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EXXON VALDEZ OIL SPILL

TRUSTEE COUNCIL

Public Meeting

Thursday, January 16, 2009

8:43 o'clock a.m.

441 West 5th Avenue, Suite 500

Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

STATE OF ALASKA - DEPARTMENT MR. DENBY LLOYD

OF FISH AND GAME: (CHAIR) Commissioner

U.S. DEPARTMENT OF AGRICULTURE, MR. STEVE ZEMKE for

U.S. FOREST SERVICE MR. JOE MEADE, Supervisor

STATE OF ALASKA - DEPARTMENT MR. LARRY HARTIG

OF ENVIRONMENTAL CONSERVATION: Commissioner

U.S. DEPARTMENT OF INTERIOR: MR. HANS NEIDIG

DEPARTMENT OF INTERIOR

STATE OF ALASKA - MR. TALIS COLBERG and

DEPARTMENT OF LAW: MR. CRAIG TILLERY

U.S. DEPARTMENT OF COMMERCE, MR. CRAIG O'CONNOR for

National Marine Fisheries Svc: MR. JAMES W. BALSIGER

(By Phone) Administrator, AK Region

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1 STAFF PRESENT:

|                               |                            |
|-------------------------------|----------------------------|
| 2 ELISE HSIEN                 | Interim Executive Director |
| 3 JENNIFER SCHORR             | Interim Deputy Director    |
| 4 LYNETTE SCHROEDER-EINWILLER | Administrative Manager     |
| 5 CHERRI WOMAC                | Associate Coordinator      |
| 6 MICHAEL SCHLEI              | Data Systems Manager       |
| 7 BRENDAN MCGEE               | Analyst Programmer         |
| 8 JOELLEN LOTTSFELDT          | Envir. Prg. Specialist     |
| 9 CARRIE HOLBA                | ARLIS                      |
| 10 REBECCA TALBOTT            | Communication & Outreach   |
| 11 JENNIFER KOHOUT            | U.S. Fish & Wildlife Svc.  |
| 12 DOUG MUTTER                | Department of the Interior |
| 13 BOB MITCHELL               | Department of Revenue, AK  |

14 BY PHONE

|                     |                            |
|---------------------|----------------------------|
| 15 DEDE BOHM        | USGS                       |
| 16 DAWN GERMAINE    | USDA                       |
| 17 CAROL FRIES      | ADNR                       |
| 18 ROWAN GOULD      | U.S. Fish & Wildlife Svc.  |
| 19 STEVE MOFFITT    | AK Department Fish & Game  |
| 20 MIKE ZEVENBERGEN | U.S. Department of Justice |
| 21 PETE HAGEN       | NOAA                       |

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P R O C E E D I N G S

(Anchorage, Alaska - 01/16/2009)

(On record - 8:43 a.m.)

CHAIRMAN LLOYD: This is the Exxon Valdez Oil Spill Trustee Council and it's the State's chair. I'm Denby Lloyd and how about if just do some quick introductions around so that people on the phone know who's here in attendance. Hans.

MR. NEIDIG: Hans Neidig, U.S. Department of Interior.

MR. COLBERG: Talis Colberg, Attorney General.

MR. ZEMKE: Steve Zemke, U.S. Department of Agriculture, Forest Service.

MR. HARTIG: Larry Hartig, DEC Commissioner.

CHAIRMAN LLOYD: And do we have Craig O'Connor on the phone?

MR. O'CONNOR: You do.

CHAIRMAN LLOYD: Good to hear your voice, Craig. Thank you.

All right. I wonder, have we in the past gone through an identification of phone sites or do we just assume that when people want to talk they'll respond in public comment period?

1 MS. WOMAC: Ask who's online.

2 CHAIRMAN LLOYD: Ask who's online. Okay.

3 Well, it always gets messy, but I guess if people can take  
4 turns, would the line stations on the phone please identify  
5 yourselves slowly?

6 MS. GERMAINE: This is Dawn Germaine of the  
7 USDA Office of the General Counsel.

8 CHAIRMAN LLOYD: Thank you.

9 MS. GERMAINE: Juneau.

10 MR. MITCHELL: This is Bob Mitchell. Bob  
11 Mitchell from the Department of Revenue is also online.

12 CHAIRMAN LLOYD: Thank you.

13 MR. GOULD: Rowan Gould with U.S. Fish and  
14 Wildlife Service in Washington, D.C.

15 CHAIRMAN LLOYD: Thank you.

16 MR. RICHARDSON: Tim Richardson with the  
17 American Land Conservancy.

18 MR. FERREN: Howard Ferren, Alaska SeaLife  
19 Center.

20 CHAIRMAN LLOYD: Thanks, Howard.

21 MR. MOFFITT: Steve Moffitt with Alaska  
22 Department of Fish and Game in Cordova.

23 CHAIRMAN LLOYD: Thanks, Steve.

24 MR. PEGAU: Scott Pegau with the Oil Spill  
25 Recovery Institute.

1                   CHAIRMAN LLOYD: Thanks, Scott.

2                   MS. LAPORTE: Barat LaPorte with Patton

3 Boggs.

4                   CHAIRMAN LLOYD: Thank you.

5                   MR. ZEVENBERGEN: This is Mike Zevenbergen

6 with the U.S. Justice Department in Seattle.

7                   CHAIRMAN LLOYD: Thanks.

8                   MS. FRIES: Carol Fries at DNR.

9                   CHAIRMAN LLOYD: Thanks, Carol.

10                  MR. HAGEN: Pete Hagen with NOAA Fisheries

11 Juneau, but actually in Vancouver.

12                  CHAIRMAN LLOYD: Thanks, Pete. And I don't

13 know who else was trying at the same time, go next.

14                  MS. BOHN: Dede Bohn at USGS.

15                  CHAIRMAN LLOYD: Thank you. Is there

16 anybody else on the phone?

17                  (No audible responses)

18                  CHAIRMAN LLOYD: All right. Thanks.

19 Moving on to Item 2, for the agenda, consent agenda. We

20 have an agenda in front of us, do we have any additions or

21 deletions or shall we approve the agenda as is? Are there

22 any suggestions?

23                  MR. HARTIG: I'll move to approve the

24 agenda.

25                  CHAIRMAN LLOYD: Do we need to add.....

1 MR. O'CONNOR: I'll second that.

2 CHAIRMAN LLOYD: Do we need to add the  
3 items under -- different speakers under some of these items  
4 or can we just call them as we go? We don't need to  
5 formally.....

6 UNIDENTIFIED SPEAKER: Just call them out.

7 CHAIRMAN LLOYD: Okay. Good. We have a  
8 motion and a second to approve the agenda. Any objection?

9 (No audible responses)

10 CHAIRMAN LLOYD: Seeing none, we're on to  
11 approval of the meeting notes. And as I understand it,  
12 there was a renewed copy handed out to us at our place  
13 mats? So it's a draft labeled in red, 1/13/09 for a  
14 meeting on September 29th. As I understand it, the changes  
15 from previous drafts we've seen are very, very minor.

16 MS. WOMAC: Right. Just adding meeting  
17 notes.

18 CHAIRMAN LLOYD: Just adding the words  
19 meeting notes. So if you reviewed a previous version,  
20 presumably the substance is the same. Do we have a motion  
21 to approve the meeting notes for September 29?

22 MR. COLBERG: I so move.

23 MR. HARTIG: Second.

24 CHAIRMAN LLOYD: Moved and seconded. Any  
25 objection?

1 (No audible responses)

2 CHAIRMAN LLOYD: Seeing none, go on to Item  
3 3, approval of asset allocation. And contrary to the  
4 agenda in front of us, can we have an introduction from Jen  
5 on the asset allocation?

6 MS. SCHORR: Good morning. I'm Jen Schorr,  
7 and I'm Deputy Executive Director. And I just wanted to  
8 report that in November the authorized -- the shifting of  
9 assets within the asset allocation categories. And we  
10 shifted 6.7 million dollars from the long term fixed income  
11 pool to the Russell 300 [sic] index. If you have any  
12 additional questions about that transaction, I would  
13 probably defer those to Bob Mitchell, who's on the phone  
14 from Department of Revenue, and who will next be presenting  
15 the asset allocation presentation to you.

16 CHAIRMAN LLOYD: Okay. Are there any  
17 comments or questions on what Jen has just let us know,  
18 change in asset allocation. Craig, occasionally I'll ask  
19 you in particular since you're far away. But do you have  
20 any comments on that so far?

21 MR. O'CONNOR: No, I don't, although I  
22 would appreciate if Jen, when she speaks, or whoever, be  
23 closer to a microphone. I can barely hear her.

24 CHAIRMAN LLOYD: Okay. Thank you.

25 MR. O'CONNOR: I got the gist of what she

1 was saying.

2                   CHAIRMAN LLOYD: All right. We'll shift  
3 some microphones here. With that, Bob Mitchell, you're on  
4 the line. Would you like to go ahead, please?

5                   MR. MITCHELL: You bet. And I'll be  
6 reading from the packet item that is entitled Investment  
7 Presentation. The goal of my presentation is to provide  
8 context for the Department of Revenue's recommended target  
9 asset allocation for the three investment funds for which  
10 we act as a fiduciary and custodian.

11                   There are four main topics that I will be  
12 touching on, including the role that the Department of  
13 Revenue plays with respect to these funds. I will be  
14 providing excerpts from a presentation made by a general  
15 consultant that we hire at the treasury division within the  
16 Department of Revenue, but also serves as the General  
17 Consultant for the Alaska Retirement Management Board.  
18 Included in those excerpts will be the capital market  
19 assumption that are provided by the general consultant  
20 which formed the raw material from which we derive target  
21 asset allocations. And I'll be displaying the recommended  
22 asset allocation at the end of the presentation.

23                   On page two of my presentation, I'll begin  
24 with the role that the Department of Revenue plays. We act  
25 as a custodian for the assets. Those assets are custodied

1 at State Street Bank, which acts as the official book of  
2 record for the assets.

3                   In addition to that, we convey the capital  
4 market assumptions that we receive from our general  
5 consultant, Callan Associates. We receive those on a  
6 annual basis, generally in the spring or February, March,  
7 April time frame. The last set was presented to us in  
8 February 2008.

9                   From that we also recommend target asset  
10 allocation to the Council to achieve its investment  
11 objective. Our understanding is the investment objective  
12 in the three funds is to achieve a five percent rate of  
13 return after inflation, otherwise known as a five percent  
14 real rate of return. And we'll be addressing that in this  
15 presentation.

16                   In addition to recommending a target asset  
17 allocation, we actually managed the bond portion of the  
18 asset allocation internally and the senior investment  
19 offices that oversees the bond assets here at the State,  
20 including the State and retirement board.

