MR. TILLERY:whatever's in the
9 account, and they take it or not take it. They would never
10 take it from any other account.

11 CHAIRMAN ZEMKE: Right. Resolves my
12 concern.

13 MR. O'CONNOR: But they're bearing the risk
14 of the fluctuation.

15 MR. TILLERY: They -- well, actually we've
16 got the risk. We're sitting there with the money; they're
17 sitting there with the ability to -- instead of bearing the
18 risk in the interim, to wait until -- and I think actually
19 it's in 2011, would be the first instance, in 2011, to make
20 a decision, okay, I want to take it at this price.

21 CHAIRMAN ZEMKE: Okay.

22 MR. O'CONNOR: Their risk being just the
23 fluctuation and the amount of return each year that they're
24 being given.

25 MR. TILLERY: Except that they're.....

1 CHAIRMAN ZEMKE: They're not committed to
2 sell.

3 MR. TILLERY: They're not getting it.
4 They're not actually -- haven't made that decision yet.
5 They're sitting on the sidelines and can see what it is
6 when (indiscernible - simultaneous speech).

7 MR. O'CONNOR: But we're making a -- we're
8 making an annual payment.

9 MR. TILLERY: That's an annual easement
10 payment out of the return.

11 MR. O'CONNOR: And it's.....

12 MR. TILLERY: And that decision.....

13 MR. O'CONNOR: That fluc.....

14 MR. TILLERY:would come up.....

15 MR. O'CONNOR: That is fluctuating based on
16 the value of the property.

17 CHAIRMAN ZEMKE: We're probably getting
18 off.....

19 MS. HSIEH: No, the payment.....

20 MS. FRIES: The payment is fixed.

21 MR. TILLERY: Okay.

22 MR. BADER: Mr. Chair.

23 CHAIRMAN ZEMKE: Sure.

24 MR. BADER: I was just wondering, Mr.
25 Tillery, I think you read the investment policy and if it

1 set the target of five percent or five real, but I just
2 wonder if the interpretation that you would be consistent
3 with your investment policy if you set an objective that
4 was in excess of five real. In other words, we tried to
5 get right on the number for you. This 7.75 being what we
6 consider to be five percent real. But if you kept your
7 current asset allocation, you would be in excess of that,
8 and I don't know if the interpretation would be that you
9 were not consistent with your policy by staying the course
10 at your current asset allocation, or if you even have to
11 make a change in your investment policy, I guess is what
12 I'm suggesting.

13 MR. O'CONNOR: It's five percent of cap
14 or.....

15 CHAIRMAN ZEMKE: It looks like there's
16 about a half a percent difference in expectation. The five
17 real under the target, current target at 7.

18 MR. BADER: Yes.

19 CHAIRMAN ZEMKE: At 8.26, and that's
20 essentially about .5 percent.....

21 MR. BADER: Right.

22 CHAIRMAN ZEMKE:above what your
23 recommendation. But again, a slightly higher risk.

24 MR. TILLERY: I think the other thing to
25 keep in mind is that the five percent real is the return

1 we're looking for. The amount of money that councils
2 spends is either four or four and a half with the
3 anticipation of there being one percent real growth each
4 year; whereas one of them perhaps will grow. So there is a
5 little bit of margin in there.

6 CHAIRMAN ZEMKE: Any other general
7 questions?

8 MR. BROOKOVER: Just for clarification.
9 You may have touched on it in your presentation, but is my
10 understanding correct that the allocations presented apply
11 to all accounts -- all three accounts?

12 CHAIRMAN ZEMKE: Sure.

13 MR. MITCHELL: It's been our practices -- my
14 understanding is that the objective is the same for all
15 three accounts. So we have one recommendation that would
16 apply to all three.

17 MR. TILLERY: Okay.

18 MR. O'CONNOR: Can we go back to what you
19 just said about our five percent? What were you suggesting
20 by your comments?

21 MR. BADER: Well, I think you wanted to be
22 consistent with your policies. I would be suggesting, if
23 it viewed as consistent with your policy, that you state
24 your current asset allocation because it is intended to get
25 the five percent yield plus a sum. But we wouldn't want to

1 be making a suggestion to you that isn't consistent with
2 your policy but it may be that your policy says earn five
3 percent, which is not a prohibition against trying to earn
4 a little bit more.

5 MR. O'CONNOR: And that's my interpretation
6 of the policy. Underlying goal. The basement of our goal
7 is five percent and anything you want to earn beyond that
8 is just hunky dory. Economic terms. Don't feel
9 constrained to make money for us.

10 CHAIRMAN ZEMKE: So what I'm hearing is
11 your recommendation may be to stay at the current target
12 allocation and maybe not go to the five real allocation
13 given the current market.

14 MR. BADER: It would be that if it is not
15 in violation of your policy.

16 MR. TILLERY: Mr. Chairman, I would say
17 that one -- everything I know tells me that it would be a
18 mistake to reduce and go more conservative. I think that
19 five percent, the emphasis wasn't -- and I don't think the
20 five percent is actually in here. I haven't been able to
21 find it anyway. I think the Trustee Council has adopted
22 that kind of on a yearly basis, but I think that the five -
23 - it's not just that we want five percent, it's that at
24 least at the time we did it the five percent represented
25 the kind of risk that we were willing to take. I mean,

1 that's about the level of risk.

2 CHAIRMAN ZEMKE: Further discussion?

3 MR. O'CONNOR: What action is necessary on
4 this?

5 MS. HSIEH: I included a draft resolution
6 remixing the allocation to the scenario number 4, however
7 it's not my recommendation. Based.....

8 MR. O'CONNOR: It's not your
9 recommendation, it's simply.....

10 MS. HSIEH: It's not my recommendation.....

11 MR. O'CONNOR:it's a piece of
12 paper.....

13 MS. HSIEH:I included.....

14 MR. O'CONNOR:that we can.....

15 MS. HSIEH: It's a piece of paper in case
16 people wanted to use it, but it would be -- my
17 recommendation is based on discussions with Gary and Bob
18 and my recommendation would be to stay the course, as long
19 as it doesn't -- as long as you don't have a stricter
20 interpretation of your five percent policy.

21 MR. O'CONNOR: And that's your
22 recommendation?

23 CHAIRMAN ZEMKE: I guess what I heard
24 today, I would -- at least if I -- there was a motion, I
25 would probably support staying at our current target

1 allocation without making a change. But.....

2 MS. HSIEH: The Investment Work Group I
3 don't think had met in some time, but we'll keep it on the
4 forefront and meet again in a shorter horizon to discuss
5 these issues if it's all right with Gary and Bob. It's
6 been very helpful having their counsel.

7 CHAIRMAN ZEMKE: So do I hear any motion to
8 change our current target allocation?

9 MR. O'CONNOR: Do we need a motion to stay
10 the course or if we do nothing it stays the way it is?

11 MR. TILLERY: I believe we should have one.
12 I think the council should go on record as taking a
13 position. I think it's the right -- I think that's what
14 we're supposed to do.....

15 CHAIRMAN ZEMKE: So are you.....

16 MR. TILLERY:each year.

17 CHAIRMAN ZEMKE:proposing to make
18 that motion?

19 MR. O'CONNOR: I move we stay the course.
20 That's the easiest thing I've ever said.

21 CHAIRMAN ZEMKE: Okay. So motion is to
22 remain at the current target allocation for the funds. Is
23 there a second to the motion?

24 MR. BROOKOVER: Second.

25 CHAIRMAN ZEMKE: There's a second. I

1 guess.....

2 MS. HSIEH: I believe the.....

3 MR. BROOKOVER: Yes.

4 MS. HSIEH: Would the motion be to maintain
5 the current asset allocation which you signed in resolution
6 -- I don't know if it was in January.

7 CHAIRMAN ZEMKE: I guess looking at that,
8 the current target allocation of 40 percent, 7 percent in
9 equity broad market, 20 percent in international equity,
10 and 33 percent in aggregate bonds, which is what we had
11 signed this last official meeting. So, with that motion, I
12 guess all in favor say aye.

13 IN UNISON: Aye.

14 CHAIRMAN ZEMKE: Opposed?

15 (No audible responses)

16 CHAIRMAN ZEMKE: Hearing none, motion is
17 passed. Okay. Thank you very much, Mr. Bader.

18 MR. BADER: Thank you, Mr. Chairman.

19 MR. O'CONNOR: Thank you.

20 MS. HSIEH: Thank you very much.

21 CHAIRMAN ZEMKE: Okay. It's now currently
22 10:10 and before we move on to the rest of our agenda, we
23 will open up for public comment and then after that we'll
24 maybe have a break and then move on to the number 6, the
25 best small parcel. So given that it's 10:10, opening up

1 the public comment period again. And again, here in our
2 office, is there anyone that wants to give public comment?

3 (No audible responses)

4 CHAIRMAN ZEMKE: Seeing and hearing none,
5 move on to the phone. Is there anyone on the phone line
6 that would like to give public comment to the Trustee
7 Council?

8 (No audible responses)

9 CHAIRMAN ZEMKE: Okay. Hearing none, I'll
10 officially close the public comment period and stand down
11 and take a break at 10:10, come back at what, 15 minutes or
12 10 is good enough?

13 MS. HSIEH: Ten.

14 CHAIRMAN ZEMKE: Ten. 10:20 by the clock
15 on -- above the door. Thank you very much.

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

17 (On record - 10:22 a.m.)

18 CHAIRMAN ZEMKE: The trustees are back at
19 the table. I'd like to call the Trustee Council meeting
20 back in order. But before we move on to the -- number six,
21 the best small parcel, I would like to call roll for those
22 on the phone. I was remiss in being able to do that.

23 MR. TILLERY: Are we muted or something?

24 REPORTER: Yeah.

25 MR. TILLERY: We're blinking red. Okay.

1 CHAIRMAN ZEMKE: So again, we're in session
2 now and would like to call roll for those on the phone. I
3 heard several beeps where people came online and I'd like
4 to know who's online right now. Hearing -- is there anyone
5 online?

6 (No audible responses)

7 MR. O'CONNOR: Maybe those were bye-bye
8 beeps.

9 MR. KOPCHAK: Good morning. I think I'm
10 online. This is RJ Kopchak at the Prince William Sound
11 Science Center. I'm just listening in this morning.
12 Thanks.

13 CHAIRMAN ZEMKE: Okay. Thank you, RJ.
14 Good to hear from you. Anybody else on the line?

15 MR. JONES: Good morning. This is Roy
16 Jones. I'll be working with a PowerPoint for Old Harbor
17 Native Corporation this morning.

18 CHAIRMAN ZEMKE: Okay. Thank you, Roy. I
19 guess you'll be online for our agenda item number 8, the
20 Sitkalidak Island briefing. And then anyone else on the
21 line?

22 MR. RICHARDSON: Yes. Tim Richardson.

23 CHAIRMAN ZEMKE: Okay. Good to hear from
24 you, Tim. Anyone else?

25 (No audible responses)

1 CHAIRMAN ZEMKE: Okay. Hearing none, I
2 guess we'll move on then to the best small parcel
3 discussion and Carol Fries will be giving that
4 presentation. Thank you.

5 MS. FRIES: Thank you. My name is Carol
6 Fries, F-R-I-E-S, for the record. The best small parcel is
7 included in your packet. You'll find a benefits report
8 that describes the parcel, which is a small in-holding
9 strategically located within Safety Cove State Marine Park.
10 And that's located in Day Harbor, just to the south and
11 east of Resurrection Bay. This parcel provides important
12 habitat for a variety of species injured by the Exxon
13 Valdez oil spill, including two species that are not yet
14 recovered, Pacific herring and pigeon guillemots. In
15 addition, resources that are recovering such as sea otters
16 and harlequin ducks also utilize this area. There's
17 additional resource information included in your benefits
18 report. I won't go over it word for word. In addition,
19 the parcel provides the best access to Safety Cove Marine
20 Park and provides important recreational services benefits
21 in addition to the benefits that are described.

22 The appraised value of the parcel is
23 \$45,000 and the value supported by very recent sales in the
24 immediate area indicating a relatively strong market for
25 recreational property. The owner is in a position that he

1 is highly likely to sell the parcel should the state not be
2 able to purchase it. His desire is the parcel be
3 incorporated into
4 Safety Cove State Marine Park, but he's not in a position
5 to donate the parcel. Should the council authorize this
6 acquisition, the Department of Natural Resource, Division
7 of Parks and Recreation, will manage the parcel consistent
8 with the management objectives of Safety Cove Marine Park,
9 which is to maintain the area as a natural zone, which is
10 consistent with the EVOS restoration goals and objectives.
11 And of course there would be a conservation easement
12 overlaid on that that would be held by the United States
13 that would further ensure that the restoration benefits are
14 protected. Does anyone have any questions? There is a
15 resolution authorizing the purchase of the parcel for the
16 \$45,000 appraised value included if you would like to
17 consider that.

18 CHAIRMAN ZEMKE: Mr. Tillery.

19 MR. TILLERY: Are there other in-holdings
20 in the marine park?

21 MS. FRIES: No, this is the only in-holding
22 and it's sort of at the prime access point to the park.
23 It's two acres, relatively small, but it's strategically
24 is.....

25 CHAIRMAN ZEMKE: I would assume that the

1 marine park manager is supportive of.....

2 MS. FRIES: Yes.

3 CHAIRMAN ZEMKE:management.

4 MS. FRIES: Very much so. And we have
5 worked with him, yes.

6 CHAIRMAN ZEMKE: Mr. Elton.

7 MR. ELTON: And given the fact that the
8 state will be managing the forest -- I mean, the United
9 States isn't incurring any future management costs.

10 MS. FRIES: No.

11 MR. ELTON: That will be all borne by the
12 state.

13 MS. FRIES: The state would not -- not
14 direct. I mean, essentially this is the -- all of the EVOS
15 acquisitions have been structured. If the federal
16 government, be it Fish and Wildlife Service, Park Service,
17 acquires a parcel, the state then holds a conservation
18 easement to ensure that we all play by the same rules in
19 perpetuity. And likewise in this instance, if the state is
20 acquiring it, the federal government holds a corresponding
21 conservation easement.

22 MR. O'CONNOR: And the deal is that the
23 acquiring governmental entity pay all management costs
24 associated with that.

25 MS. FRIES: Right.

1 MR. O'CONNOR: Okay.

2 MS. FRIES: We're responsible for managing
3 the parcel. You do not incur any day-to-day management
4 expenses.

5 MR. O'CONNOR: Okay.

6 MS. FRIES: I mean, if you would like to
7 sue us for some reason, you would incur expenses, but we
8 are assuming we won't get there.

9 MR. TILLERY: Mr. Chairman.

10 CHAIRMAN ZEMKE: Sure. Mr. Tillery.

11 MR. TILLERY: Is the authorization for the
12 written in such a way that this would become incorporated
13 into the park.....

14 MS. FRIES: Yes.

15 MR. TILLERY:or would that require
16 legislative action?

17 MS. FRIES: No, it is. It is written. And
18 the management plan for park recommends -- specifically
19 recommends acquisition of this in-holding should the
20 sellers be willing to sell. And so this is a problem that,
21 I mean, they've anticipated it and they've structured the
22 management plan so that they can accommodate this.

23 MR. O'CONNOR: Would you entertain a
24 motion, Mr. Chairman?

25 CHAIRMAN ZEMKE: Yes, I will.

1 MR. O'CONNOR: I would move that we
2 authorize \$45,000 for the purchase of the Best small
3 parcel, which is strategically located within Safety Cove
4 State Marine Park. This purchase will help restore lost
5 recreational services and provide benefits to a variety of
6 injured resources and to Pacific herring, otters, and other
7 recovering but not recovered species as identified in the
8 benefits report that has been presented to us today.

9 CHAIRMAN ZEMKE: Thank you, Mr. O'Connor.
10 Do I hear a second?

11 MR. TILLERY: Second.

12 CHAIRMAN ZEMKE: All right, second. Any
13 discussion on the motion?

14 (No audible responses)

15 CHAIRMAN ZEMKE: I guess hearing none, for
16 the motion, all say aye.

17 IN UNISON: Aye.

18 CHAIRMAN ZEMKE: All opposed?

19 (No audible responses)

20 CHAIRMAN ZEMKE: Hearing none, the motion
21 has passed.

22 MS. FRIES: Thank you. The next habitat
23 item on the agenda relates to the English Bay acquisition
24 package that was authorized by the council in 1997. Dede
25 Bohn from the Department of the Interior will present a

1 request for a transfer of funds that will allow the Park
2 Service to complete this transaction.

3 CHAIRMAN ZEMKE: That's what I was going to
4 say.

5 MS. FRIES: Oh.

6 CHAIRMAN ZEMKE: Thank you, Carol. Dede.

7 MS. BOHN: This is Dede Bohn from USGS.
8 The agenda item number 7, English Bay, is a restoration
9 item, but only in an administrative sense. In 1997, on
10 February 14th, the Trustee Council voted to expend
11 \$14,100,000 for some purchase of land within the Kenai
12 Fjords National Park and the Alaska Maritime National
13 Wildlife Refuge adjacent to the park that was going to be
14 conveyed to the English Bay Corporation under ANCSA. The
15 resolution confirming this vote states that the purchase
16 price was adjustable up or down in accordance with the
17 actual acreage ultimately conveyed to the corporation. And
18 on May 20th, later that year 1997, DOI, pursuant to the
19 Trustee Council's resolution, signed a purchase agreement
20 to acquire 32,587 acres of land from the English Bay
21 Corporation for a total price of \$15,371,420.22. Of that
22 amount, some of the monies were going to come from another
23 source, and that source was the restitution funds that the
24 government had attained under the criminal settlement. And
25 the amount coming from the restitution funds was going to

1 be \$1,243,347. So the remaining amount would be paid from
2 the Trustee Council's civil settlement monies.

3 On September 3rd of 1997, the executive
4 director of the council at that notified that the
5 conditions under the resolution had been satisfied. So she
6 requested that we go ahead and transfer a disbursement of
7 funds from the court registry investment system in the
8 amount of \$14,128,074.22 and disburse those to the US
9 Department of Interior under an order that was dated
10 September 5th, 1997 and deposit those in the Natural
11 Resource Damage Assessment and Restoration Fund. and that
12 fund is administered by DOI, Office of the Secretary.

13 Because conveyances are staggered, you get
14 a batch of land and then BLM completes the work in
15 identifying which acres come next. We've had two previous
16 closings. We have had staged closings. So at this point,
17 the Park Service has acquired 31,531.79 acres under those
18 two previous closings. What's before us now is the third
19 and final closing on some 843 acres and we've expecting
20 that to happen this summer. The total costs for this third
21 and final closing are anticipated at 398,000, which will
22 include the land costs, the title insurance, and due
23 diligence.

24 We already have \$56,254 available from
25 those criminal restitution funds. So the remaining amount

1 we need to do the third and final closing is \$341,746. Now
2 I need to do a little explanation. We had a change in
3 staff at that NRDA fund at the DOI department and we had
4 some misunderstandings that happened as we inherited job
5 capabilities and that happened in around 2002, 2003. At
6 that time the NRDA management was asked how many dollars
7 are available. He was asked by the executive director.
8 And his report included lapsed funds, returned funds, and
9 interest earned, as well as the remaining funds from the
10 English Bay agreement. And at that time, that was \$414,430
11 that were intended to go to the English Bay purchase
12 agreement. Instead, since we didn't understand that those
13 were included in what we reported, they were used as -- to
14 fund some research and monitoring projects under the
15 federal portion of the fiscal year 2003 work plan. And
16 because the monies that we then used for those research
17 projects should have -- or at least \$414,430 that were used
18 of the research project should have come instead from an
19 investment fund, what we're asking you to do today is to
20 restore those funds from the research and investment pot to
21 go back to NRDA so that we can complete this closing that's
22 coming up. So our request is officially to approve the
23 transfer of \$341,746 from the research investment sub
24 account of the Exxon Valdez oil spill investment fund
25 administered by the Alaska Department of Revenue to the

1 Department of Interior for the purpose of restoring the
2 habitat funds originally set aside for the purchase of
3 those lands identified in the council's February 14th, 1997
4 resolution and in the purchase agreement between the US
5 Department of Interior and the English Bay Corporation
6 dated May 20th, 1997. Any questions?

7 (Laughter)

8 CHAIRMAN ZEMKE: That's perfectly obvious
9 what happened to it. Mr. Tiller.

10 MR. TILLERY: Yeah, Mr. Chairman, I -- my
11 sole concern here is where the money comes from. And I
12 thought I understood it but I'm less sure that I understand
13 it now. We're operating under federal law. Under that
14 federal law in 1999, 55 million dollars was set aside for
15 habitat purposes. The remainder, anything else, no matter
16 where it was located in the NRDA fund, wherever else, was
17 set aside for the research, monitoring and investment.
18 This money was -- which had been apparently obligated for a
19 habitat was sitting in the NRDA-R (ph) and was at that
20 point used for research monitoring and investment. And I
21 guess it wasn't part of the 55 million, that was separate,
22 but I guess what I'm thinking is whatever was already
23 obligated for habitat really should -- for any project,
24 actually -- should have stayed with that project. So I'm
25 not sure where I'm leading. I originally felt this was

1 supposed to come from the investment, then I was thinking
2 maybe it's supposed to come from the habitat, and I think
3 I'm back to the investment now.

4 CHAIRMAN ZEMKE: The investment by.....

5 MR. TILLERY: The investment account.

6 MS. BOHN: The res.....

7 MR. TILLERY: Sub account.

8 CHAIRMAN ZEMKE: The research sub.....

9 MR. TILLERY: The research sub account,

10 yeah. I'm sorry, the research sub account; yes. But I'm
11 still kind of confused as to where -- I guess I think that
12 so long as the money prior to 1999 was obligated for this
13 purpose, that it wasn't part of something that it would
14 have had to come from the habitat account. It would
15 already be there -- it wouldn't be part of the 55 million,
16 it wouldn't be part of the remainder, it would be something
17 else that was already obligated. I think that's where.....

18 CHAIRMAN ZEMKE: Since it was previous to
19 '99, it was obligated.....

20 MR. TILLERY: It was actually.....

21 CHAIRMAN ZEMKE:before the three
22 investment accounts were set up.

23 MR. TILLERY: I think that's right.

24 CHAIRMAN ZEMKE: So what is your resolution
25 to -- or suggestion?

1 MR. TILLERY: Well, my suggestion is that
2 Ms. Belt should come up here and tell me if I'm right,
3 because I know she had an opinion on this.

4 (Laughter)

5 CHAIRMAN ZEMKE: I'll entertain that.

6 MS. BELT: For the record, my name is Gina
7 Belt from the Department of Justice. I think you're
8 correct, Craig, that because these monies were transferred
9 to the Department of Interior, they came from the
10 undifferentiated pot of settlement monies. And once we
11 were obligated to -- or once we chose to split the pot up
12 into the three accounts that there was a fixed amount that
13 went into habitat and then the remainder had gone into the
14 research sub account. And the habitat account specified
15 particular sums that were supposed to have reduced the 55
16 million dollars and this was not among them. And this
17 might be that they -- that this money -- I mean, it wasn't
18 evaluated in the legislation because it had already been
19 spent in our minds, but I guess, you know, if it had to go
20 somewhere, it would have gone into the research account.
21 But basically what has happened here is that something that
22 was set aside for a habitat purchase was spent instead on
23 research monies, and those monies would have otherwise come
24 out of the research fund in 2003.