21                   In addition to internally managed bond  
22 portfolios, we have two externally managed equity  
23 portfolios. One for domestic equities and one for  
24 international equities from developed markets. And those  
25 are managed by State Street Global Advisors. And those are

1 passive or index funds.

2                   Moving to page three, I'll begin walking  
3 through briefly the excerpts from the presentation that was  
4 made by our general consultant in February, our general  
5 consultant and account associates, and the primary account  
6 person there is Michael O'Leary.

7                   Page four begins to provide some  
8 perspective behind how accounts associates develop annual  
9 capital market assumptions. They use a five-year planning  
10 horizon because in their opinion trying to determine what  
11 the returns are going to be over a shorter period of time,  
12 like annually, is very difficult to do and may result in  
13 largely fluctuating estimates that result in institutional  
14 portfolios changing their target asset allocation  
15 frequently and incurring costs.

16                   So they recommend a five-year planning  
17 horizon, however, we go through this exercise every year.  
18 But one that that should -- helps to dampen the changes in  
19 those five-year assumptions are the fact that they do look  
20 at long term returns for each asset allocation and the  
21 assumptions they use are in the context of historical  
22 return. They also look at -- focus on real returns. So  
23 they essentially provide an inflation assumption and then  
24 build on that to develop return and risk and correlation  
25 assumptions between the asset classes on an annual basis.

1                               Page five goes into a little more detail.  
2 They make efforts to make sure that the set of assumptions  
3 that they provide are internally consistent. The  
4 optimization process that results from these input is very  
5 sensitive to the assumptions made and they do make efforts  
6 to develop a settlement fund that will result in asset  
7 allocations that do not change dramatically from a year to  
8 year basis. They start with inflation, as I mentioned  
9 before, and from that they build a bond premium over  
10 inflation, and then a stock premium over what the expected  
11 return is for bonds.

12                              Page six is the beginning of a series of  
13 pages that show historical context for their process. On  
14 page six is the rolling five-year return of inflation and  
15 the CPI urban inflation. And you can see that over this  
16 period of time, which goes back to the late seventies,  
17 inflation has averaged about 4.6 percent. The most recent  
18 five-year number is about 3 percent and subsequent to this,  
19 in 2008, inflation was .1 percent.

20                              On page seven shows a similar time series  
21 of returns for the bond market as represented by the Lehman  
22 Aggregate Index, which is a US index and investment grade  
23 bonds. So it does not include high yield. The most recent  
24 -- the long term number going back to the early eighties in  
25 this instance is about 9 percent, and you can see that the

1 level of return has varied greatly as we started the period  
2 at -- with high -- much higher interest rates. And as  
3 those rates fell, that was one of the back bonds, so we  
4 experienced a period of high returns. But more recently,  
5 the return of the bond market has been more close  
6 associated of the yield of the bond market. We have  
7 haven't seen a dramatic change in yields exist up to 2008,  
8 the beginning of 2008.

9                   On page eight, demonstrate a belief that  
10 Callan has, which is that the current yield of the bond  
11 market is a good predictor of what its returns are likely  
12 to be over the next five years. They graphically  
13 demonstrate this. And looking at, you know, 2008 through  
14 2012 projection, if history is a prologue, the returns over  
15 the next five years should be between four and six percent.  
16 And again, this is -- this presentation was made in  
17 February of 2008.

18                   Page nine shows a time series for returns  
19 going back to 1930 of large-cap stocks. You can see that  
20 the returns, the rolling five-year return has varied fairly  
21 considerably around its long term average of 10.4 percent.  
22 The most recent five-year return is closer to 13 percent.

23                   Page 10 takes a similar analysis to the S&P  
24 500, except this time going back to 1977. Again, we  
25 experienced a lot of volatility about the long term return.

1 And the return over this time period has been higher than  
2 what we've seen over the period that goes back to 1930.  
3 About two percentage points higher over this time period.

4                   Page 11 shows -- switches the analysis from  
5 -- it shifts it from return to the volatility as measured  
6 by standard deviation. So the long term standard deviation  
7 of the S&P 500 has been about 16 percent, going back to  
8 1977. Looking at the blue line, you can see that the most  
9 recent observed volatility in the S&P 500 has been below  
10 average at about 10 percent.

11                   Page 12 provides contacts for determining  
12 whether stocks are rich or cheap. The long term average is  
13 in the neighborhood of 17, price to earnings. You can see  
14 what putting -- Callan put the two standard deviation  
15 bracket around it and you can see that there were periods  
16 of time in the late nineties where stocks appeared to be  
17 quite expensive. But according to the analysis, Callan  
18 believes that if you believe that the earnings will hold up  
19 as the price earnings ratio is pointing to, stocks as being  
20 reasonably priced.

21                   Page 13 shows international stock  
22 historical returns similar to the other time series that  
23 we've seen. The most recent -- the long term average is  
24 11.3, similar to what we've seen over the same time period  
25 for the S&P 500, however the most recent five-year returns

1 is approaching 22 percent. The large reason for the  
2 enhanced returns of international stocks in recent years  
3 has been the devaluation of the US dollar. And as the  
4 dollar is weakened, the returns of the foreign equity  
5 markets has been enhanced by that in dollar terms. If you  
6 were to look at this chart in local currencies, the returns  
7 would be very similar to what we experienced with the S&P  
8 500 in recent years.

9                   Page 14 presents the return and standard  
10 deviation capital market assumptions from our general  
11 consultant. You can see there are a lot of asset classes  
12 here. The funds that we are fiduciary for, invested in  
13 three of these asset classes. Broad domestic equity,  
14 international equity and domestic fixed income.

15                   So here are the capital market assumptions  
16 for return and standard deviation. I will not that, as you  
17 may be aware, the stock market had a very difficult time in  
18 2008 with the Russell 3000, a measure of broad domestic  
19 stocks returning -7.3 percent. That's a far -- that is a  
20 -- quite a distance from the 9 percent return that we had  
21 projected. Looking at the standard deviation of 16.9, that  
22 would be 3, almost 3 standard deviations negative from the  
23 capital market assumptions. You see similar results with  
24 international equities.

25                   The bond market being, you know, an asset

1 class that has a lower standard deviation, despite  
2 significant difficulties in the fixed income market,  
3 managed to generate a return of 5.224 percent per year,  
4 which is, you know, almost on target for -- from where  
5 Callan was projecting.

6                               Page 15 shows a correlation matrix between  
7 the asset classes. There are three inputs that are  
8 required to do a -- an optim -- a target asset allocation  
9 analysis return, standard deviation and the correlation  
10 amongst the asset classes.

11                               I don't want to spend too much time on this  
12 but I will note that if you go down the list to domestic  
13 fixed and go over one to the first column, you'll see a  
14 number of .2. Correlations ranged between -1 and 1, and  
15 correlation numbers near 0 essentially say that those two  
16 asset classes are relatively uncorrelated. Having a .2  
17 number between bonds and stocks generally justifies an  
18 asset allocation that would include both to dampen the  
19 volatility of returns.

20                               Page 16 shows the analysis the Department  
21 of Revenue has conducted, utilizing the Callan capital  
22 market assumptions. The first column shows the existing  
23 target asset allocation for the three funds, which is 47  
24 percent broad market equity, 17 percent international  
25 equity, and 36 percent bonds. That is expected to generate

1 a return of 7.65 percent with a volatility about that  
2 expectation of almost 11 percent.

3                   To the right of that are a series of asset  
4 allocations that will minimize the standard deviation for a  
5 given expected return. You start with 7 percent in the  
6 second column and moving in increments of a quarter  
7 percent, all the way up to 9 percent. Callan's estimate  
8 for inflation, which is the underpinning for the rest of  
9 its asset -- it's return expectations, is 2.75 percent.  
10 Utilizing that as the base, to achieve a 5 percent return  
11 after inflation would imply a return target of 7.75  
12 percent. The blue column, column 5, is the asset  
13 allocation that minimizes the risk or standard deviation of  
14 the returns to achieve a 7.75 percent asset allocation.  
15 It's very similar to the existing target asset allocation.  
16 The only two changes would be a three percentage point  
17 increase to the target for international equities and a  
18 three percent decrease for the target for the bond  
19 component of that portfolio.

20                   Page 17 summarizes the Department of  
21 Revenue's recommendation. The EVOS funds targeting a five  
22 percent return above inflation. Given that Callan's  
23 capital market assumptions are 2.57 percent for inflation,  
24 7.5 to 7.75 percent return target, and to achieve that with  
25 a of minimum investment risk, again, based on the Callan

1 capital market assumptions that imply the asset allocation  
2 that we see at the bottom of page 17.

3                   That concludes my presentation. I'm more  
4 than happy to answer any questions that the board may have.

5                   CHAIRMAN LLOYD: Thank you very much. Any  
6 questions from Council members here in the room?

7                   (No audible responses)

8                   CHAIRMAN LLOYD: Craig, how about you?

9                   MR. O'CONNOR: Well, I don't have the  
10 report, so I'm just going to ask for the bottom line. How  
11 did we do in '08.

12                   MR. MITCHELL: The funds, given their  
13 weight equities, had a performance -- they varied slightly  
14 due to -- they had the same target asset allocation, but  
15 the returns varied slightly given the cash flows for each  
16 of the three funds. But in general they returned minus --  
17 about minus 27 percent for the year ending -- ending  
18 November 30th. We don't have the numbers for December 31  
19 yet. So that would be the one-year return, 12 month return  
20 through November 30th.

21                   MR. O'CONNOR: Which translate into how  
22 many dollars?

23                   MR. MITCHELL: Well, the total amount of  
24 assets now is about 144 million, so, you know, it would be,  
25 I don't know, 30-ish million, something like that, in loss,

1 due to the investment performance.

2 MR. O'CONNOR: All right. Thank you.

3 MR. MITCHELL: Sure.

4 CHAIRMAN LLOYD: Anything else, Craig?

5 MR. O'CONNOR: No, you guys did better than  
6 I did. Not that I lost 30 million dollars but.....

7 CHAIRMAN LLOYD: That's good to know,  
8 Craig. Thank you. This is an action item and since we  
9 don't seem to have any further questions, we do have a  
10 resolution following this report. Craig, I guess I'm not  
11 sure what you have in front of you. Do you have a copy of  
12 draft resolutions?

13 MR. O'CONNOR: Yes, I do.

14 CHAIRMAN LLOYD: So we're looking at  
15 resolution 09-01, which would approve the asset allocation.  
16 In summary, that's for Equities Broad 47 percent. Equities  
17 International, 20 percent. Fixed Income - Domestic, 33  
18 percent. And then moving on to the next page. So this --  
19 do we have a motion to accept this asset allocation?