25 MR. TILLERY: So is it Department of

1 Justice's view that in order to remain true to the -- to
2 public law, whatever that was, that we should take this
3 money out of the research account?

4 MS. BELT: I believe so.

5 CHAIRMAN ZEMKE: Does that answer -- I
6 guess that.....

7 MR. TILLERY: That.....

8 CHAIRMAN ZEMKE:fully answers your
9 question?

10 MR. TILLERY: That I think answers my
11 question, because I think that's the right answer.

12 (Laughter)

13 CHAIRMAN ZEMKE: Are there any other -- are
14 you speaking as an attorney or as an trustee?

15 MR. TILLERY: As an attorney.

16 CHAIRMAN ZEMKE: You don't need to answer
17 that question. Any other questions for either Ms. Bohn or
18 Ms. Belt?

19 MR. O'CONNOR: Where did the 22 cents go?

20 MS. BOHN: I wondered. I actually went
21 back and looked that up. It comes because of the rate we
22 had allocated per acre, \$418.64 and 33/1000ths of a penny
23 per acre and I think we need to work out the
24 computations.....

25 MR. O'CONNOR: Can I make a motion, Mr.

1 Chairman.

2 CHAIRMAN ZEMKE: Yes.

3 MR. O'CONNOR: Before we bury ourselves
4 anymore in this. I move that we approve the transfer of
5 \$341,746 from the research investment sub account of the
6 Exxon Valdez oil spill investment fund administered by the
7 Alaska Department of Revenue to the Department of the
8 Interior for the purpose of restoring the habitat funds
9 originally set aside for the purchase of those lands
10 identified in the Trustee Council's February 14th, 1997
11 resolution -- and this spontaneous utterance is just
12 driving me crazy -- and in the purchase agreement between
13 the United States Department of the Interior and the
14 English Bay Corporation dated May 20th, 1997. Is that what
15 you need?

16 MS. BOHN: Yes. Thank you.

17 MR. O'CONNOR: I would move that.

18 CHAIRMAN ZEMKE: Thank you, Mr. O'Connor.

19 Do I hear a second?

20 MR. ELTON: Second.

21 CHAIRMAN ZEMKE: Seconded by Mr. Elton.

22 Any discussion on the motion?

23 (No audible responses)

24 CHAIRMAN ZEMKE: Hearing none, it would
25 call for a vote. All those in favor of the motion say aye.

1 IN UNISON: Aye.

2 CHAIRMAN ZEMKE: Opposed?

3 (No audible responses)

4 CHAIRMAN ZEMKE: Hearing none, the motion
5 has passed. Thank you. Next on the agenda we'll move to
6 the Sitkalidak Island briefing presentation and Carol Fries
7 will be leading that off and then further discussion from
8 Roy Jones and the Old Harbor Native Corporation. Thank
9 you.

10 MS. FRIES: As you're aware, the Old Harbor
11 Corporation contacted the Trustee Council in 2008 to
12 discuss the sale of a conservation easement on Sitkalidak
13 Island. And in your packet you will find a benefits report
14 prepared by Fish and Wildlife that summarizes the
15 restoration benefits of Sitkalidak Island, the potential
16 threats the habitat and resource values of the island, the
17 current status of discussions with Old Harbor's
18 representatives and an estimate of due diligence cost
19 required to complete the purchase of a conservation
20 easement on Sitkalidak Island. Roy Jones is online and
21 will presenting a presentation on Sitkalidak Island. And
22 in addition, following the presentation, Gary Wheeler,
23 manager of the Kodiak Island National Wildlife Refuge is
24 here to speak to and answer questions related to the
25 resource values and proposed management of the conservation

1 easement. And Nancy Roth (ph), Chief of the Fish and
2 Wildlife Service Realty Section is also available to answer
3 questions that are related to current discussions with Old
4 Harbor, anticipated due diligence efforts, and timing of
5 those efforts should the council have any questions in that
6 regard. And so with that, Roy, are you online?

7 MR. JONES: I sure am.

8 MS. FRIES: Okay.

9 MR. JONES: You have in the room Carl
10 Gatter and Cynthia Berns. I think Carl has an opening
11 statement and then I'll go through the PowerPoint
12 presentation Mike Otis (ph) cued up, I believe.

13 CHAIRMAN ZEMKE: All right. Thank you.

14 MR. GATTER: My name is Carl Gatter with
15 the Old Harbor Native Corporation. I grew up down in Old
16 Harbor and grew up commercial fishing and spent a lot of
17 time on the island out here. And we just have some short -
18 - brief here. I brought with me today Cynthia Berns. She
19 works with the Old Harbor Corporation. She has a --
20 introduce yourself.

21 MS. BERNS: Hi, my name is Cynthia Berns
22 and I was born in Old Harbor, Alaska. My mother's family
23 is Alaska Native and I grew up commercial fishing.
24 Graduated from UAA, now work for the Native corporation. I
25 feel we have the responsibility to sustain this land and

1 preserve the ecosystem here for our future generations. I
2 think it would be beneficial for our people in the world to
3 know about the biological diversity here. And on behalf of
4 my village, I truly hope that we can collaborate with the
5 Trustee Council in order to meet this goal. Thank you.

6 CHAIRMAN ZEMKE: Thank you.

7 MR. GATTER: Thank you for providing this
8 opportunity for Old Harbor to brief the council on the
9 progress to date for the project initiated last summer to
10 work with the Trustee Council on a conservation easement
11 for Sitkalidak Island, which is owned by the Old Harbor
12 Native Corporation. Sitkalidak Island is a large 87,000
13 acre island off the eastern coast of Kodiak Island. It is
14 an in-holding in the Alaska Maritime National Wildlife
15 Refuge. I lies across the narrow Sitkalidak Strait from
16 the Kodiak National Wildlife Refuge. In the past, Old
17 Harbor expressed its willingness to work with the council
18 on conserving this land.

19 Several years ago we worked with the State
20 of Alaska on a land exchange of approximately 8,000 acres
21 for the principle purpose the eventual conservation of
22 Sitkalidak Island. Last July Old Harbor notified the
23 Trustee Council in a public meeting and in writing of its
24 request to have Sitkalidak Island considered for permanent
25 conservation through the acquisition of a conservation

1 easement by the council. We provided members of the
2 council a briefing booklet on the island. Several
3 representatives of the council traveled to the island in
4 July and in the fall. Later Old Harbor submitted to the
5 council the formal Trustee Council parcel nomination form,
6 along with supporting natural and cultural resource
7 documentation and information, including photographs and
8 maps of the island and surrounding areas.

9 As you know from the parcel nomination
10 form, US Fish and Wildlife Service agreed to serve as the
11 partial sponsor. Our representatives have begun work with
12 the Fish and Wildlife Service on the conservation easement.
13 An update of an appraisal has been initiated and will be
14 completed following a working out of the exact language of
15 the easement. An inspection visit to the island has been
16 arranged for June 8th for the council and staff. We
17 welcome all of you able to join us in that visit.

18 We prepared a short PowerPoint presentation
19 for you this morning on Sitkalidak Island. Roy Jones, a
20 long time consultant to the corporation with brief you by
21 telephone. Roy is an attorney in DC who worked with
22 Congress when ANCSA was drafted and passed, and who
23 negotiated and drafted much of the Alaska National Interest
24 Lands Conservation. Roy?

25 MR. JONES: Thank you, Carl. Thank you,

1 Trustee Council members, staff, for letting us have this
2 time on the schedule today. We have 20 slides and we will
3 go through them as rapidly as we can and try to stay within
4 the time frame that you all are shooting for and hope that
5 some of you all who have not made plans to travel to the
6 island on June 8th will be able to join in and come see it
7 for yourself. Do we have the slides cued up, Carl?

8 MR. GATTER: Yeah, they are. We're on the
9 first slide here.

10 MR. JONES: Okay. The first slide,
11 opening slide, is of Ocean Beach and Ocean Bay, and this is
12 the site of the Ocean Bay culture that dates back 7500
13 years. And it's a beach that rivals anything I've ever
14 seen in Hawaii or anywhere else and I come from Florida.
15 So it's quite something. It's a remarkable place and hope
16 that you all will be able to get out there to see it. The
17 next slide is just an overview of what you see, what we're
18 going to talk about here over the next few minutes in terms
19 of location of the island and its resources. The slide is
20 -- shows the arch -- the Sitkalidak Island in relation to
21 the archipelago. It's of course on the southeastern side
22 of Kodiak Island. And one of the reasons I think that it
23 is so critical in its natural resources is because of the
24 albatross throughout off the coast of Kodiak and the rich
25 benthic community that is washed into -- towards Sitkalidak

1 Island. It has some irregular shapes, as most of Kodiak
2 does, and it captures those and all the fish follow and
3 wildlife follows. So it's a veritable biological petri
4 dish, I guess, if you will.

5 The next slide shows Sitkalidak Island
6 itself in relation to the Kodiak National Wildlife Refuge.
7 As you can see, it's right across Sitkalidak Strait on the
8 refuge and -- of Old Harbor. Under the Alaska National
9 Interest Lands Conservation Act, because of the designation
10 of the island, it is technically within the Alaska Maritime
11 National Wildlife Refuge, but for administrative purposes,
12 for management some years ago when Walt Stiglich (ph) was
13 there in Region 7, they designated the island as being to
14 be managed administratively by the Kodiak National Wildlife
15 Refuge. So they are much more familiar with it and over
16 the past couple of years -- and I think Larry -- Gary
17 Wheeler can get into this a little bit more -- but Larry
18 Van daele with the Fish and Game of the state and as well
19 as the representatives of Kodiak National Wildlife Refuge
20 have begun a more in-depth look at the island and in the
21 past few weeks I think they've been out there tagging bears
22 again.

23 The next slide shows a little bit of the
24 links to injury. This was just updated recently since some
25 of these species are no longer recovering and so forth.

1 Right now I think the count is 15 of the species and given
2 services injured by the spill. They're not recovering,
3 recovering and recovery unknown occur on or are affected by
4 Sitkalidak Island on their shore waters.

5 The next slide, let's see here -- Carl, how
6 are we doing?

7 MR. GATTER: Doing good.

8 MR. JONES: Are we generally synced, that
9 is?

10 MR. GATTER: Yeah. The next one shows a
11 picture that I took last summer when one of the members of
12 the Trustee Council had went out to Sitkalidak Island and
13 as we were flying along on the eastern side of the -- of
14 Sitkalidak, up on this bluff, there were several bears.
15 They were fairly well camouflaged but I could see them on
16 the color pictures. And I -- we were trying to determine
17 what the reason was that they were there, and apparently
18 they were foraging, looking for carcasses to wash on the
19 shore since the salmon runs were late last year, as you all
20 probably recall.

21 The next slide is on seabirds and if anyone
22 who has been down to Old Harbor has seen, most of those
23 rocks and islands around Old Harbor and Sitkalidak are
24 nesting grounds for a number of different seabirds. One of
25 the comments there that we have on this chart is the

1 largest flock of common murrens ever recorded. It was on
2 the east side of the Sitkalidak Strait. And then on down
3 further that -- has one of the largest -- one of the Kodiak
4 Island's highest densities of harlequin ducks.

5 The next slide -- and I'm racing through
6 this so that -- because we didn't want to jam you all up
7 time-wise and then we'll be happy to take questions when
8 we're through this. And I think you all have a copy of
9 this that -- Carl, were you able to bring that?

10 MR. GATTER: Yeah, everybody's got a copy.

11 MR. JONES: Council members have that.
12 And then our anticipation is, to the council members and
13 staff, that when we're down in -- on Sitkalidak Island on
14 the 8th of June, a couple of weeks, we will go into
15 whatever detail that anyone wants to on the biological
16 resources. We'll have Fish and Wildlife Service with us.
17 We'll have Larry Van daele from the -- who's been out there
18 bear -- tagging the bears or collaring them and so forth.
19 So I think it will be a -- we'll also have Patrick
20 Saltonstall from the Alutiiq Museum who will be with us and
21 will discuss much of the cultural -- and history --
22 cultural aspects and history of Sitkalidak Island while
23 we're out there on the ground.

24 The next slide speaks to the cultural and
25 heritage treasure trove it is. And the masks that you see

1 there are two that have been on -- at the museum for
2 awhile, but as you also may know, there's been a showing
3 down at the museum, the Alutiiq Museum, of the pin art (ph)
4 collection of masks that were taken from Kodiak area back
5 at the turn of the century. And I think that exhibit has
6 already gone back to France or is in Anchorage at this
7 point. That's something that Sven Haakanson Jr., director
8 of the museum, was able to negotiate and bring over from
9 France. Its culture from the Ocean Bay culture dates back
10 to 7500 years and the reason that people found their way to
11 this location clearly was because of the food, the
12 plentifulness of the food and other resources there to
13 sustain life.

14 The next slide, herring, rockfish, clams
15 and so forth. Pacific herring around Sitkalidak are among
16 the highest scouting populations in the Kodiak Archipelago.
17 And given that we've had such a terrible hit up in Prince
18 William Sound on herring, I think this may have special
19 meaning. I'm not sure that this will help Prince William
20 Sound directly, but it's certainly in terms of protecting
21 herring resources that Kodiak Island and this area around
22 Sitkalidak is very valuable.

23 The next slide is on the Russian
24 colonization. Some of you all are familiar with the story
25 of Refuge Rock. This was a site of artillery shelling of

1 Alutiiq women and children and back in August of 1784 they
2 were all killed at that point. The rock was -- became a
3 hallowed place, but also one that apparently the Native
4 people shied away from because it was so traumatic in their
5 history. You all remember Rick Knik (ph) who was at one
6 time the director of the Alutiiq Museum. He had seen
7 etchings and drawings of this rock in history, historical
8 documents. He was flying over it one day and he looked
9 down and he said, that's Refuge Rock. And when you climb
10 up there what you're seeing is the spit, which is exposed
11 at low tide. At high tide the water covers that, and so
12 the Aluutiq men had put their women and children on the
13 rock to protect them from Shelikof and others who had come
14 in in the last 1700's and from this concern about
15 subjugating the women and children. And so they put them
16 there for safety. Unfortunately the Russian troops over
17 there or the explorers with them found it and they shelled
18 it in an effort to subjugate the Native population.

19 Port Hobron is one of the last whaling
20 stations on American soil, and that's an in-holding at the
21 -- on Sitkalidak Island.

22 Next slide, harbor seals. The view you see
23 is also Sitkalidak Island, but it's looking north, towards
24 Cape Barnabas. I'm aware that there are -- it's a fallout
25 area of seals and so forth, as well as Seal Bay, which is

1 the bay right beyond the one you're looking at.

2 Next slide is on subsistence. Old Harbor
3 has historically relied on subsistence as so many villages
4 do for their -- to put food on the table. And you can see
5 that documents there are the -- the figure of what the
6 useable weight per capita is almost 500 pounds of
7 subsistence intake before the oil spill. And continues
8 today, or very important activity in the fall, is to take
9 salmon and smoke it and put it up for the winter. And as
10 it is, for many, many Alaska Native villages across the
11 state.

12 Next slide, recreation and tourism. Having
13 hiked this country with two of my sons and fished there,
14 it's a remarkable place. I had the good fortune of
15 traveling around a good bit in Alaska in connection with
16 the Alaska Lands Act, and this one is a very special and
17 spectacular place visually as well as resource-wise.

18 The next slide is of some of the people of
19 Old Harbor because these projects that you all have done
20 over the years have tremendous impact on the resources and
21 that's the principal reason for them. The ancillary reason
22 or the ancillary benefit is to people and hopefully their
23 long term capability of surviving in rural Alaska and
24 making their way in the world. One of the -- when I first
25 went to work in Congress, I worked for the man who -- Jim

1 Haley in Florida, who was the chairman of the subcommittee
2 on Indian affairs and they were writing the Alaska Lands
3 Act. And his concept and the other members and I think the
4 Alaska Native community at the time was divide these lands
5 and financial resources and hopefully make their way in the
6 world and have a future. And as time has gone by the
7 projects that you all have done have certainly aided and
8 abetted the purposes of ANCSA in that regard. And this is
9 -- the people of Old Harbor are good examples. This young
10 man on the right you all probably know too, Sven Haakanson
11 Jr., who in addition to being disgustingly handsome is also
12 a recent genius award winner, MacArthur Foundation, and is
13 -- lived in Russia for two years with nomads and he -- the
14 picture that I put there of Sven was the 4th of July a
15 couple of years ago and he was the master of ceremonies, as
16 he usually is, in the village.

17 The next slide shows the villagers, dancers
18 in Old Harbor, as well as the annual run up the hill that -
19 - they run up and I think they go around an American flag
20 and then roll down the hill. And fortunately live through
21 it. But they had several waves the 4th of July that we
22 were there, including this wave of young men, but they also
23 had smaller kids and they also had women doing that run.

24 The next picture is of some kids boxing on
25 the 4th of July. I mean, it was just like -- as Old Harbor

1 knows, it's nothing new to them, but they -- people hold
2 the rope and all the kids get to put these large gloves on
3 and get out and have a chance to hit somebody else and have
4 a good fight and nobody gets really hurt. The slide 18
5 shows some of the faces of Old Harbor, some of the children
6 there. Same thing with slide number 19. And then the 20th
7 one is over at Fox Lagoon with a commercial fishing boat in
8 the shelf and you can see from the green of the island it
9 is like so much of Kodiak at that time of year in June and
10 July, spectacularly green, and looks like Ireland.

11 That's the quick presentation. We look
12 forward to seeing as many of you all as we can down on the
13 island in June and happy to answer any questions along with
14 Carl and Cynthia that we can.

15 CHAIRMAN ZEMKE: Okay. Thank you, Roy.
16 Are there any questions for Roy from the Trustee Council?
17 Mr. Tillery.

18 MR. TILLERY: Mr. Chairman, I've got a
19 couple. So the -- what's being asked today is to pay for -
20 - or put money for doing due diligence, I assume hazardous
21 waste sort of things, appraisals. Is that what's being
22 asked? What's the purpose of the money?

23 MR. GATTER: Roy, did you hear that?

24 MR. JONES: Craig, were you asking that of
25 me?

1 MR. TILLERY: I was -- I don't know. I'm
2 not sure who I asking it.

3 MS. HSIEH: I think Carol Fries can do.....

4 MR. TILLERY: I'm thinking.....

5 MR. JONES: I'm not sure of.....

6 MR. TILLERY:Carol or Jennifer.....

7 MS. HSIEH: Carol.

8 MR. TILLERY:may be the people who
9 would.....

10 MS. HSIEH: Yeah, Carol, do you want to
11 come up and.....

12 MR. TILLERY: Or Jennifer.

13 CHAIRMAN ZEMKE: Looking at page 5 of 5 in
14 the briefing package that's in the book, it talks about an
15 appraisal, title insurance, closing fees, and US Fish and
16 Wildlife due diligence for a total of 195,000, so.....

17 MS. KOHOUT: So, Craig, I'm sorry, your
18 question was what are we -- what's on the table at this
19 point?

20 MR. TILLERY: Yes.

21 MS. KOHOUT: The -- what's on the table is
22 for the Fish and Wildlife Service's right to initiate the
23 appraisal and the steps to look into the purchase of a
24 conservation easement.

25 MS. FRIES: Essentially what Fish and

1 Wildlife Service has done is laid out the anticipated
2 expenses with pursuing all of these due diligence
3 activities associated with pursuing a conservation easement
4 on Sitkalidak Island. And so the resolution before you
5 today is drafted, it is a draft resolution. It encompasses
6 all of the costs that are laid out here. However, not all
7 of those activities take place up front. And so the
8 resolution is a draft. It can certainly be modified. I
9 think Nancy Walsh from realty at Fish and Wildlife could
10 speak to the timing of the various efforts. Closing fees
11 of course wouldn't be needed until you actually close an
12 acquisition. Typically when we pursue an acquisition, you
13 need a preliminary commitment for title insurance so that
14 you can evaluate the state of the title, make sure that
15 it's clean, and provide that to the appraiser because the
16 appraiser needs that information to conduct an appraisal.
17 And the appraiser is also going to need to understand fully
18 the bundle of rights that are being considered for
19 purchase, which would mean they would need a draft
20 conservation easement with which to form the opinion of
21 that. And so if you're looking at the proposed budget, you
22 could start with a portion of that. And Nancy, do you want
23 to speak to.....

24 MS. WALSH: The timing?

25 MS. FRIES: Well, to the timing and portion

1 of that that would be needed when.

2 MS. WALSH: Thank you. Okay. Yeah, thank
3 you. My name is Nancy Walsh. I'm the Chief of the Branch
4 of Operations, Division of Realty, Natural Resources with
5 the US Fish and Wildlife Service here in Anchorage. I'm
6 looking at the proposed budget as Carol said, that lays out
7 the entire cost of due diligence and closing. We don't
8 need all that up front. We would need to get a preliminary
9 commitment for title insurance, appraisal and funding for
10 the level one environmental site assessment. Our estimate
11 is that we could pare that total down to approximately
12 109,000 at this time to get us started.

13 MR. TILLERY: Mr. Chairman.

14 CHAIRMAN ZEMKE: Mr. Tillery.

15 MR. TILLERY: The other thing is -- which
16 that was kind of part of what I was asking -- why I was
17 asking this, but the other thing is Carol had mentioned the
18 -- as part of an appraisal and really going forward, you
19 need to have a sense of what you were buying. How are the
20 -- are there discussions about the scope of a conservation
21 easement and what is their status?

22 MS. WALSH: We have had initial negotiation
23 with Old Harbor and Roy Jones was present. And we all went
24 through a draft conservation easement, made comments.
25 Those comments -- and it's -- are being incorporated into

1 that now and we're preparing to set up follow-up
2 discussions. So we are negotiating the terms in the
3 conservation easement at this time.

4 MR. TILLERY: Do we have a sense of where
5 that's going or is that still completely open? The terms?

6 MS. WALSH: Well, we have a sense of where
7 it's going. We're just working out the final details on
8 language. And one other issue that we're still discussing
9 is the level of public access and how that's going to be
10 managed.

11 MR. TILLERY: Can you tell us, please?

12 MS. WALSH: Roy, do you have any other
13 comments on this?

14 MR. JONES: Sure. Craig, those are -- we
15 had some good initial discussions. We intend to pursue
16 those, you know, prior to in that session when they come
17 out to Sitkalidak Island. The conservation easement would
18 be -- we just took the one that you all had negotiated some
19 years ago for people on the island and dusted that off and
20 have used that as the template. So I don't think you'll
21 see anything new or unusual to speak of about it. But the
22 idea is to conserve, you know, conserve the bulk of the
23 87,000 acres that we can. There -- the two private parcels
24 that are owned by others, we don't have any control over
25 that. Those are small parcels which we'll actually look at

1 while over-flying when we're out there on June 8th. The --
2 we were asked about the cons -- the -- some allotments that
3 Old Harbor has purchased from Hal Atees (ph) and whether
4 the conservation easements could be worked out for those
5 parcels and the response back was, of course, yes. So we
6 will be engaged with Fish and Wildlife Service in looking
7 at those, working on something there perhaps similar to
8 what you all negotiated up in Prince William Sound.