20 MR. ZEMKE: Yes, Mr. Chair, I would move to  
21 approve the asset allocation as outlined in resolution  
22 09-01.

23 CHAIRMAN LLOYD: Thank you. Is there a  
24 second?

25 MR. NEIDIG: I'll second.

1                   CHAIRMAN LLOYD: Any objection? Do we need  
2 to take roll call votes by any chance or is without  
3 objection sufficient? No? That should be sufficient?  
4 Huh?

5                   MS. WOMAC: I think we do because Craig's  
6 not here.

7                   CHAIRMAN LLOYD: Okay. Let's do a roll  
8 call vote. Hans Neidig?

9                   MR. NEIDIG: Aye.

10                  CHAIRMAN LLOYD: Larry Hartig?

11                  MR. HARTIG: Yes.

12                  CHAIRMAN LLOYD: Steve Zemke?

13                  MR. ZEMKE: Yes.

14                  CHAIRMAN LLOYD: Talis Colberg?

15                  MR. COLBERG: Yes.

16                  CHAIRMAN LLOYD: Craig O'Connor?

17                  MR. O'CONNOR: Yes.

18                  CHAIRMAN LLOYD: And I vote aye. Hopefully  
19 that's sufficient. And the next item on the agenda is  
20 public comment, and I think I'll probably go to the  
21 telephone first. We're limiting public comment to three  
22 minutes per person and I guess I'll just ask people to  
23 identify themselves over the phone. If they would like to  
24 make a comment and assuming that we don't get two voices at  
25 once I'll acknowledge that person and entertain comment.

1 Are there any comments from folks on the telephone line?

2 MR. RICHARDSON: This is Tim Richardson.

3 I'd like to make a comment.

4 CHAIRMAN LLOYD: Tim, go ahead, please.

5 MR. RICHARDSON: I'm with the American Land

6 Conservancy and good morning to the Trustees and the staff.

7 I wanted to inform you that a small parcel nomination form

8 from the Natives of Kodiak Inc. should be in the Exxon

9 Valdez office today. Natives of Kodiak is a ANCSA

10 corporation offering 743 acres, the Buskin River State Park

11 and the Kodiak Refuge headquarters for the EVOS

12 consideration as part of the habitat protection program.

13 The parcel was divided by Rezonof Drive and

14 anyone who has driven from the airport to downtown Kodiak

15 has driven through the property, which is on both sides of

16 Rezonof. There's a coastal half with very dramatic cliff,

17 as well as an excellent beach. The Kodiak World War II

18 command bunker for the island's defense system is on that

19 island, the cliff-side portion. Boy Scout Lake is there,

20 also on the coastal side. The Alaska Division of State

21 Parks is the sponsoring agency for the coastal track.

22 On the western side of the property it's

23 also forested and has good roads as well. The Kodiak

24 Island Borough Assembly is the sponsoring agency for that

25 portion of the program to the Trustee Council. Both areas

1 are really nice for hiking and if they become public land I  
2 think that it could -- the Buskin Beach property could be  
3 among the most visited Exxon Valdez habitat restoration  
4 parcels as you've done, just because of its proximity to  
5 the airport, the town, and the road system on the property.

6 I also want to express American Land  
7 Conservancy's gratitude to the Bush administration  
8 Trustees, including Drue Pearce and Randall Luthi, Cam  
9 Toohey and Hans Neidig, as well as NOAA's Jim Balsiger and  
10 Craig O'Connor, and USDA Forest Service's Joe Meade and  
11 Steve Zemke. There have been significant habitat  
12 protection successes on your watch and we're very grateful  
13 to be part of that.

14 The agreement with Koniag on the large  
15 Karluk drainage conservation easement in the Kodiak  
16 National Wildlife Refuge in 2002 is a major win for oil  
17 spill restoration. Also your continuation of habitat  
18 protection in Perenos Bay in 2005 and the current set of  
19 parcels are very promising for that habitat rich area that  
20 could connect public access to all of your north of Afognak  
21 acquisitions from 1993 to today.

22 Lastly, we're expecting to hear the results  
23 of -- from one of the Perenos Bay landowner shareholder  
24 proxy within about 10 days. And the second landowner by --  
25 a second landowner by early February. If the shareholders

1 approve the Trustee Council's September offer, the Council  
2 could consider highlighting those successes during the  
3 upcoming 20th anniversary of the oil spill. I know that  
4 the Rocky Mountain Elk Foundation joins me in extending our  
5 thanks to both the Palin administration Trustees and the  
6 Bush administration Trustees who have compiled these  
7 successes.

8                                 Just one other point. It's probably likely  
9 that in 2009 the Karluk Tribal Council will offer a small  
10 parcel on the lower Karluk for the Trustee Council's  
11 consideration in the habitat arena for a conservation  
12 easement.

13                                 CHAIRMAN LLOYD: Does that conclude your  
14 remarks, Tim?

15                                 MR. RICHARDSON: Yes, it does.

16                                 CHAIRMAN LLOYD: All right. Thank you.

17 Any questions from Trustee Council members?

18                                 (No audible responses)

19                                 CHAIRMAN LLOYD: Nothing here. Craig, how  
20 about you?

21                                 MR. O'CONNOR: No, I'm good.

22                                 CHAIRMAN LLOYD: Thank you.

23                                 MR. O'CONNOR: Thank you for the comments.

24 Appreciate them.

25                                 CHAIRMAN LLOYD: Yeah, thank you very much,

1 Tim. Any other public comments from the telephone?

2 MR. JONES: Hi. This is Roy Jones. I'm  
3 with Old Harbor Native Corporation. If I may be able to  
4 speak for a second?

5 CHAIRMAN LLOYD: Roy, please go ahead.

6 MR. JONES: Yes. I just wanted to let the  
7 Council know that yesterday afternoon Old Harbor had  
8 delivered to you the formal parcel nomination form in the  
9 briefing -- and the briefing booklet combined for the  
10 trustees. This is in follow-up to our earlier work last  
11 July when we provided briefing books and met with the  
12 various Trustee Council members, except for the Department  
13 of Agriculture.

14 There was a letter in September from Emil  
15 Christiansen, also informing the Council that Old Harbor  
16 would like to nominate the parcel. In the interim, we have  
17 worked with the refuge people down in Kodiak as well as  
18 ADF&G to try to provide the Council with as much  
19 information as reasonable to back up the nomination,  
20 including having a sponsor for the proposal. And yesterday  
21 we received a letter from Fish and Wildlife Service, Region  
22 7, to -- agreeing to be the sponsor for the proposal.

23 All of that should be before you and we  
24 look forward to working with the Council and ready to  
25 engage with the Council as appropriate to take the next

1 steps.

2 CHAIRMAN LLOYD: Thank you, Roy. We do  
3 have the notebook from Old Harbor in front of us.

4 Any Trustee Council member questions?

5 MR. NEIDIG: I'd just like to ask Elise or  
6 Jen, what are the next steps then for that proposal?

7 MS. HSIEH: Yeah. Actually, we were  
8 just.....

9 MR. JONES: I'm sorry, did someone ask a  
10 question.

11 MR. NEIDIG: I'm sorry, Roy.

12 CHAIRMAN LLOYD: We're asking a question of  
13 staff with regard to your package, Roy, so stand by.

14 MS. HSIEH: Actually, we just discussed  
15 that this morning and I have to say that I think that the  
16 next step is that Carol Fries at Department of Natural  
17 Resources also needs to receive the packet. And I was  
18 going to ask her, and she's on the phone today. Carol, can  
19 you advise us to the next steps?

20 MS. FRIES: Yes. Once we have the packet we  
21 will sit down with Fish and Wildlife Service and Fish and  
22 Game and go through the information, make a determination  
23 as to whether or not the Fish and Wildlife Service wishes  
24 to proceed further. It appears that -- Roy has indicated  
25 the letter has come from Fish and Wildlife Service saying

1 that they are willing to sponsor the parcel.

2                   So we would evaluate what's required to  
3 look at additional due diligence effort, and then come back  
4 to the Council with a proposal to proceed with due  
5 diligence activities, such as appraisals, the hazmat, and  
6 so on. And I would assume that that would probably come  
7 back to you at your next meeting.

8                   CHAIRMAN LLOYD: Thanks, Carol. Hans, any  
9 follow-up?

10                  MR. NEIDIG: No.

11                  CHAIRMAN LLOYD: Thank you, Carol. Thank  
12 you, Elise. Any other Council member questions?

13                  (No audible responses)

14                  CHAIRMAN LLOYD: None here. Craig, I guess  
15 I will start leaving it to your initiative if you want to  
16 pipe up.

17                  MR. O'CONNOR: Yeah, that's fine. I can  
18 hear everything that's going on quite well.

19                  CHAIRMAN LLOYD: Very good.

20                  MR. O'CONNOR: So I'll interrupt as  
21 necessary.

22                  CHAIRMAN LLOYD: We've come to count on  
23 that. Thank you. Any other comments from the public on  
24 the phone?

25                  MR. PEGAU: Yeah, this is Scott Pegau.

1                   CHAIRMAN LLOYD: Scott, go ahead.

2                   MR. PEGAU: Yeah, I'd like to get a little  
3 bit of a clarification on your policy for presenting  
4 science. At the Alaska Marine Science Symposium the Exxon  
5 Valdez Oil Spill Trustees withdrew five of the  
6 presentations that had been approved. And I don't  
7 understand what the justification for suppressing that  
8 science is. Can you inform me as to what the policy is for  
9 presenting your research results?

10                  CHAIRMAN LLOYD: Well, I'm looking around  
11 for some help. I guess I'll start off by not necessarily  
12 agreeing with the word suppress but let's see if we've got  
13 some staff comments that can help us with the factual  
14 background.

15                  MS. HSIEH: I think Craig Tillery or Craig  
16 O'Connor speak to that. Craig?

17                  CHAIRMAN LLOYD: Mr. Tillery? Mr.  
18 O'Connor? Do you have any comments in that regard?

19                  MR. O'CONNOR: Yes. Materials were not  
20 ready for presentation. The work had not been completed to  
21 the point where it was appropriate to make it publicly  
22 presented. When it is done, it will be.

23                  CHAIRMAN LLOYD: Thanks, Craig. Scott, did  
24 you have any public comment?

25                  MR. PEGAU: Yeah, it's -- you know, kind of

1 unusual that it's -- the choice is the funder's to decided  
2 when their personnel are allowed to actually speak up, and  
3 that's why I was curious what the policy was or if there  
4 was a formal policy on when information from EVOS funded  
5 projects are allowed to be made public.

6 CHAIRMAN LLOYD: Well, thanks, Scott. I  
7 assume that if you wish to, you can follow that up between  
8 meetings with a direct inquiry to the Trustee Council  
9 staff.