9 MR. TILLERY: Mr. Chairman.

10 CHAIRMAN ZEMKE: Yes.

11 MR. TILLERY: That kind of, I guess, brings
12 me -- one of the concerns I have is that it seems to me
13 like it might be a little bit premature to authorize money
14 for these activities without having -- and in fact, I'm not
15 even sure the activities can take place without having a
16 sense of what would be the outlines of an arrangement. I
17 heard conservation easements from other places has ranged
18 from ones where we would basically have a conservation
19 easement of the entire parcel, to ones where we separated
20 out development sites, to ones where we allowed certain
21 activities, like even logging, which of course is not going
22 to be an issue here, but allow certain activities. So I do
23 have some concern that -- you know, I think the -- it's --
24 the briefing is very, very helpful to get this thing going
25 that actually approving today a -- this amount of money,

1 even at the reduced level, would be somewhat premature.
2 And if it sounds like the conservation easement may be
3 coming together in the next month or so, it might be better
4 to wait until that time.

5 CHAIRMAN ZEMKE: Thank you for those
6 comments, Mr. Tillery. Any other discussion? Yes, Mr.
7 Hartig.

8 MR. HARTIG: If I understand this right,
9 then the island is 73,454 acres and in '95 there was a
10 portion of that purchased, about 28,000 acres. Is that
11 correct? And now we're trying to get -- can you explain
12 the history of this thing to me so I can get.....

13 MS. WALSH: The United States hasn't
14 purchased any lands on Sitkalidak Island.

15 MS. HSIEH: Larry, Carol can give you the -
16 - that was a purchase of the refuge across that tied in --
17 that had provisions that tied in language about a
18 conservation easement on the island.

19 MR. HARTIG: Yeah.

20 MS. HSIEH: Carol can give you the.....

21 MR. HARTIG: If he could back me up, tell
22 me what the whole transaction is about, because it's
23 obviously huge and I'm worried about authorizing something,
24 you know, that's taking us down a path that -- it will be
25 some big decisions and I don't know how it all fits

1 together.

2 MS. HSIEH: It's -- briefly, it's my
3 understanding -- and Carol, please correct me if I'm wrong
4 -- the 1995, there were about 28,000 acres that were
5 purchased in the Kenai [sic] National Wildlife Refuge.....

6 MS. WALSH: Kodiak.

7 MS. HSIEH: Excuse me, Kodiak. Here's a
8 map. Here's Sitkalidak Island and here's -- the purchases
9 were made on this side. However, part of that purchase
10 agreement, there were provisions and language regarding Old
11 Harbor Native Corporation agreeing to convey a conservation
12 easement on Sitkalidak Island as part of that purchase
13 agreement. There's varying opinions about what that
14 language might mean, but that might be what you're
15 referring to.

16 MR. HARTIG: Okay. So it was part of that
17 agreement, the '95 agreement?

18 MS. HSIEH: For lands that were purchased
19 on the other side.

20 MR. HARTIG: But no price?

21 MS. HSIEH: No. No price.

22 CHAIRMAN ZEMKE: And there was not
23 discussion of how many acres the conservation easements
24 were going to be. Were they just like 17B easements for
25 access into land?

1 MS. WALSH: They're -- we will make
2 provisions for public access. The details of that are
3 still to be worked out. That's one of the items that we're
4 still discussing.

5 MS. HSIEH: I think you guys are talking
6 about two separate things. I don't think Nancy has the
7 information with regard to the negotiations in 1995 and I
8 think probably that record and the information, meaning
9 transcripts and other related documents, will probably have
10 to be looked into further by the entities involved with
11 regard to the meaning of the language in the 1995 purchase
12 agreement.

13 CHAIRMAN ZEMKE: So certainly does seem
14 some uncertainty about what was actually purchased in 1995
15 and particularly in regard to whether a conservation
16 easement was on Sitkalidak Island. And so in my mind I
17 think some of that needs to be answered before we move
18 forward and spend significant amounts of money on appraisal
19 and due diligence and even other maybe preliminary drafts.
20 I'm not sure how -- you know, if indeed some of those
21 discussions are about where we are in regards to 1995 and
22 where we want to go in 2009 certainly need to kind of come
23 together before, at least in my mind, I'd be comfortable
24 spending a lot of money towards that purposes.

25 MS. HSIEH: That would be my recommendation

1 as well.

2 MR. O'CONNOR: So what you're saying is we
3 may have already bought this.....

4 MS. HSIEH: There.....

5 MR. O'CONNOR:in '95? Is that what
6 you're saying?

7 MS. HSIEH: There is some -- there's
8 varying discussion on the language in the purchase
9 agreement. I think it should be looked at more closely.

10 MS. KOHOUT: I think that's a question for
11 the attorneys to answer and I don't know that we have an
12 answer for you now.

13 MR. O'CONNOR: But that is the question.

14 MS. HSIEH: Yes.

15 MS. KOHOUT: The issue -- there was some
16 dialogue or some language in the agreement about a
17 conservation easement and, yeah, the question is was there
18 compensation and, you know, what was anticipated in 1995
19 when that language was approved.

20 MR. O'CONNOR: Mr. Chairman, I have a
21 couple of questions.

22 CHAIRMAN ZEMKE: Certainly, Mr. O'Connor.

23 MR. O'CONNOR: Back in '95 or thereabouts I
24 went out to Old Harbor when -- and some folks. And we
25 chatted with the Old Harbor elders particularly, but -- and

1 there seemed to be at that point a significant tension, if
2 you will, with regard to the social issues associated with
3 the transfer of properties out of the village corporation's
4 control and into government control of some sort and money
5 associated with that and the impact of money on the social
6 aspects of the Natives. And I'm curious today if you guys
7 are in pretty much uniform agreement that this is in the
8 best interest of Old Harbor and the folks there to make
9 this conveyance and to receive these -- ultimately to
10 receive what likely will be substantial compensation for
11 that. Are you guys pretty well squared away now that this
12 is okay to do?

13 MR. GATTER: We are. It's been talked
14 about for quite awhile. You know, the idea behind the
15 island has always been a near resource for everyone in the
16 village. So that was a big concern initially but I think
17 that we can certainly -- like you said, with substantial
18 dollars that they potentially could receive and also with
19 the public access, the way it is now, if that was
20 continued, you know, then there's still some maintenance of
21 the resources on the island which will be retained by the
22 corporation. And so I think that everybody is pretty much
23 in agreement that is a good thing going forward if
24 everything can be worked out so that it does conserve the
25 area.

1 MR. O'CONNOR: Excuse me. Mr. Chairman.
2 One of the things that I think is important for the
3 council's consideration and it reflects back to the
4 discussions back in the mid-nineties, and that's the
5 utilization of the monies, because part of our strategy, if
6 you will, we're trying to restore the lost service in
7 particular, human services that were occasioned upon the
8 spill. And one of our questions, at least one of my
9 questions was to what extent -- (cell phone ringing) --
10 excuse me. Are good things flowing from our acquisitions
11 as far as the folks are concerned.

12 MR. GATTER: Right.

13 MR. O'CONNOR: And I have been told that a
14 number of very good things came from our earlier
15 expenditures and some very positive things. Can you give
16 us a little sense as to what was accomplished with the
17 money that we gave for the earlier acquisitions?

18 MR. GATTER: And I guess you kind of know
19 that a lot of the companies that get big dollars they tend
20 to distribute large portions. Old Harbor has a great track
21 record. We took the dollars that were received from the
22 last transaction and we created our settlement trust, which
23 is a very I won't say restricted but it's a limited
24 investment vehicle. You can buy into a wide variety of
25 investments. It provides jobs. We have operating

1 companies that we own portions of that are funded by our
2 initial purchase. And we also have -- set aside an
3 investment account that provides annual dividends to our
4 shareholders. We have offices actually and we try to
5 employ our shareholders when possible. We actually have
6 purchases now in that arena. We own several companies. We
7 own hotels. We have real estate properties. All things to
8 try and generate a positive future being for our folks.

9 We've also created a scholarship account
10 for our -- all of our shareholders. We've done -- I don't
11 remember what the last count was, several hundred
12 scholarships though over the last eight to 10 years, and
13 who provide services for our shareholders, get benefits,
14 wills, attorney fees if necessary, that type of thing. And
15 maybe Roy, do you have any ideas about what else we
16 provided with that initial dollars?

17 MR. JONES: I think that's the main thing
18 and I'm having a hard time hearing you all. Was that Craig
19 O'Connor talking? I couldn't hear for sure.

20 MR. O'CONNOR: Yes, it was, Roy.

21 MR. JONES: Oh hi, Craig.

22 MR. O'CONNOR: Hi.

23 MR. JONES: To me the benefits have
24 occurred across a spectrum. We had the Native corporation
25 that really had very little other than the manpower and the

1 spectacular lands, but they did not have investments, they
2 did not have a way to generate income. This is all on the
3 heels of -- about the same time as we saw welfare reform
4 occurring and people having -- or people having a harder
5 time living in rural Alaska. We -- Old Harbor was at the
6 forefront of trying to change the law with respect to the
7 settlement trust under ANCSA and working with SEA Alaska
8 and ASRC and a host of others. Because I had used some of
9 their lands to become empowered or to have some
10 capitalization to work with, they were able to help bring
11 about that change of the law, which has helped all Native
12 corporations to survive during these difficult years in the
13 past 20 years or so. So, they have used that funding for,
14 as Carl has indicated -- and I couldn't hear everything
15 that Carl was saying -- to help produce the company, the
16 Kodiak Kenai cable company. This was a company that you
17 all may have heard about. It's a subsidiary of Old Harbor
18 and Ouzinkie and two years ago, I think it was about two
19 years ago, they completed building a marine fiber optic
20 cable for live redundancy for Anchorage and for the
21 Department of Defense and for the satellite launch facility
22 in Kodiak and the Coast Guard by running it down to the --
23 to Homer, to Kenai, on down to -- Kenai, Homer, on down to
24 Kodiak and back to Seward. And this was a major step
25 forward if you talk to the folks in Kodiak, I believe, in

1 terms of tele-medicine, in terms of distance learning, in
2 terms of economic development over the long term for people
3 living there. The effort is underway right now, Craig and
4 the other members of the council, to through microwave
5 shots to take that same broadband capability on out to each
6 of the villages. And the whole idea is that if you're
7 going to have rural Alaska, if you're going to have
8 villages be able to survive into the future, especially
9 with the winds buffeting as they are with the fishing
10 industry and so forth, then having this capability, this
11 telecommunications capability will allow call centers and
12 economic development, marketing and so forth to occur in
13 rural Alaska. So there are a host of things. I think
14 that's one of the major ones that is occurring even as we
15 speak. Part of it is already completed. The cable of
16 course is split and working. The next phase is to reach on
17 out the villages.

18 MR. O'CONNOR: All right.

19 MR. JONES: Scholarships, now, you know,
20 of course as he -- as Carl mentioned. The main thing to
21 me, looking at it a little bit from afar and going back to
22 working on the hill at the time ANCSA was drafted was the
23 Congress was trying to find a mechanism, a means of helping
24 Alaska Natives to fend for themselves and do for themselves
25 better than the tribal system worked in the Lower 48. And

1 they came up with a corporate structure, for better or for
2 worse, and it is just now for a lot of small corporations
3 like Old Harbor's, starting to pay benefits, starting to
4 work, starting to help provide economic benefits to their
5 people. So that's a quick and dirty summary. Craig, I
6 hope that's what you were looking for.

7 MR. O'CONNOR: It is. And what was told to
8 us earl -- before you came on there was -- well, let me
9 just sum it up from my standpoint. Thank you for what
10 you've done with the money that we spent with you. I very
11 much appreciate what's been accomplished by you guys. Now,
12 did you get a scholarship for.....

13 MS. BERNS: I did.

14 MR. O'CONNOR: Oh, good.

15 MS. BERNS: It allowed me to go and go
16 through school.

17 CHAIRMAN ZEMKE: I think also in the
18 package that Roy disseminated to the Trustee Council back
19 last fall discussed many of the similar things that were
20 just discussed here and it was a very complete package. I
21 guess we need to kind of move along. We've been on this
22 for awhile. I guess there's still some major questions, at
23 least in my mind, about where we're going with it. I think
24 it's the idea about the importance biologically, socially,
25 culturally, of the island is without dispute about what

1 we're actually intending to do. I guess there's still some
2 uncertainty in my mind and I would be a little hesitant, at
3 least right at this moment, to support at least the full
4 212,000. And I guess even the 109 -- about half of that,
5 I'd still have a little question about maybe -- maybe
6 consider deferring it rather than -- because of that, maybe
7 deferring the proposal rather than voting it up or down.
8 But that's just my opinion right now and maybe you'd like
9 to hear a little more discussion on that and potentially a
10 motion. Any other discussion?

11 MR. TILLERY: Mr. Chairman, I guess I kind
12 of tend to, for a couple of reasons, tend to agree with
13 what you're saying. I don't think we necessarily need a
14 motion, but I think that perhaps this one isn't ready to be
15 voted on right now. We need a little bit more background
16 on what's contemplated and what the current status of the
17 land is. The Trustee Council's historical interaction.
18 So, I guess I would tend to agree with you that this may
19 not be quite ready to be brought up for a vote.

20 MR. O'CONNOR: I guess I -- Mr. Chairman, I
21 guess I tend to agree with that but simply I perceive that
22 to be issues of an administrative nature. Let's figure out
23 what it is, where we are, how this is going to be defined
24 given the '95 actions and so on. What I don't want to do
25 is have our position today being perceived as any hesitance

1 with regard to going forward, at least from my standpoint,
2 with regard to going forward with the acquisition of the
3 habitat -- or of a conservation easement on Sitkalidak
4 Island. I think this is of critical importance and to the
5 extent that you need any authorization to proceed, I don't
6 get the sense you do. I mean, you're negotiating right
7 now. The question to me is what am I getting both relative
8 to what I already have and what is it that's going to come
9 out of this as it is a conservation easement for -- what
10 are we buying. I would like to have a sense as to -- in
11 order of magnitude in terms of cost to us. Assuming that
12 we're starting from scratch, we didn't have an overlay with
13 the '95 questions. Are we talking in the order of 10
14 million, 20 million, 20 million dollars for the acquisition
15 of this conservation easement? Do you have any sense on
16 that at this point?

17 MS. WALSH: We really don't until we have
18 the terms of the conservation easement ironed out. The
19 appraiser doesn't know what to appraise without that.

20 MR. O'CONNOR: Right. Okay.

21 MS. WALSH: So we will continue our
22 negotiations upon the conservation easement and bring that
23 final draft to the council.

24 MR. O'CONNOR: Okay. We want as much as we
25 can get and spending the least we have to spend. How's

1 that?

2 CHAIRMAN ZEMKE: Mr. Elton, you had a
3 question.

4 MR. ELTON: Not a question.

5 CHAIRMAN ZEMKE: A comment.

6 MR. ELTON: Just a comment. I just wanted
7 to remind members of the council that Mr. Wheeler came down
8 from Kodiak and he's available for questions. I don't want
9 to extend the meeting, I have not questions of Mr. Wheeler,
10 but I wanted to note that he has come up from Kodiak if
11 anybody had any questions of him.

12 CHAIRMAN ZEMKE: I guess one question. Do
13 you have a sense of when you would have the draft done?
14 You're talking maybe a month, month and a half?

15 MS. WALSH: It could possibly be within the
16 next month or two.

17 CHAIRMAN ZEMKE: Okay. And as far as Mr.
18 Wheeler, obviously as sponsoring agency, your position
19 would be in favor of purchasing conservation.

20 MR. WHEELER: Yes. Yes, that's correct. I
21 can't really add more than what Roy has already said, is I
22 don't want to take up any more of your time except to say
23 it's, you know, it's a spectacular area and resource values
24 are very high.

25 CHAIRMAN ZEMKE: So I guess with that, I

1 think I've come to the conclusion that we're deferring the
2 -- any action on it, particularly in lieu of maybe needing
3 more administrative information particularly on the
4 conservation easement. So with that, I guess we'll move on
5 with the agenda to.....

6 MR. O'CONNOR: Thank you guys very much.

7 CHAIRMAN ZEMKE: Thank for your
8 presentation.

9 UNIDENTIFIED SPEAKER: Thank you.

10 UNIDENTIFIED SPEAKER: Thank you.

11 MS. HSIEH: Thank you for coming.

12 CHAIRMAN ZEMKE: The next one is the -- I
13 guess we're moving with that, kind of what I called 8A, the
14 Chokwak parcel. And then after that we'll move to the
15 lingering oil proposals. So on the Chokwak.....

16 MS. FRIES: One question though. Do the --
17 are you going to lose your.....

18 MS. BOHN: But go ahead.

19 MS. FRIES: Oh.

20 (Whispered conversation)

21 MS. FRIES: This is just a small
22 housekeeping item that we can take care of today if there's
23 sufficient time, or we can do it in August or at the next
24 meeting. In 2007, resolution 07-04, the Trustee Council
25 authorized \$160,000 for the purchase of a Native allotment

1 owned by the heirs of Philip Chokwak in the north shore of
2 Kiliuda Bay. This is an in-holding that is within the
3 lands that the state acquired as part of the exchange with
4 Old Harbor. We were making very good progress on this and
5 BIA had assigned a realty specialist that had worked with
6 us on James Chokwak, Phillip Chokwak's son's allotment.
7 Unfortunately BIA moved that realty specialist to another
8 position, assigned a new realty specialist who wasn't as
9 familiar with the process and the constraints and
10 requirements that EVOS has and we became quite delayed.
11 And during that time, one of 10 heirs to Phillip Chokwak's
12 parcel passed away, unfortunately, and the probate is
13 proceeding, but we cannot close the transaction until
14 probate is complete and BIA again is able to engage in the
15 transaction. James Chokwak, Phillip Chokwak's son has been
16 very diligent in pursuing this and I would very much like
17 to reauthorized the funds authorized in the 2007 resolution
18 so that -- excuse me -- when this is resolved, we can go
19 ahead and close this transaction. He's worked very hard to
20 pursue this for his family and it would be nice if we could
21 re-authorize this and it's just a very simple motion
22 re-authorizing \$160,000 that was authorized in resolution
23 07-04 for the purchase of the Chokwak II small parcel KAP
24 3001.

25 CHAIRMAN ZEMKE: I guess one question.

1 Those monies were -- they were never transferred.....

2 MS. FRIES: No, they.....

3 CHAIRMAN ZEMKE:so.....

4 MS. FRIES: We don't -- we leave the money
5 in the investment account until we're ready to close
6 because in most times they continue to earn interest. I
7 think maybe we'd have been smarter to pull them out,
8 but.....

9 CHAIRMAN ZEMKE: Mr. Tillery.

10 MS. FRIES:we didn't.

11 MR. TILLERY: Don't we need -- do we need a
12 date to re-authorize to?

13 MS. FRIES: Yes. Could we please re-
14 authorize to December 2010? I know that sounds quite a
15 ways away, but I would -- I would hope we could just do
16 this once and not have to come back. And that way there's
17 some assurance for the Chokwak family that we are.....

18 CHAIRMAN ZEMKE: And 2010 would be
19 sufficient hopefully.

20 MS. FRIES: I hope so.

21 MR. TILLERY: Mr. Chairman, I would move we
22 re-authorize these monies for the Chokwak parcel until
23 December 31st, 2010.

24 MR. O'CONNOR: I would second.

25 CHAIRMAN ZEMKE: Motion and second. Any

1 discussion on the motion?

2 (No audible responses)

3 CHAIRMAN ZEMKE: Hearing none, call for the
4 vote. All those in favor of the motion, say aye.

5 IN UNISON: Aye.

6 CHAIRMAN ZEMKE: Opposed?

7 (No audible responses)

8 CHAIRMAN ZEMKE: Hearing none, the motion
9 has passed.

10 MS. FRIES: Thank you.

11 CHAIRMAN ZEMKE: Thank you, Carol. So that
12 moves us on to item number 9 on the agenda about the
13 lingering oil proposal, the CYP1A gene verification study.
14 Dede Bohn will give us a complete description.

15 MS. BOHN: This is Dede Bohn with USGS.
16 The Trustee Council has been funding more than a decade of
17 studies to identify the progress towards recovery of the
18 sea otter population, particularly in the heavily oiled
19 northern Knight Island area, an area of islands. We've had
20 studies that have looked at population demographics,
21 including the abundance of the animals, the habitat use,
22 their survival rates. We've done biological sampling to
23 monitor their body condition. We've been looking at blood
24 parameters and liver pathologies and CYP1A, which we call
25 CYP1A biomarker that is used to determine oil exposure.

1 There was a recent 2008 that questioned our lab results
2 from that last item, the CYP1A biomarker levels. And in
3 this proposal we'd like a chance to reevaluate our previous
4 sea otter samples. Basically we have splits on our
5 archived sea -- or we've been able to archive sea otters
6 samples because we took splits before they were sent to the
7 lab and we've had -- we've been storing blood cells and
8 liver samples that were collected from both oiled and
9 unoiled areas in western Prince William Sound, and those
10 samples range from 1996 through 2006.

11 In the 1990's, CYP1A was the cutting edge,
12 or you might even call it the bleeding edge technology for
13 looking at oil exposure, but since then there have been
14 considerable developments and technological advances in
15 both the analyzing technology and -- but also better
16 methodologies in the measurements and we have a heightened
17 understanding and ability to identify what we're detecting.
18 We've got -- genetic sequencing has expanded our
19 capabilities in particular.

20 In this proposal we'd like to go back to
21 those archived samples and this time look at a suite of
22 genes. And we're looking at, hopefully, 15 genes that
23 would help us identify immune response, inflammation, tumor
24 suppression, and stress response, as well as identified a
25 new gene to identify hydrocarbon induction. So basically

1 we'd end up with a health panel from the otters on the
2 archived samples and we could compare the oiled and unoiled
3 area of otters. And we want to look at their exposure to
4 xenobiotics, including aromatic hydrocarbon from crude oil.
5 And we want to evaluate their stressor injury related to
6 that exposure.

7 I may have some of the PI's on the phone.

8 MS. BOWEN: I'm here. Liz is here.

9 MS. BOHN: Okay. How about Brenda?

10 MS. BALLACHEY: Yeah, Dede, I'm here as
11 well.

12 MS. BOHN: And Keith Miles, I think had to
13 get on an airplane to go out to the field to do some sea
14 otter work, so I think we've lost him.

15 MS. BOWEN: He just got on the plane.

16 MS. BOHN: Okay. So I'm putting up now the
17 first slide and we're going to ask -- perhaps Liz can help
18 us a little bit about what we're looking at.

19 MS. BOWEN: Okay.

20 MS. BOHN: It's the pathway of the Aryl
21 hydrocarbon receptor gene, so maybe she could explain what
22 this diagram shows a little bit.

23 MS. BOWEN: Okay. This slide, it's just an
24 illustration of what happens at the cellular level when an
25 otter is exposed to oil. And it's a very complex slide.

1 There are only three really important things you need to
2 remember. Up at the top of the slide you can see a bunch
3 of little green balls, which is representative of a
4 molecule of oil or polycyclic aromatic hydrocarbons. And
5 it gets transferred through the cell membrane, which is
6 that kind of bridge at the top, the rainbow, where it
7 directly binds with the Aryl hydrocarbon receptor. It's
8 the yellowish molecule in the middle of that bunch there
9 that's labeled AHR. So there's a direct effect, a direct
10 interaction between the oil and the Aryl hydrocarbon
11 adjuster.

12 The second important point is that this
13 sets off a chain of events where many pathways are
14 involved. So it's not just a simple we get the oil and we
15 get the Aryl hydrocarbon receptor. We get the oil, the
16 AHR, and then many, many other genes and physiological
17 systems are affected.