10 MR. PEGAU: Okay. Thank you.

11 CHAIRMAN LLOYD: Yeah. Anybody else on the  
12 phone for public comment?

13 (No audible responses)

14 CHAIRMAN LLOYD: I'm hearing none at the  
15 time being, so I'll look around the room. Are there any  
16 folks here who would like to make public comment?

17 (No audible responses)

18 CHAIRMAN LLOYD: And seeing none, I'll  
19 close that portion of the agenda, move on to Item 5, which  
20 is Public Advisory Committee, the PAC comments. And Doug  
21 Mutter, are you online?

22 MR. MUTTER: No, I'm here.

23 CHAIRMAN LLOYD: Oh, sorry. Well, even  
24 better.

25 MR. MUTTER: Even better.

1                   CHAIRMAN LLOYD: Thank you.

2                   MR. MUTTER: I should have stayed home and  
3 been online, it would have been easier. I'm Doug Mutter  
4 with the US Department of the Interior and I'm your  
5 designated Federal official under the Federal Advisory  
6 Committee Act for your Public Advisory Committee. And I'm  
7 here because you have a new Public Advisory Committee.  
8 They met for the first time last week via teleconference  
9 and all the members participated, either here or via phone.  
10 Their first meeting face-to-face is February 4th at the  
11 Alaska Forum on the environment and at that time they'll  
12 elect a chair and a vice chair. And so those -- one of  
13 those two people will be reporting to you in the future.  
14 In the meantime, I'm your man.

15                   There are two vacancies yet on the Public  
16 Advisory Committee, commercial fishing and local  
17 government. And so I'll be working with Cherri and the  
18 EVOS staff to advertise and get some nominations to present  
19 to the Trustee Council in the near future, sometime in the  
20 future on those two slots. So we'll go ahead and work on  
21 that.

22                   There -- the PAC members were asked to just  
23 comment and provide suggestions and ask questions about  
24 several of your current draft products. They weren't asked  
25 to pass a motion or vote or take action because they're new

1 and they had a short time to review those. So what I  
2 wanted to do was just run through each of those documents  
3 and highlight some of the comments that they provided  
4 during the meeting.

5                   They spent a lot of time talking about the  
6 draft integrated Herring Restoration Plan and some of the  
7 key comments were the idea that you need to explain why  
8 some projects were limited or put in a go slow mode. Along  
9 with this, maybe a risk assessment on some of the projects  
10 might be helpful to explain why certain choices were made  
11 on what projects were going to go this year and what were  
12 in the go slow mode.

13                   And a lot of discussion about nutrient  
14 enrichment and what that meant. And it looked interesting  
15 to several of the PAC members as long as it didn't cause  
16 any additional harm. There were some questions about does  
17 it dredge up stuff from the bottom that might be harmful to  
18 fish or plankton.

19                   Also they commented that it would be  
20 helpful to understand the range of the costs for the  
21 various proposed actions and projects on the herring plan.  
22 And they had some discussion about that and the idea that  
23 this was more of a strategic plan was discussed. But there  
24 was a general feeling it would be helpful to know kind of  
25 the range of costs for some of these activities.

1                   Also there was a comment that the  
2 relationship of pink salmon production to herring recovery  
3 needs to be more fully explored so we have a good  
4 understanding of those two.

5                   They also commented on the draft update to  
6 the injured resources and services list. A couple of  
7 comments. It appears that the status of injured resources  
8 and services has not changed in the last three years so  
9 that we've accomplished no restoration. And it's not --  
10 wasn't clear to some of the members why the unknown status  
11 was there. For example, for rockfish or cutthroat trout,  
12 and what can we do about that.

13                   They also reviewed and commented on the  
14 draft 2010 invitation for proposals. One comment was about  
15 past principal investigators who were delinquent on  
16 reports. And one of the members used the term  
17 responsive/responsible bidders. Their feeling was that  
18 final reports, if they aren't turned in that that principal  
19 investigator should not be allowed to submit a proposal for  
20 a new project.

21                   And they talked a lot about that with the  
22 staff and the idea was that -- not to penalize  
23 organizations. For example, the university may have a  
24 professor that's delinquent but you don't want to not let  
25 the university submit proposals, just that professor. To

1 individualize it.

2                   Generally they like the invitation document  
3 and its clarity. They did have a question about what  
4 happened to the community specific category for projects  
5 because in the past couple of years they worked on  
6 community outreach education and local involvement and  
7 there was no category specifically for projects that fit in  
8 that niche.

9                   Also they commented that the proposed  
10 projects in the invitation seem focused on research and  
11 data gathering and not on restoration.

12                   A couple of general comments that they had  
13 regarding hiring an executive director. Their  
14 recommendation was after the executive director is hired,  
15 let them hire the science director to avoid potential  
16 conflicts.

17                   And also there was a request to make  
18 materials to be discussed by the Public Advisory Committee  
19 available on the website so that members of the public  
20 could see what those documents are.

21                   We do have a meeting summary that's drafted  
22 and that's going around. I don't know that you have it  
23 yet, but you'll get that shortly and it shows who all was  
24 in attendance and provides a summary of the discussion.  
25 And the next meeting is February 4th at the forum.

1                   CHAIRMAN LLOYD: Okay. So from that  
2 document we'll have those points that you just laid out?

3                   MR. MUTTER: You will.

4                   CHAIRMAN LLOYD: Thank you. Any Council  
5 member questions or comments?

6                   MR. MUTTER: There -- I don't know if there  
7 are any PAC members on the line that would want to comment.

8                   CHAIRMAN LLOYD: Are there any PAC members  
9 online that would like to augment Doug's comments?

10                  (No audible responses)

11                  MR. MUTTER: Okay. Thank you.

12                  CHAIRMAN LLOYD: Hearing none, thanks,  
13 Doug, very much.

14                  MR. COLBERG: Thanks, Doug.

15                  MR. O'CONNOR: May I -- this is Craig. I  
16 have a question for Doug.

17                  CHAIRMAN LLOYD: Go ahead, Craig.

18                  MR. MUTTER: Sure, after I get up, Craig.

19                  MR. O'CONNOR: Oh, okay.

20                  MR. MUTTER: Okay.

21                  MR. O'CONNOR: Just, I don't understand the  
22 comment on hiring an executive director and a science  
23 director being a conflict if the Trustee Council makes  
24 decisions on both of those. Why do you -- why do they  
25 think the executive director should be left to hire the

1 science director? Both individuals, both positions, report  
2 to the Trustee Council. What's the thinking there?

3 MR. MUTTER: I guess their thought was that  
4 the science director reported to the executive director, as  
5 did the other staff, and that it would probably be better  
6 to have them in the loop on that decision.

7 MR. MUTTER: All right.

8 CHAIRMAN LLOYD: Well, is that clear  
9 that.....

10 MR. O'CONNOR: All right. Thanks.

11 CHAIRMAN LLOYD: .....science director  
12 reports directly to the Council rather than to the  
13 executive director?

14 MR. O'CONNOR: Are you asking me that?

15 CHAIRMAN LLOYD: Actually, I am. Yeah.

16 MR. O'CONNOR: Yeah. Well, that's kind of  
17 funny. The executive -- you know, maybe in day-to-day  
18 operations, I think everybody reports to the executive  
19 director, but in the end, it's the Trustee Council that's  
20 in charge of the operations and responsible for overseeing  
21 those. And I don't -- the executive director is not an  
22 autonomous position from the Council, and that's what that  
23 implies, that the -- I don't understand this.

24 I can understand having an executive  
25 director engaged in the process of hiring a senior staff

1 person. Absolutely. That makes sense. But as far as  
2 there being a conflict between the science director, I'm  
3 not quite sure how that plays out. I understand that the  
4 science director would report to the executive director as  
5 an administrative matter, but not the conflict issue.

6 CHAIRMAN LLOYD: Okay. Well, maybe Doug  
7 can clarify whether the word conflict was intended to be  
8 that pointed or if it was a more general statement.

9 MR. MUTTER: Well, I think the perception  
10 was that perhaps if you have two people in the office both  
11 reporting to the Trustee Council, there might not be a  
12 synergy there in terms of staff operations. It's better to  
13 have one person in a chain of command to report to the  
14 Trustee Council and work with the staff, realizing of  
15 course all the staff work for you guys, but in most  
16 organizations you don't have two people reporting to the  
17 top committee, you have one.

18 CHAIRMAN LLOYD: Is that your  
19 interpretation or was that a discussion point of PAC?

20 MR. MUTTER: That's what they were  
21 discussing.

22 CHAIRMAN LLOYD: Okay. Thank you.  
23 Anything else, Craig?

24 MR. O'CONNOR: No, unh-unh. I'm just --  
25 you know, since you and I are in the process of recruiting

1 both the executive director and the science director, this  
2 was an interesting bit of input. You and I probably ought  
3 to chat about it a little bit.

4                   CHAIRMAN LLOYD: We can certainly do that.  
5 Thanks, Doug.

6                   MR. MUTTER: Okay.

7                   CHAIRMAN LLOYD: All right. Item 6 is a  
8 briefing on our -- on the 20th anniversary of the Exxon  
9 Valdez Oil Spill and Rebecca Talbott will lead us through  
10 this.

11                   MS. TALBOTT: Great. I think this is  
12 intended just to give you a brief update on currently where  
13 we are. As you know, we're producing a series of  
14 publications, one being the anniversary report, the status  
15 report, it's the 20th edition. Like the 10 year, that's a  
16 fairly lengthy product. We're looking at about 50 pages.  
17 That's in current work right now. I think we're all under  
18 pressure pulling that together and I certainly would make a  
19 note of thanks to some of the agency liaisons and agency  
20 staff, particularly our friends in NOAA who have really  
21 stepped up and helped us put that material together. But  
22 that draft should be coming around to you for your review  
23 in the next week.

24                   Additionally, we have the restoration  
25 notebook series. I brought one just in case you forgot.

1 We used to produce those pretty regularly up until about  
2 1999. We're reproducing a number of these as -- also as  
3 stand-alones. Mostly just available on the website that  
4 people will be able to download directly. Those are the  
5 two principal publications in production.

6                   The short film is on schedule, on track.  
7 Script revisions were made, the voice have been laid down,  
8 and we'll be having that in our hands February 1st.

9                   You might also notice, if you haven't seen  
10 it already, the significant changes that were made to our  
11 website. A real focused effort, thanks to Carol Fries, in  
12 particular, from the State, who helped advise us. But  
13 bringing back some of the accessibility and the  
14 friendliness to the public that was present in past  
15 websites, as well as integrating the enhanced project  
16 management features. We're getting very strong feedback in  
17 response from people on how effective it is.

18                   On that website, very clearly identified,  
19 is a calendar of events for 20th anniversary programs and  
20 activities, and also a forum for people to share ideas.  
21 And the calendar of events now is starting to see increased  
22 use as people post events that are being planned in their  
23 own communities or elsewhere. So that's an interesting  
24 thing to watch. We're also seeing a lot of media traffic  
25 being driven there kind of for one-stop shopping in terms

1 of what events or programs might be happening around Alaska  
2 and elsewhere. So I'd put your attention there.

3                   The exhibit, *Darkened Waters*, which is  
4 owned by the Cordova Historical Society, they're on track  
5 for creating an updated or revised version of that in time  
6 for March 21st -- 24th, and sharing that with other  
7 interested communities around the Sound. I think all of  
8 them have started to communicate effectively together and  
9 that project, I think we're all looking forward to seeing.

10

11                   The last thing I'd point out is the series  
12 of events that are starting to take place, starting with  
13 next week with the Alaska Marine Science Symposium. Thanks  
14 to Craig O'Connor who will be giving the keynote for that  
15 event, and also to the organizers for this Marine Science  
16 Symposium this year. Recognizing the importance of the  
17 spill in Alaska and to the research community, they put a  
18 real focus on that, actually giving the keynote and the  
19 whole launch to the conference being Craig Tillery -- Craig  
20 O'Connor's presentation.

21                   And then they're providing a focused  
22 workshop on herring. And then you do have some individual  
23 PIs who are also presenting current research, such as Craig  
24 Matkin. So we're very appreciative to the organizing  
25 committee for the Marine Science Symposium and I think

1 that's going to be a notable couple of days.

2                   The next event is the Alaska Forum on the  
3 Environment. We have a two day focus on the Exxon Valdez  
4 Oil Spill 20th anniversary. The first day is the day that  
5 we're principally involved with, starting with breakout  
6 sessions in the morning, going into the afternoon. And  
7 then Craig Tillery at lunch time will be providing the  
8 keynote for that day. Thank you to Craig Tillery.

9                   On Tuesday, which is the following day,  
10 it's more of the focus on the human dynamic and the spill  
11 prevention and response. OSRI and Scott Pegau has been  
12 taking the lead on organizing those sessions. They occur  
13 in the afternoon on Tuesday. You also have Dr. Steve  
14 Picou, who is going to be giving the lunch keynote on that  
15 day. And I believe Commissioner Hartig may be doing the  
16 introduction for Dr. Picou. He has received Trustee  
17 Council funding in the past. His work has focused on the  
18 human effects of technological disasters, specifically the  
19 Exxon Valdez Oil Spill and then more current work with  
20 Katrina and other areas. That looks to be a very  
21 interesting presentation. That's not necessarily that  
22 we're as involved in, but I think the connection with the  
23 human resources side will be very worthwhile.

24                   And I understand the PAC members who are  
25 meeting on the following day, all of them have indicated

1 their interest in attending both Monday and Tuesday  
2 sessions, as well as Dr. Picou, who is going to be  
3 providing a couple of training sessions which are geared at  
4 helping communities kind of move beyond the disasters and  
5 how do you go forward after that.

6                               So I think the sessions particularly on  
7 Monday for us provide a really great opportunity for new  
8 PAC members, new staff, even new Trustee Council members in  
9 one day to get a really quick up-briefing of what's  
10 occurred in the last 20 years and kind of what the current  
11 focuses are. As well as on Tuesday with the sessions  
12 looking at spill prevention and response, what's changed,  
13 what's new, and what's the current status.

14                              So that's a big focus. I think we're all  
15 really pleased with this -- the help we've had from the  
16 forum planning. I'm sure Doug Mutter could provide any  
17 other additional information on that. The entire week's  
18 agenda for the Forum on the Environment is really pretty  
19 amazing what's come together. But those two days are the  
20 focus on the 20th anniversary of the spill.

21                              The last thing I'd mention with that, on  
22 Monday evening, it's really late afternoon, beginning at  
23 5:00, the Alaska Forum on the Environment always hosts a  
24 reception that night. This year they've asked the Trustee  
25 Council as well as OSRI to co-host that event. We are not

1 actually providing any funding to support that, but just  
2 with the focus on the 20th anniversary they've asked  
3 Trustee Council members, speakers from the day, PAC  
4 members, OSRI board and staff, to be there as a great  
5 opportunity for the public to come up and be able to have  
6 one-on-one conversations. I know we sent out an email  
7 asking for your invitation and an RSVP if you thought you'd  
8 be able to participate. I just think it will be a nice  
9 opportunity for whoever can attend to meet one-on-one and  
10 mingle.

11 CHAIRMAN LLOYD: Which particular day is  
12 that?

13 MS. TALBOTT: That's Monday the -- February  
14 2nd, beginning at 5:00. And it's over at the Dena'ina  
15 Center.

16 MR. HARTIG: We're not going to make it,  
17 Denby.

18 CHAIRMAN LLOYD: No.

19 MR. HARTIG: Unfortunately House Finance  
20 Committee scheduled a hearing for Fish and Game, DNR, DEC  
21 on Monday and there's no way we can make it back in time  
22 that evening.

23 MS. TALBOTT: Oh, that's too bad.

24 MR. HARTIG: We tried to get it rescheduled  
25 and they wont. So we're stuck.

1                   CHAIRMAN LLOYD: Thanks. I'm also supposed  
2 to be in Seattle.

3                   MR. HARTIG: I tried. Maybe together we  
4 can do something.

5                   MS. TALBOTT: Well, let's see, the only  
6 other thing I'd point out with the speaker's bureau that  
7 you approved funding for, we've had three funding requests  
8 approved to date. Those are for bringing speakers in to  
9 talk about restoration specific activities to both  
10 communities in Homer, Kodiak, and here in Anchorage. I've  
11 since just received two more requests for funding and we  
12 said as we -- as funding allowed, we'd accept additional  
13 requests, so we've had two more recently. I think those  
14 are -- that's being very well received in communities who  
15 are very appreciative of being able to bring in outside  
16 speakers to present in their communities. If you have any  
17 more interest on what those particulars are, I can give  
18 those.

19                   And then there are numerous community  
20 events taking place in communities around Southcentral  
21 Alaska in particular. All those are getting posted to the  
22 website, to the calendar of events. They're probably too  
23 numerous to mention at this point. And in particular, one  
24 piece here in Anchorage, you have the Prince William Sound  
25 RCAC on March 24th, which is actually the Tuesday, the

1 actual anniversary of the event. They've been focused on  
2 more of the spill prevention and response aspect. And in  
3 Anchorage they'll be hosting an event at the Dena'ina  
4 Center which we'll video-conference in with several of the  
5 communities in the spill affected area.

6                   And then the last one we thought we'd  
7 mention and bring to your attention, of course, is the  
8 event here in Anchorage that we're proposing. This was  
9 something when we first put the communication plan  
10 together, we just hadn't gotten a solid answer on what  
11 would be the best way to really outreach to the  
12 Anchorage/Mat-Su community.

13                   A lot of times programming that usually  
14 occurs are the evening sessions at the Loussac Library or  
15 UAA. But we really thought often those -- those kind of  
16 sessions often reach the same folks. So how do you reach  
17 or how do you make sure that the general Alaskan public has  
18 access to some of this really noteworthy material that's  
19 come forward and the important work that's been done? And  
20 the suggestion was, well, how about an event on a Saturday  
21 before that's more family friendly. General, average, you  
22 know, Alaskans. So what we're proposing is to host an  
23 event on Saturday from 10:00 to 5:00 at the new education  
24 complex at the Alaska Zoo. If you haven't been there, I  
25 drive past there every day on my way home and it's a

1 beautiful facility. It's -- the atmosphere is, I think,  
2 exactly what you would think for an event like this. It's  
3 very natural. Fits in with the environment. And it has  
4 quite a bit of capacity.

5                   The zoo is a very interested partner. In  
6 addition to partnering with us on the Saturday event, they  
7 offered for no cost to the Trustee Council to allow any  
8 exhibits, materials that were available, to be kept up for  
9 free on the subsequent Monday and Tuesday where the  
10 Anchorage School District could provide field trips to come  
11 in and bring their students in to see the exhibits.

12 Darkened Waters, the update to Darkened Waters will be on  
13 display. So at no cost to the Trustee Council, you also  
14 have a wonderful opportunity for the Anchorage School  
15 District to bring schools in on both Monday and Tuesday.

16                   But our -- I think in our proposal, of  
17 course, our focus is on the Saturday event where we would  
18 provide just a variety of hands-on activities, materials.  
19 Craig Tillery has a piece of the reef. We have vials of  
20 lingering oil. We have the otter education kit from Fish  
21 and Wildlife Service. We have a number of films, including  
22 the new 12 minute film that can be shown. And  
23 presentations by some of the speakers who are interested in  
24 coming in. That was not a cost that we had anticipated at  
25 the time, but I think for the reasons I've laid out, we

1 think it's a worthwhile additional expenditure.

2 Is there anything else you'd add to that?

3 MS. HSIEH: No, we've had a lot of help and  
4 discussion with liaisons. A lot of enthusiasm from a lot  
5 of the different groups we've talked to who are interested  
6 in partnering, as well as the school district was extremely  
7 enthusiastic. So we've gotten a lot of great feedback.  
8 And we've also had a lot of historical perspective. Carrie  
9 Holba was very helpful as well in discussing what we've  
10 done in the past, what the Trustee Council has targeted.  
11 And this is a little different. It reaches a broader  
12 segment of the public that may not really have even lived  
13 in Alaska during the spill or know much about it. So we're  
14 trying to broaden our audience.

15 CHAIRMAN LLOYD: Okay. Thanks, Rebecca.

16 MS. TALBOTT: Great.

17 CHAIRMAN LLOYD: Any questions or comments  
18 from Trustee Council members?

19 MR. HARTIG: Sounds like you did a lot of  
20 work. Thank you.

21 MS. TALBOTT: It's been a busy few months.

22 CHAIRMAN LLOYD: We do have an action item  
23 related to this, and that's the approval of an expenditure.  
24 Craig, did I hear you about to say something?

25 MR. O'CONNOR: Yes, I was going to move

1 approval of the expenditure.

2 CHAIRMAN LLOYD: Hey. Is there a second?

3 MR. ZEMKE: I'll second.

4 CHAIRMAN LLOYD: I guess we'll do a roll  
5 call vote. So, Hans Neidig?

6 MR. NEIDIG: Yes.

7 CHAIRMAN LLOYD: Talis Colberg?

8 MR. COLBERG: Yes.

9 CHAIRMAN LLOYD: Steve Zemke?

10 MR. ZEMKE: Yes.

11 CHAIRMAN LLOYD: Larry Hartig?

12 MR. HARTIG: Yes.

13 MR. O'CONNOR: Yes.

14 CHAIRMAN LLOYD: And I approve also. So  
15 thank you all for that. Is there anything else we need for  
16 Item 6 dealing with the 20th anniversary?