18 The third point I wanted to illustrate, is
19 if you look at the bottom right corner of the slide, you
20 have a bunch of CYP1A-1. CYP, those are the cytochrome
21 P450 genes that Dede was talking about. They're at the
22 very bottom of this cascade, so there isn't a direct
23 relationship between the oil and the cytochrome P450. It
24 can be -- its expression can be influenced by a number of
25 different pathways. Any questions on that slide?

1 (Laughter)

2 MS. BOWEN: Sorry.

3 CHAIRMAN ZEMKE: That means no.

4 MS. BOHN: Let's go to our second slide.

5 We're putting up now actual measurements that have been
6 done on an otter showing the -- some of the selective genes
7 and the results you can see in the gene expression. Go
8 ahead and explain this one, Liz.

9 MS. BOWEN: Okay. This is -- we did -- we
10 took a sub-sample of the genes in our panel, of our 15
11 genes, to illustrate the importance of what we're doing and
12 the abilities we have to find pre-clinical perturbations in
13 the animal's health or sub-lethal effects from xenobiotics.
14 And this was an otter that was oiled in Santa Cruz,
15 California. Her name was Olive. The -- well, a wild
16 caught otter which they named Olive. The genes in the red
17 cycle oxygenate two, which is called COX-2. I think it's a
18 pro-inflammatory gene, which I think you've all -- you're
19 all familiar with Celebrex, which is an anti-inflammatory
20 drug that works directly on the COX-2 gene. So the COX-2
21 is up-regulated, more gene expression when you have any
22 sort of tissue injury. The blue is the Aryl hydrocarbon
23 receptor, which I just described, it increases its
24 expression or is up-regulated in response to PAH exposure,
25 oil exposure. And then the MX1 gene is in -- its

1 expression is increased in association with a virus and a
2 viral infection.

3 So what we saw in this otter, Olive, she
4 was captured and taken into rehabilitation and we have
5 three dates of blood samples that we've gotten from her.
6 If you just look at the genes in red, which is the COX-2 --
7 again, they're up-regulated in response to tissue injury --
8 we have relative levels of expression increasing and then
9 decreasing again at the time of release. And this is all
10 again in relation to oil exposure. the Aryl hydrocarbon
11 receptor is increasing as the body assimilates the oil and
12 tries to detoxify it, and then decreases again at the time
13 of release. The MX1 is the anti-viral gene. And again, at
14 the time of capture is low. Its expression increases
15 dramatically and then goes down again at the time of
16 release. And interestingly, we had called the
17 veterinarians when we saw the MX1 level was increasing and
18 said that we think the animal has a virus. And they said,
19 no, no, no, everything is fine. We're rehabbing the
20 animal, it's great. And they called us back in about four
21 hours and said, you know, you guys were right, we looked
22 more closely and there's a papilloma virus that they
23 treated with anti-viral meds. So even the subtle
24 perturbation of this oiled animal, the main function gets a
25 little off whack and a virus was able to take over and

1 infect the animal and they were able to treat it.

2 And the other important point about this
3 slide is that the oiled animal, you can tell that the oil
4 exposure or the processing of the oil is increasing and
5 decreasing within about 16 days after the exposure is gone.
6 We were able to detect consistent, continued oil exposure
7 in these animals. Was that clear?

8 MR. O'CONNOR: Yes.

9 CHAIRMAN ZEMKE: Yes. I guess we're ready
10 to move.

11 MS. BOHN: So I can summarize. What we're
12 proposing in this proposal in front of you today is that we
13 do a two-phase approach. That the first thing we would do
14 is go back to the archived samples from 2003 to 2006, and
15 we have both blood and liver samples and we'd like to apply
16 these gene expression techniques and see what our results
17 can show. And if we get robust, meaningful results, then
18 we'd like to implement phase two of the project and go back
19 and look at the older, previous samples from 1996 to 2002.
20 So the cost in front of you today would be to do the 2009
21 phase one portion would be \$75,540, which includes the G&A.
22 And in 2010, we'd like to do \$116,959, and in 2011, we'd
23 like to receive \$13,236 to write up and complete the final
24 analysis and report requirements. Do we have any
25 questions?

1 MR. BROOKOVER: I guess just to start off
2 with, and my sense is that the previous study looked only
3 at the red bars basically on this graph. And.....

4 MS. BOHN: This CYP1A, which is on the
5 previous -- it's on the first slide.

6 MS. BOWEN: That is not on this graph.

7 MR. BROOKOVER: It's not on this graph.

8 MS. BOHN: It's not on the second one, it's
9 on the first slide only.

10 MR. BROOKOVER: Okay. So I'm just trying
11 to congeal the benefits in my mind then. And what I'm
12 seeing, I guess, is the continuation would provide us the
13 ability to assess the up-regulation in response to tissue
14 injury, PAH exposure and viral infection. What did the
15 previous study allow us to assess.....

16 MS. BOHN: It was.....

17 MR. BROOKOVER:in compar.....

18 MS. BOHN: The CYP1A measurements were
19 intended to show that the animal individual had been
20 exposed to oil.

21 MR. BROOKOVER: In other words.....

22 MS. BOHN: So these, this much.....

23 MR. BROOKOVER: The -- in other words, the
24 blue bars or something similar.

25 MS. BOHN: Less good than the blue bars.

1 This is a new discovery, the ARH receptor as she showed in
2 that first diagram, is one of the first things turned on.
3 And what we've learned since we did our initial studies is
4 that CYP1A had to have all these other things turned on
5 before it was actually activated, so it's farther down the
6 chain. You're not measuring a.....

7 MR. BROOKOVER: Okay.

8 MS. BOHN:direct response quite as
9 clearly as you are with the AHR. So we are changing
10 methodologies and looking at a suite of things and learning
11 a much larger panel of the health assessment on the
12 individuals.

13 MR. BROOKOVER: Okay. Thanks.

14 MS. BOWEN: The existing genes that we'll
15 be doing, many of them are used in human health diagnostics
16 right now, as Dede said earlier, they are indicative of
17 perturbations to a variety of systems, physiological
18 systems within the body. So not just these three that I've
19 shown you with Olive's, there are a total of 15 genes there
20 that we're looking at.

21 MS. BALLACHEY: And I think the -- this is
22 Brenda. The other thing that's worth remembering is that
23 when we initially started the work 14 years ago the
24 function of many of these genes that we now are able to use
25 wasn't known, wasn't understood. This field has just

1 advanced incredibly quickly.

2 CHAIRMAN ZEMKE: And you had said that
3 after 16 days the levels were probably dropping back down
4 to around background levels, so it makes that assumption
5 that if the samples show continued elevation of these gene
6 markers then they must have been re-exposed over and over,
7 you know, particularly since they were 10 to upwards to 15
8 years after -- or almost 17 years after the oil spill
9 happens.

10 MS. BOHN: Continued exposure, yes.

11 MS. BALLACHEY: Dede, can you repeat that?
12 I couldn't hear the question.

13 CHAIRMAN ZEMKE: Well, it wasn't a
14 question, I guess it was more -- the question was that
15 after 16 days the background levels were going back -- or
16 levels of the gene markers would show that they were back
17 down to near normal levels, so -- yet the samples show
18 continued elevation, then it must mean that they are -- the
19 otters have experienced continuing exposure.

20 MS. BOHN: Yes.

21 MS. BALLACHEY: That's correct.

22 MR. O'CONNOR: Mr. Chairman, I've got a
23 number of questions, if I might ask.

24 CHAIRMAN ZEMKE: Okay. Mr. O'Connor. Go
25 ahead.

1 MR. O'CONNOR: All right. What I want to
2 know is, so what? When we began the discussions a number
3 of years ago on CYP1A and as Dede has alluded to here,
4 CYP1A elevated levels, the best we can say is that there is
5 a response to exposure to oil. The question is, so what?
6 The question has always been what, if any, is the adverse
7 effect that the animal is experiencing as a result of its
8 exposure to the oil?

9 MS. BOHN: When I asked that question of
10 Keith Miles, who can't be on the phone, his response was if
11 you looked at a panel and got these kinds of results, you
12 would take that animal immediately to the vet for
13 treatment. That you would have concerns about
14 survivability long term. And he said, you know, that's
15 what they do with humans, you run these kinds of tests and
16 you would require some sort of treatment to assist the
17 animal.

18 MR. O'CONNOR: So what I'm going to know is
19 that there -- you're going to do this analysis, we're going
20 to determine whether or not other genes have been induced.
21 We know today based upon other studies that one gene may be
22 indicating that there's a viral reaction going on. Another
23 is that there may be an immune problem. Another that there
24 may be the potential for cancer there. We have a suite of
25 things that if we look at them they're going to tell us

1 that this animal is not healthy.

2 MS. BOHN: It's compromised.

3 MR. O'CONNOR: Meaning -- well, we think
4 that means it's compromised. And we're going to be able to
5 confirm that through the studies? We may see, you know,
6 this same dynamic that we saw in Olive. Maybe they'll be a
7 viral infection or maybe there won't. Are we going to be
8 able to determine whether or not a particular animal from
9 which a sample came that we analyzed has a viral infection
10 or has a carcinogenic type of situation going on. Or if
11 its immune system is suppressed. What is going on. Are we
12 going to know that or are we just going to have further
13 indicators that there may be some adverse impact but we're
14 not going to be able to determine why the hell the otters
15 aren't back in the areas that we're concerned with. Are we
16 going to get that out of this, Brenda, or.....

17 MS. BALLACHEY: Yeah, let me -- there's two
18 things, two approaches I think that will help us to take
19 that out of here. One is that we have samples from two
20 areas, Knight and Montague, the oiled and the non-oiled
21 area, for almost all of the years that we would be looking
22 at, and so we can look at averages. Now that doesn't still
23 come quite to the question of individual responses. So the
24 second historical data set that will help is that on many
25 of these animals for which we would like to go back and re-

1 analyze the samples, we also know movements of the animals,
2 we have information on survival, we have information on
3 their health and condition at the time of capture and we
4 have blood data. So it's not just the gene panel that will
5 allow us to say something about these otters. We have a
6 large amount of additional information on each individual.
7 Not on all the individuals we sampled because certainly
8 there were many that did not receive radios and were never
9 seen again but for a good subset we had the radio tracking
10 information and for a subset of that, we also have the
11 diving information that will give us some indication as to
12 how much they used the intertidal areas.

13 So this, in conjunction with all of that
14 other data, I think it should come together and hopefully
15 it will give us the answers that we're looking for.

16 MS. BOWEN: We also have a suite of captive
17 animals we've been working with and taking blood samples
18 from them in conjunction with full health assessments. And
19 those we're using as our controls with which to compare all
20 the free-ranging animals. We've looked at about a hundred
21 California otters so far and we feel that our technique is
22 able to indicate full exposure and a variety of other
23 health issues that have come up.

24 MS. BALLACHEY: And on top of the
25 California samples, as sort of an alternate data set for

1 comparison, there are plans to capture animals on the
2 Alaska Peninsula this summer in the Katmai and the gene
3 expression will be determined on all of those. So it's
4 another -- basically another reference sample by which to
5 compare the -- to which to compare the Prince William Sound
6 sample.

7 MR. O'CONNOR: Well, one of my other
8 questions or concerns is with the age, if you will, of the
9 samples that we're going to be looking at. They're old,
10 relatively speaking, and I'm assuming that we're
11 comfortable with the way they were preserved and that --
12 I'll just leave it at that. We're comfortable with the way
13 they were preserved, but we are going to be getting fresh
14 samples as well, are we not, so that we can be sure that
15 what we're doing with the old samples is really relevant.

16 MS. BALLACHEY: Yes. The short answer to
17 that is yes. We do also have concerns about some of the
18 older samples particularly, Craig, and that's why this is
19 put forth in a two-phase -- as a two-phase proposal, so
20 that in phase one we can really nail down whether or not
21 those older samples are going to be valuable and is quite
22 confident that for a subset of the 15 genes there will
23 certainly be value in all of the old samples, but we will
24 have to see which ones are more consistent over time versus
25 less consistent. Liz, do you want to add to that?