17 (No audible responses)

18 CHAIRMAN LLOYD: Apparently not. Okay.

19 Very good. I do have my eye on the clock, but I think we  
20 can get through another agenda item or so before we take a  
21 break, and if that's agreeable, how about if we move into  
22 Item 7, policies and procedures, with -- starting with  
23 Carrie. Are people coming up together? Okay. Yeah. I  
24 assume this is Carrie and JoEllen. Is that right? Okay.

25 MS. HOLBA: Well, good morning. My name is

1 Carrie Holba and I'm the Trustee Council librarian at  
2 Alaska Resources Library and Information Services, ARLIS.  
3 I'm here to introduce Agenda Item 7.

4                   Through the years, overdue final project  
5 reports have been an ongoing problem. This fall the EVOS  
6 staff began a dialogue with the liaisons and State finance  
7 managers to learn more about current agency contracting  
8 procedures and to explore the feasibility of withholding 10  
9 percent of project funding from the PIs until all project  
10 deliverables have been received. The draft language for  
11 the Council's report and financial procedures was written  
12 and submitted to the liaisons and State finance managers  
13 for their review and comments in late October. That  
14 language can be found in your meeting materials on page  
15 nine of the procedures for the preparation and distribution  
16 of reports, and on page iii-4 of the financial procedures.

17                   This week we received additional comments  
18 and edits, and the draft language was revised to include  
19 the language suggested by the liaisons. However, it was  
20 too late to include this in your meeting materials, so  
21 we've provided you with a separate handout containing the  
22 revised language. This is the language that we propose to  
23 insert into the report and financial procedures. So that's  
24 a separate handout. It should look like that.

25                   Draft final reports are due for peer review

1 April 15th, following the fiscal year in which project work  
2 was completed. After the report is peer reviewed and  
3 approved, it goes to ARLIS for format review. After the  
4 format is approved, the PI provides the requisite final  
5 electronic and print copies to ARLIS and the EVOS office.  
6 There are currently 54 projects with overdue reports dating  
7 back as far as fiscal year '99.

8                   At one time the peer review process was a  
9 bottleneck. It took anywhere from several months to years  
10 in some cases for the peer review process to be completed.  
11 In 2006, the EVOS offices automated and streamlined the  
12 project tracking process, including peer review. Now peer  
13 review for most reports is completed within 60 days. In  
14 2007, the Trustee Council adopted updated report procedures  
15 that more clearly define the deadlines for each step of the  
16 report process.

17                   Once the draft final report is submitted to  
18 the EVOS office, the PI has five and a half months to  
19 complete this process by the end of the Federal fiscal  
20 year. If extenuating circumstances delay the report  
21 process, the executive director has the discretion to grant  
22 extensions. The EVOS staff proposes the 10 percent  
23 withholding as an administrative tool to prevent overdue  
24 reports for future projects.

25                   (Whispered conversation)

1 MS. HOLBA: Your turn.

2 MS. LOTTSFELDT: Okay. I'm JoEllen  
3 Lottsfeldt and I'm the environmental program specialist  
4 here. But another hat I wear is project manager, and  
5 that's sort of a recent position for me. And in looking at  
6 the management of contracts for the State and comparing  
7 notes with my Federal counterparts, we have quite a  
8 patchwork situation. We have five different contractual  
9 situations that I've been able to find so far and different  
10 levels of language and leverage built in. So what we're  
11 proposing today is that we get a motion from the Trustee  
12 Council that would allow for the insertion of this  
13 withholding language into our policy documents. The  
14 reporting procedures and the financial procedures. We want  
15 that to be a policy at the top and then we will work out  
16 the mechanics, probably over time. There may be situations  
17 where won't even be able to -- well, I guess what I'm going  
18 to say is that in some cases project managers may need to  
19 just work almost more hands-on with certain PIs. Because  
20 looking at the Federal system, there's many -- there may be  
21 too many rules and regulations and it just may be really  
22 hard to actually enforce. But we are looking for the  
23 ability to enforce withholding. That is our goal.

24 We are also working with the -- Jeff Hoover  
25 in the admission services in Juneau to get some sort of

1 mechanism in place for in-house projects that I'm  
2 overseeing. Ten percent withholding is a standard with  
3 other organizations, such as ours with NPRB and NSF. So  
4 we're in line with that. And we don't want to end up with  
5 administrative burden on anybody. But we want to start and  
6 have the ability to enforce and have some leverage where  
7 possible. And that's all I really wanted to say, and if  
8 you have any questions I'm here to answer.

9 CHAIRMAN LLOYD: I'm curious. You  
10 mentioned, was it 54 or 56 outstanding reports?

11 MS. HOLBA: 54.

12 CHAIRMAN LLOYD: Do we have any withholding  
13 on any of those or do we basically have no leverage?

14 MS. LOTTSFELDT: Where's our -- okay. I  
15 would have to dig a little deeper, but in an instance where  
16 we have a professional services agreement with an  
17 organization like the SeaLife Center, if they had something  
18 delinquent, then that withholding language is built into  
19 their contract. That's the only contract on the State's  
20 side that actually has the language. But the don't have  
21 them listed out.

22 MS. HSIEH: And I actually asked this  
23 question a couple of months ago and they did look at it,  
24 and Carrie actually looked at it for me, and almost all of  
25 them had been fully paid out.....

1 MS. LOTTSFELDT: Okay.

2 MS. HSIEH: .....at that point, so.....

3 CHAIRMAN LLOYD: Any questions from Council  
4 members? Comments?

5 MR. COLBERG: Mr. Chairman.

6 CHAIRMAN LLOYD: Yeah.

7 MR. COLBERG: Excuse me, please. I have to  
8 go out, but will try to come back.

9 CHAIRMAN LLOYD: All right. Attorney  
10 General Colberg is leaving for the moment and is somebody  
11 replacing you at the table? One of the Craigs.

12 MR. COLBERG: The succession expert.

13 CHAIRMAN LLOYD: Craig O'Connor, did you  
14 have any questions or comments?

15 MR. O'CONNOR: Yeah, I have a question.  
16 Are we dealing principally with PIs that are related to  
17 State or Federal agencies or are we dealing -- is our  
18 problem with governmental PIs?

19 MS. LOTTSFELDT: I think I have some  
20 numbers here. I was playing around. You know, I don't  
21 have the numbers right in front of me. I did play with  
22 them yesterday to just look at, you know, ratios or  
23 percentages. But what I recollect, and I can confirm this  
24 later today, is that the lead agency, ADF&G, and the lead  
25 agency NOAA, they're primarily people within those agencies

1 that are delinquent. But the private entities have come  
2 forward with their deliverable.

3 CHAIRMAN LLOYD: Great.

4 MS. LOTTSEFELDT: Sorry.

5 CHAIRMAN LLOYD: Yeah, so.....

6 MR. O'CONNOR: So this -- so we're trying  
7 to solve a problem that at least from this Trustee's  
8 perspective I should be able to take care of myself in  
9 dealing with my -- dealing with people within NOAA.

10 CHAIRMAN LLOYD: Well.....

11 MR. O'CONNOR: I find it curious, frankly,  
12 that I have to take that kind of an action as an  
13 independent body to control responsibility of NOAA, so --  
14 and then you're not going to be able to address it anyways  
15 because of the Federal complexities.

16 MS. LOTTSEFELDT: Well, I think this is a  
17 complex situation. We had a real bottleneck that Carrie  
18 mentioned with the peer review process. And I think when  
19 projects came in, even though they hadn't jumped all the  
20 hoops to being a printed document that was received by  
21 ARLIS, they were kind of informally considered finished.  
22 And especially if peer review had taken a really long time,  
23 so the PIs were ready to move on, but they didn't bring  
24 them to complete fruition, I guess is the proper word  
25 there.

1                   And I also would like to point out that for  
2 projects, agency personnel have the primary responsibility  
3 for producing the deliverables required. The project  
4 managers will work within their respective agency's  
5 supervisory structure, fiscal procedures, and other  
6 applicable policies to ensure project deliverables are  
7 provided in a timely manner. And that's to cover what you  
8 were talking about, Mr. O'Connor, within your agency.

9                   MR. O'CONNOR: All right.

10                  MS. HSIEH: And also, Craig, if I could  
11 just speak to this. All of the major funding agencies  
12 withhold 10 percent until deliverables are met. That  
13 provision is not in EVOS policies at this time. It's in a  
14 few scattershot contracts. And so while this may not reach  
15 all agencies at this point, I think it would be standard  
16 practice and advisable for this entity to also have that in  
17 its policies.

18                  And also I think that will help when we are  
19 enforcing consistently across the board, we have the  
20 enforcement language and can use it and pursue it across  
21 the board. I think in the past this entity has had some  
22 glitches with the peer review, has not enforced either  
23 withholding 10 percent or contacting the agencies  
24 effectively and working through the supervisory structure  
25 to get those reports. And that's what we're trying to

1 remake the culture here. And along with that, our policies  
2 and procedures need to be consistent and contain those  
3 enforcement provisions. So thank you.

4 CHAIRMAN LLOYD: Craig, did you want.....

5 MR. O'CONNOR: Do we not have a policy that  
6 particular PI, governmental or otherwise, does not receive  
7 another contract until they fulfill or at least are current  
8 with regard to the obligations under that cont -- under a  
9 contract that we have with them now? We do not? Don't we  
10 preclude them getting more money until they fulfill their  
11 responsibilities or have complied with responsibilities at  
12 that point in time anyway?

13 MS. HOLBA: We do have such a policy,  
14 however, what's happened is when a delinquent PI submits  
15 another project for funding and it's determined that he has  
16 a delinquent report, the funding decision is sometimes made  
17 to fund it contingent upon receiving that report. When the  
18 PI turns in the draft report for peer review, then the  
19 funding can move forward, however, that's just the  
20 beginning of the process. He's already received the  
21 funding but doesn't necessarily complete the entire process  
22 with commenting, responding to peer review comments,  
23 providing a format review to ARLIS, and providing final  
24 copies.

25 MR. O'CONNOR: Okay. I have no other

1 questions, Mr. Chairman.

2                   CHAIRMAN LLOYD: Thanks, Craig. I'm  
3 curious about the language you just read with regard to  
4 agency personnel. Is that in replacement of the 10 percent  
5 withholding or is that just additional operational -- well,  
6 additional mechanics to enforce compliance?

7                   MS. HSIEH: I suppose I should speak to  
8 that because I helped draft it yesterday with Pete Hagen.  
9 My view was that that language is, and sometimes will  
10 replace it, because it says that they have to work within  
11 their respective agency's supervisory structure, fiscal  
12 procedures, and other applicable policies, which may make  
13 it practically impossible to withhold the 10 percent. But  
14 where working within those policies or requirements it is  
15 possible to withhold 10 percent, which is what we're still  
16 pursuing, then we would apply it. But only if it's  
17 consistent.

18                   CHAIRMAN LLOYD: Well, I don't object to  
19 this type of general contract requirement and I think that  
20 we have an interest in applying some discipline to people  
21 who are producing products for us. And the fact that my  
22 agency as well as my sister Federal agency may be the worst  
23 offenders, I'd just as soon have as many tools as possible  
24 to be able to enforce that.

25                   Any other comments from Council members?

1 Larry.

2 MR. HARTIG: Yeah, Denby -- this is Larry,  
3 everybody on the phone -- I'm a bit concerned that we have  
4 54 reports and some, you know, maybe it's okay not to  
5 finalize them because maybe the peer review didn't come up  
6 with something, you know, substantial that needed to be  
7 addressed between the draft and the final. But I do think  
8 we need to go back and look at those. If there's any of  
9 them that we need -- really do need to finalize and get the  
10 copies into ARLIS, that we do that. Or make a stab at it,  
11 because we have a big investment in these and I feel like  
12 we didn't do our responsibility if we didn't try to bring  
13 them to a conclusion.

14 And I realize, again, all 54 probably don't  
15 need to be addressed, but there may be some in there that  
16 do. And then if there's some that, you know, are Fish and  
17 Game or NOAA responsibilities, then get them a list and see  
18 what they can do.

19 CHAIRMAN LLOYD: Or DEC for that matter.

20 MR. HARTIG: Yeah, I don't know that  
21 there's any DEC in there. I didn't hear DEC's name.

22 MS. HOLBA: If I could respond to that.

23 CHAIRMAN LLOYD: Please.

24 MS. HOLBA: There are a number of reports  
25 that we have in draft form and the staff has been reviewing

1 those to see if they could be printed up with a disclaimer  
2 indicating that the peer review process has not been  
3 completed and the report does not necessarily reflect the  
4 views of the Trustee Council. Then we could clean up the  
5 format and do the printing and get those out.

6 CHAIRMAN LLOYD: Well, I'm a bit concerned  
7 about that.....

8 MS. HOLBA: Okay.

9 CHAIRMAN LLOYD: .....unless that's kind  
10 of, you know, a default. I mean, not a default, but a last  
11 resort.

12 MR. HARTIG: I think we'd try to finish  
13 them first, and then if we can't, then we do our best. But  
14 I imagine some of them, the people are long gone and -- or  
15 the.....

16 CHAIRMAN LLOYD: Yeah.

17 MR. HARTIG: .....information is already  
18 dated or something.....

19 CHAIRMAN LLOYD: Yeah.

20 MR. HARTIG: .....and it's not worth  
21 pursuing. But some of them might be -- we want to bring to  
22 closure.

23 CHAIRMAN LLOYD: Well, with that as  
24 background, we do have an action item in front of us.  
25 There is suggested wording for a motion that basically

1 agrees with changing our procedures to allow a 10 percent  
2 withholding, pending receipt of final deliverables. So is  
3 somebody willing to make that motion?

4 MR. O'CONNOR: I would so move, Mr.  
5 Chairman...

6 CHAIRMAN LLOYD: Thank you.

7 MR. HARTIG: And I'll second.

8 CHAIRMAN LLOYD: It's moved and seconded.

9 Hans Neidig?

10 MR. NEIDIG: Yes.

11 CHAIRMAN LLOYD: Craig Tillery?

12 MR. TILLERY: Yes.

13 CHAIRMAN LLOYD: Steve Zemke?

14 MR. ZEMKE: Yes.

15 CHAIRMAN LLOYD: Larry Hartig?

16 MR. HARTIG: Yes.

17 CHAIRMAN LLOYD: Craig O'Connor?

18 MR. O'CONNOR: Yes.

19 CHAIRMAN LLOYD: And yes for me as well.

20 Thank you very much.

21 MS. HOLBA: Before we.....

22 CHAIRMAN LLOYD: Yes?

23 MS. HOLBA: .....leave the report

24 procedures, I'd just like to mention that when we update  
25 them to insert this language, we'll also be updating them

1 to include the new project numbering scheme that you were  
2 told about last November. And this is just simply  
3 inserting that into the section on page two of the report  
4 procedures.

5 CHAIRMAN LLOYD: Okay.

6 MS. HOLBA: Okay.

7 CHAIRMAN LLOYD: Thank you, Carrie.

8 MS. HSIEH: Thank you.

9 MS. HOLBA: Thank you.

10 CHAIRMAN LLOYD: With your indulgence, I'd  
11 like to go through one more agenda item before we take a  
12 break. So I'm seeing heads nodding for the most part, and  
13 some grimacing.

14 The next agenda item is number 8, the 2009  
15 update on injured resources and services. And maybe I'll  
16 ask, Catherine, do you anticipate this really to take 10  
17 minutes or will it take any more than that?

18 MS. BOERNER: I hope so.

19 CHAIRMAN LLOYD: Okay. Thank you.

20 MS. BOERNER: Good morning. The document  
21 you have in front of you represents the fifth update to the  
22 injured resources and services list that was originally  
23 produced through the 1994 restoration plan. We convened  
24 the Science Panel in the summer of '07, and along with the  
25 Science Panel we had invited PIs, agency personnel and

1 legal counsel. And we had a two-day retreat to go over the  
2 injured resources and services list to ensure that the most  
3 current information is reflected, and to ensure that the  
4 recovery objectives were still appropriate.

5                   Obviously some time has passed since then.  
6 We did go back to the Science Panel PIs, legal counsel, and  
7 the agency personnel and we did a brief re-review in  
8 October 2008 to ensure that what we had suggested still  
9 stood, and it did. There were no significant changes to  
10 it. We did not recommend any changes to the status, the  
11 recovery status of any of the injured resources or services  
12 on the list.

13                   I will say that the Science Panel did  
14 recommend a category titled very likely recovered to  
15 replace the unknown category. At the time, there was a lot  
16 of reservation about saying that something could perhaps be  
17 very likely recovered when truly we had no data or  
18 information on it. So we did elect at the time to leave it  
19 as unknown.

20                   In this 2009 update, we have added Barrow's  
21 Goldeneye at your request. And I'm here to answer any  
22 questions about the document you may have.

23                   CHAIRMAN LLOYD: We did have one public  
24 comment, it may be tongue in cheek, maybe not. But if  
25 there's been no change over the past three years in terms

1 of the designations, then we haven't proceeded with any  
2 restoration. I don't know if you have a response to that  
3 or not. I would think that that more accurately reflects  
4 the fact that we haven't seen any change in the resource  
5 that would suggest a change in classification, but that  
6 doesn't mean that we haven't been proceeding with  
7 restoration activity.

8 MS. BOERNER: That's absolutely correct. I  
9 mean, I would not -- absolutely not seeing that progress  
10 has been made, but unfortunately for those resources, we  
11 haven't -- from what we've learned, we haven't moved any  
12 closer to listing them as recovered. I should also state  
13 the objectives for each of the injured resources and  
14 services have been edited to reflect information that we  
15 have today and to update from some things that simply  
16 weren't practical or unknown in the '94 plan.

17 CHAIRMAN LLOYD: Any comments or questions?  
18 Mr. Tillery.

19 MR. TILLERY: I have a few. One, and maybe  
20 I'm just missing it here, but it would be helpful to have  
21 this thing in some kind of a track format where the changes  
22 to it are discernible. Is there some reason -- it might --  
23 is it in there and I just -- there's so few that -- did I  
24 just miss them or.....

25 MS. BOERNER: No. No, we did not issue it

1 with the track changes.

2 MR. TILLERY: Okay. But in terms of -- I  
3 assume -- are we supposed to approve this?

4 CHAIRMAN LLOYD: We're going to be asked  
5 to, yes.

6 MR. TILLERY: And I don't have a clue  
7 what's been changed.

8 MS. BOERNER: Okay.

9 MR. TILLERY: So how do I approve it? I  
10 guess my question, are you going to go through the  
11 particular changes or.....

12 MS. BOERNER: We could. It will take more  
13 than that 10 minutes, I have to say. I'll have to grab the  
14 2006 to be sure. The only significant changes that were  
15 made were to the recovery objectives. And I can, if you're  
16 not comfortable, provide you with.....

17 MR. TILLERY: They're pretty significant to  
18 me. The recovery objectives is probably the essence of  
19 what we should be doing here.

20 MS. BOERNER: Okay.

21 MR. TILLERY: The next item is there are  
22 three species that are unknown across the board.

23 MS. BOERNER: Uh-huh.

24 MR. TILLERY: Cutthroat trout, Kittlitz's  
25 murrelets, and rockfish. Is there -- is the answer to that

1 we can't know or we have not spent the money to know?

2 MS. BOERNER: We have not spent the money  
3 to know.

4 MR. TILLERY: Could we know those or do we  
5 not have an adequate baseline or means of measuring  
6 recovery?

7 MS. BOERNER: That's a big part of the  
8 problem. For some of those species, we have absolutely no  
9 background data.

10 MR. TILLERY: Well, that's the difference  
11 between.....

12 CHAIRMAN LLOYD: Right.

13 MR. TILLERY: .....we can't know versus we  
14 just haven't spent the money. If we haven't spent the  
15 money to know, perhaps we should figure out how much it  
16 would cost us to know so we could deal with it.

17 MS. BOERNER: Uh-huh.

18 MR. TILLERY: If we can't know, then  
19 perhaps we need to have some different system other than  
20 unknown. It's maybe like not knowable, or.....

21 MS. BOERNER: Okay.

22 MR. TILLERY: .....something like that. It  
23 suggests that we're not.....

24 MS. BOERNER: That we're not doing  
25 anything.

1 MR. TILLERY: Yeah.

2 MS. BOERNER: Right.

3 MR. TILLERY: Third, the subtidal  
4 communities have gone from recovering to unknown. They  
5 remain unknown based upon the 2000 -- in 2002 they went to  
6 unknown. I assume that's based upon the lingering oil  
7 findings in 2001. I guess I would question that they are  
8 -- we don't know the extent of recovering but I guess my  
9 perception is that they are still recovering. They are not  
10 recovering at as fast a rate as we thought back then, or  
11 even as we thought in 2004 or so, 2003, but that they are  
12 recovering.