1 MS. BOWEN: No, that was perfect there.
2 We're fully certain all the livers were stored at minus 80
3 or in liquid nitrogen, which is exactly the way we would do
4 it now. And as Brenda said, there are a couple of genes, I
5 think three of the genes in our panel that have very short
6 half-lives and those are the ones we're concerned about
7 with the older blood samples. And we'll be able to make a
8 comparison between the livers and the blood and
9 historically and today, and determine that. So we'll know
10 for sure one way or the other. It won't be a guess.

11 MR. O'CONNOR: Was this peer reviewed by
12 the science panel?

13 MS. HSIEH: This was peer reviewed -- this
14 was reviewed by the science panel. The comments came back
15 -- several -- many of the science panel said they just
16 didn't have the expertise to deal with it.

17 MR. O'CONNOR: All right.

18 MS. HSIEH: There were four reviewers that
19 gave comments and they were generally positive. There was
20 no exceptional issue of any sort.

21 MR. O'CONNOR: Can you do it any quicker?

22 MS. HSIEH: Well, you're getting your....

23 MS. BALLACHEY: This analysis?

24 MS. HSIEH:first phase one results
25 are coming in by October 1st. That's pretty darn quick in

1 our world.

2 MR. O'CONNOR: Well, yeah, I know but those
3 of us who are more -- are less patient than others are --
4 would like to know some of these answers sooner. All
5 right.

6 CHAIRMAN ZEMKE: Further questions?

7 MR. TILLERY: My question actually was
8 timing, which he just touched on. So phase one would be
9 October 1. When would you have phase two? Assuming you
10 move -- you go forward.

11 CHAIRMAN ZEMKE: It's page 8 and 9 of the
12 write up. There's.....

13 MS. HSIEH: I believe it was around March
14 2010 is what I think I was just looking at.

15 MS. BOHN: And we have interpretation of
16 phase one and two completed by December 31st of 2010.
17 We're doing -- if we proceed with phase two, we would do
18 the sample analysis and begin interpreting results, you
19 know, prior to that by September 30th so you could have
20 some preliminary results.

21 MR. TILLERY: December 31st, 2010?

22 MS. BOHN: For the complete project.

23 MR. TILLERY: Oh.

24 MS. BOHN: For phase one you'd start --
25 you'd have it by December of next year.

1 MS. HSIEH: 2009.

2 MS. BOHN: Yeah.

3 CHAIRMAN ZEMKE: Okay.

4 MS. HSIEH: It's on page 8 of the proposal,
5 is the time line.

6 CHAIRMAN ZEMKE: Page 8 of the briefing
7 packet.

8 MR. O'CONNOR: Yeah. This is also going to
9 tell me if there's not a problem; right?

10 MS. BOWEN: Yes.

11 MS. BALLACHEY: This should be able to tell
12 you if there's not a problem.

13 MS. BOWEN: Yes.

14 MR. O'CONNOR: Which is a good answer too;
15 right?

16 CHAIRMAN ZEMKE: It's also not.....

17 MR. O'CONNOR: I want to be sure that this
18 is -- I mean, this is not a light switch, I realize that.
19 This is not a yes or no decision, but we can at least have
20 a good, solid sense as to whether or not continued exposure
21 to oil is causing problems for these animals. It certainly
22 is causing the response, but, you know, they could have had
23 a beer and CYP1A would have been elevated. It's not a --
24 you know, there are responses and there are responses.
25 We're concerned with those that may be adverse and what

1 they are, and are they influencing the ability of this
2 resource to recover.

3 MS. BALLACHEY: I think we should be able
4 to tell you that.

5 MR. O'CONNOR: All right.

6 MS. BALLACHEY: And with the California
7 animals that we're looking at right now we can determine
8 quite a number of things.

9 CHAIRMAN ZEMKE: Also looking at long term
10 protocols from monitoring and this potentially is a --
11 seems like a useful protocol that could be used for that
12 long term monitoring and it seems like it's a relatively
13 efficient way to doing it at a reasonable cost, so I'd be
14 tending to support particularly the phasing of the project
15 funding as written.

16 MR. TILLERY: Mr. Chairman.

17 CHAIRMAN ZEMKE: Mr. Tillery.

18 MR. TILLERY: Can I ask you, just as a
19 procedural matter, what is -- are we being asked to approve
20 right now the entire project to 205,000 with it just then
21 to be distributed as we go along or is this going to come
22 back up for like a new approval? Or how is it -- what's
23 the plan?

24 MS. HSIEH: I wrote the resolution to
25 approve the project total. My only question would be when

1 you get the preliminary interpretation of lab results Decem
2 -- this December 2009 for phase one, that if there are a
3 report or some communication with the executive director
4 and the staff here at EVOS could have one so that we could
5 be part of the discretionary process of whether the results
6 are robust enough to continue on with it. But I have
7 written the resolution to -- which we have found easier in
8 these multi-year projects to approve the entire project
9 total. And if there was a need for a change, then I would
10 initiate that shift.

11 MR. O'CONNOR: All right. I have a motion
12 then. One of those spontaneous motions that I have written
13 for me.

14 CHAIRMAN ZEMKE: Go ahead, Mr. O'Connor.

15 MR. O'CONNOR: All right. I would move
16 that we approve funding the Miles project 090841, CYP1A1
17 gene expression verification study, reevaluation of sea
18 otter samples from the Exxon Valdez oil spill for FY-2009
19 in the amount of 75,540, including G&A of 13,236. Is there
20 any other piece that we need in.....

21 CHAIRMAN ZEMKE: There's still.....

22 MR. O'CONNOR: I'll finish the rest of it,
23 but.....

24 CHAIRMAN ZEMKE: Next page.

25 MR. O'CONNOR:I want to be sure we've

1 got the little details. Yeah, no, I understand that. It
2 always seems that in the end we forgot to approve something
3 else in the -- okay. FY-2010 in the amount of \$116,959,
4 including G&A of 10,527; and 2011 in the amount of 13,236,
5 including G&A of 1,192, for a grand total amount of
6 \$205,735. I would so move, Mr. Chairman.

7 CHAIRMAN ZEMKE: As moved, is there a
8 second?

9 MR. ELTON: Second.

10 CHAIRMAN ZEMKE: It's been seconded.
11 Discussion?

12 MR. TILLERY: Mr. Chairman.

13 CHAIRMAN ZEMKE: Yes.

14 MR. TILLERY: I don't know if this needs to
15 be said in the motion or it needs to be amended, but I do
16 concur with what the executive director was suggesting,
17 which is that it come back to the executive director at the
18 end of each phase with a report on how that phase went and
19 that the executive director then bring it to the council's
20 attention if there is really a need to make a change, to
21 not go forward with another phase.

22 CHAIRMAN ZEMKE: So would you like to put
23 that as a friendly -- or an amendment or maybe include it
24 in the resolution? We could try -- I think there's
25 discussion over here about it. Stand down for a second.

1 MR. O'CONNOR: I would -- as the maker of
2 the motion, I would accept that as a friendly amendment and
3 would furnish an amendment myself, and that would be to try
4 to accelerate this as much as we possibly can.

5 CHAIRMAN ZEMKE: So the friendly amendment
6 would be to release the funds for phase two upon successful
7 completion of phase one or positive result, is essentially
8 what I heard.

9 MR. TILLERY: Mr. Chairman, I guess -- and
10 the more I'm thinking about this and what bothered me to
11 begin with is that I really am not sure that this project
12 should be funded in fiscal year phases but simply should be
13 fund and that we know there are these phases and the before
14 proceeding from phase one to phase two, it should come back
15 to the executive director who could then come to us. And
16 it's kind of what Mr. O'Connor just said. If you were to
17 complete the phase one early but you don't want to have to
18 sit around waiting for the next fiscal year in order to
19 start expending money for phase two.

20 MS. HSIEH: I would agree with that as well
21 because Jen and I were just having a little sidebar here
22 about the fiscal year and when the money is coming in
23 September but your report doesn't come out till December
24 and the funding. So I think that might be an excellent
25 idea.

1 CHAIRMAN ZEMKE: In the.....

2 MS. HSIEH: To go ahead and phase the
3 entire amount of 205,735 and then add an amendment, just --
4 and our resolution will express that as each phase
5 completes itself, the PI will communicate with EVOS staff
6 and receive approval for the expenditure of the next
7 phase's amounts.

8 CHAIRMAN ZEMKE: So the motion as presented
9 by Craig O'Connor is sufficient to meet that and needs no
10 amendment to meet those concerns.

11 MS. HSIEH: His motion I believe segmented
12 out for fiscal years, so he would actually get to ad lib
13 and be spontaneous with a motion approving the entire
14 amount of \$205,735 for this project; however, spending on
15 the different phases -- phase amounts being dependent upon
16 approval by the executive director.

17 CHAIRMAN ZEMKE: So.....

18 MR. O'CONNOR: What she said.

19 CHAIRMAN ZEMKE: So the motion as amended
20 but just take out the individual.....

21 MS. HSIEH: Correct.

22 CHAIRMAN ZEMKE:fiscal years and just
23 reference the \$205,000 total with sufficient GA that this
24 needs. And that's the friendly motion amendment. And it's
25 accepted by Mr. O'Connor. So I guess we'll vote on the --

1 for Robert's Rule of Order, I guess we should actually vote
2 on the amendment first. All those in favor of the
3 amendment say aye.

4 IN UNISON: Aye.

5 CHAIRMAN ZEMKE: Okay. All opposed say
6 nay.

7 (No audible responses)

8 CHAIRMAN ZEMKE: Hearing none, we go back
9 to the original motion. All those in favor of the original
10 motion say aye.

11 IN UNISON: Aye.

12 CHAIRMAN ZEMKE: Opposed?

13 (No audible responses)

14 CHAIRMAN ZEMKE: Hearing none, the motion
15 is passed. So that concludes our regular business. Is
16 there any other comments, discussion that we need to go
17 through? There is an item 10, a tentative executive
18 session. Is there any need.....

19 MS. HSIEH: No.

20 CHAIRMAN ZEMKE:to enter into that?

21 MR. O'CONNOR: No.

22 CHAIRMAN ZEMKE: Hearing none, any other
23 discussion?

24 (No audible responses)

25 CHAIRMAN ZEMKE: Well, I guess with no

1 other discussion, I want to thank everybody for their
2 attendance and the excellent information and staffing work
3 that we got to make this a successful meeting again. And
4 thank you very much for the public that did comment.
5 Stacy, again. And for the Old Harbor Native Corporations
6 individuals that -- and village people that came out to
7 give us their insights and information and the refuge
8 staff. We really appreciate that. Thanks all.

9 MR. O'CONNOR: I move we adjourn. Is that
10 what we need to do?

11 CHAIRMAN ZEMKE: Hearing a motion.

12 MR. HARTIG: Second.

13 CHAIRMAN ZEMKE: Hearing any opposition?

14 (No audible responses)

15 CHAIRMAN ZEMKE: None. Then the meeting is
16 adjourned as of 12:09.

17 (Off record - 12:09 p.m.)

18 (END OF PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
) ss.
STATE OF ALASKA)

I, Joseph P. Kolasinski, Notary Public in
and for the state of Alaska and reporter for Computer
Matrix Court Reporters, LLC, do hereby certify:

THAT the foregoing pages numbered 4 through
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Exxon Valdez Oil Spill Trustee Council's Meeting recorded
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THAT the Transcript has been prepared at
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EXXON VALDEZ TRUSTEE COUNCIL, 441 W. 5th
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DATED at Anchorage, Alaska this 8th day of
June 2009.

SIGNED AND CERTIFIED TO BY:

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/12