13 MS. BOERNER: This is the subtidal, not the  
14 intertidal. So the subtidal would be.....

15 MR. TILLERY: Oh, it's the sub?

16 MS. BOERNER: .....would be deeper water  
17 where.....

18 MR. TILLERY: So why did it go to unknown?

19 MS. BOERNER: I'll be honest, I would have  
20 to look that up to see why and from '99 to 2002, it changed  
21 to unknown. I will say the Science Panel felt very  
22 strongly that it was an unknown. No, we haven't done work  
23 there. You know, we suspect that there's no lingering  
24 injury there but we're just not sure. But I will have to  
25 look it up and I can certainly provide you with

1 information.

2 MR. TILLERY: Okay. It seems to me that  
3 all of these, Mr. Chairman, all of these unknowns we need  
4 to get a handle on and decide what's the -- what's really  
5 the issue we're funding.

6 CHAIRMAN LLOYD: I presume you're not  
7 suggesting that we would do that today, but that would.....

8 MR. TILLERY: No.

9 CHAIRMAN LLOYD: That would be an  
10 assignment between now and when we next review an update  
11 or.....

12 MR. TILLERY: That's true but.....

13 CHAIRMAN LLOYD: .....sometime sooner than  
14 that.

15 MR. TILLERY: .....I guess I'm also  
16 suggesting that absent sort of knowing what's in here.....

17 CHAIRMAN LLOYD: Right. Well, my  
18 suggestion would be.....

19 MR. TILLERY: .....I think it's problematic  
20 to approve this today.

21 CHAIRMAN LLOYD: Catherine indicates that  
22 she might be able to summarize for us. If that would be  
23 acceptable, perhaps we could take a break. I don't know  
24 how quickly you could develop that summary. Is it  
25 something that you could run through your notes and be able

1 to present to us in about 10 or 15 minutes, or is it  
2 something that would take days to prepare?

3 MS. BOERNER: It's something I can prepare  
4 for you now. It is something we looked at previously, the  
5 changes, so I can provide that for you.

6 CHAIRMAN LLOYD: Would a verbal report in  
7 15 minutes possibly suffice?

8 MR. TILLERY: Sure, that would work for me.

9 CHAIRMAN LLOYD: Well, then why don't we  
10 stand down and take a break.

11 MR. NEIDIG: Or if Catherine needs more  
12 time, we could bump this to the end of the agenda and.....

13 CHAIRMAN LLOYD: We can do that. Why don't  
14 we take a break. If she's prepared at 10:15, we'll come  
15 back to this agenda item. If not, we'll skip over.

16 MS. BOERNER: I'm the remainder of the  
17 agenda, so.....

18 CHAIRMAN LLOYD: Oh, well.....

19 (Laughter)

20 MS. BOERNER: So that's quite fine.

21 CHAIRMAN LLOYD: Let's see how it looks in  
22 15 minutes.

23 MS. BOERNER: Okay.

24 MR. ZEMKE: I guess there's one other  
25 question.

1                   CHAIRMAN LLOYD: Okay.

2                   MR. ZEMKE: We're looking at doing this  
3 update probably annually in the future?

4                   MS. BOERNER: I would hope so, yes.

5                   MR. ZEMKE: And so some of those, rather  
6 than being germane, being able to get a definitive answer  
7 on this year, that since we're looking at an annual update,  
8 that maybe next year would be more of an appropriate time.

9                   CHAIRMAN LLOYD: On unknowns, perhaps, but  
10 on recovery.....

11                  MR. TILLERY: Yeah, on unknowns.

12                  CHAIRMAN LLOYD: .....objectives.....

13                  MR. TILLERY: Right.

14                  CHAIRMAN LLOYD: .....that are in this  
15 report.....

16                  MR. ZEMKE: Yeah.

17                  CHAIRMAN LLOYD: .....I think we need to  
18 have a pretty solid flavor of approving them in this report  
19 if they've been changed.

20                  MS. BOERNER: Absolutely. Uh-huh.

21                  MS. HSIEH: We, in the last two months  
22 since Jen and I have been here, pulled the Science Panel  
23 back together, told them we would be sending -- spending  
24 more time on this after the 20th anniversary, so it is on  
25 our list for the new executive director to pick this up and

1 have -- engage with the Science Panel and do a more in-  
2 depth update.

3                   CHAIRMAN LLOYD: Okay. Thanks. By our  
4 clock it's two minutes after. How about if we stick with  
5 15 minutes and 17 after back in our places. And what do we  
6 do with.....

7                   (Off record - 10:02 a.m.)

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

9                   REPORTER: On record at 10:18 a.m.

10                  CHAIRMAN LLOYD: 10:17. Craig O'Connor,  
11 are you online?

12                  MR. O'CONNOR: I am, Mr. Chairman.

13                  CHAIRMAN LLOYD: Very good. So we have all  
14 Trustee Council members accounted for. I don't think I'm  
15 going to go through a roll call of the telephonic stations  
16 that we had earlier. Hopefully people know how to dial  
17 back in if somehow they were inadvertently dropped off.

18                  With that, we are back to agenda item 8  
19 dealing with an update on the -- the 2009 update on injured  
20 resources and services. And Catherine has been able to  
21 retrieve a previously distributed document that highlights  
22 some of the -- well, highlights the changes to the  
23 objectives that she had briefly described. Catherine,  
24 would you please go through that with us?

25                  MS. BOERNER: Sure. Okay. Everybody has a

1 copy. Just to be clear, the blue text that says 2006  
2 objective, that was the objective that appeared in a 2006  
3 update. The bold recovery objective is the one that the  
4 Science Panel recommended and is in the packet that you  
5 have. So I'll go down by the ones that we recommended  
6 changes to only.

7                   We did recommend a change to the recovery  
8 objective for pigeon guillemots. We took the word  
9 increasing out of the 2006 update objective and just left  
10 it as pigeon guillemots will have recovered when their  
11 population is stable. Sustained or increasing productivity  
12 within normal bounds would be an indication that recovery  
13 is underway.

14                   CHAIRMAN LLOYD: Okay. I'm sorry, I'm  
15 confused already though, because on cutthroat trout the  
16 blue text says the 2006 objective is no change.

17                   MS. BOERNER: Correct.

18                   CHAIRMAN LLOYD: No change from what?

19                   MS. BOERNER: I'm sorry. We're not  
20 recommending a change. We have not changed.....

21                   CHAIRMAN LLOYD: So.....

22                   MS. BOERNER: .....the recovery objective.  
23 I know, it's a little.....

24                   CHAIRMAN LLOYD: Okay.

25                   MS. BOERNER: Sorry, in the short time

1 frame, I kind of.....

2 CHAIRMAN LLOYD: That's fine.

3 MS. BOERNER: .....did it.....

4 CHAIRMAN LLOYD: So, just so we understand,  
5 there's no change recommended for 2009.....

6 MS. BOERNER: Exactly.

7 CHAIRMAN LLOYD: .....from whatever the  
8 2006 objective had been.

9 MS. BOERNER: Yes.

10 CHAIRMAN LLOYD: Thank you.

11 MS. BOERNER: Sorry about that.

12 CHAIRMAN LLOYD: Please go ahead.

13 MS. BOERNER: Okay. We recommended for  
14 Kittlitz's murrelets, did not have a recovery objective and  
15 had not since it had been added to the list. We added the  
16 -- a similar one as to pigeon guillemots, that Kittlitz's  
17 murrelets will have recovered when their population is  
18 stable, stable or increased in productivity within normal  
19 bounds would be indication that recovery is underway.

20 CHAIRMAN LLOYD: Okay.

21 MS. BOERNER: We recommended a change to  
22 marbled murrelet. A 2006 was marbled murrelets will have  
23 recovered when their population is stable or increasing,  
24 sustained or increased in productivity within normal bounds  
25 based on adults and juveniles on the water will be an

1 indication that recovery is underway.

2                   We changed it or we recommended that it be  
3 changed to marbled murrelets will have recovered when their  
4 population has recovered to a level had the spill not  
5 occurred. Sustained or increasing productivity within  
6 normal bounds will be an indication that recovery is  
7 underway.

8                   MR. TILLERY: Mr. Chairman.

9                   CHAIRMAN LLOYD: Craig.

10                  MR. TILLERY: Got a question. I thought  
11 that generally returned to pre-spill levels had proved to  
12 be very problematic because of the changes in Prince  
13 William Sound, et cetera. And I also noticed that on  
14 harlequin ducks in the next one, you're going to get rid of  
15 the return to pre-spill levels language. Why is it that  
16 marbled murrelets are different, that this is a better  
17 indicator?

18                  MS. BOERNER: Well, there -- I will say  
19 that there is a difference between the concept of pre-spill  
20 or had the spill not occurred. Spur populations do occur  
21 over a natural time frame, they oscillate. And that would  
22 be had the spill not occurred, to kind of look at a natural  
23 population line versus pre-spill levels, which would be  
24 trying to take a population that perhaps couldn't be  
25 supported in this time frame back to where they were in

1 1989.

2 I now it's a little difficult to wrap your  
3 head around, and I know I struggled with it.....

4 MR. TILLERY: No, I understand that.

5 MS. BOERNER: .....for awhile myself,  
6 but.....

7 MR. TILLERY: How are we going to measure  
8 had the spill not occurred?

9 MS. BOERNER: I do know that they have  
10 backing analysis on the marbled murrelet to understand what  
11 the natural population would have been, the natural  
12 population line. And that that would be what we would  
13 utilize to do that. If anybody else wants to.....

14 MR. ZEMKE: Looking at Kittlitz's murrelets  
15 and pigeon guillemots.....

16 MS. BOERNER: Sure.

17 MR. ZEMKE: .....could we maybe use that  
18 same language? I guess that would be.....

19 MS. BOERNER: Yes.

20 MR. ZEMKE: .....rather than this one. And  
21 it seems like they're all pretty much the same thing  
22 and.....

23 MR. TILLERY: Well, they deliberately.....

24 MR. ZEMKE: .....maybe that's a better one.

25 MR. TILLERY: .....changed it from stable

1 or increasing to at a level had the spill not occurred, and  
2 I guess I'm trying to figure out why.

3 MS. BOERNER: I'm trying to recall, to be  
4 honest with you. It was almost two summers ago now.

5 CHAIRMAN LLOYD: Go ahead, Hans.

6 MR. NEIDIG: Mr. Chairman, I also have a  
7 question about both murrelet populations, because it --  
8 Jennifer, you might have to help me out here, or Dede is  
9 online. I've received briefings from USGS and Fish and  
10 Wildlife Service both, I believe, that say those  
11 populations generally are declining and it's unknown as to  
12 why. Does that further complicate our ability then to try  
13 to determine that, yes, they have recovered, or does it set  
14 us up for a situation where we can never determine that  
15 they're recovering or recovered because we don't know what  
16 those other factors that might be impacting the population?

17 MS. BOERNER: As time has gone on, it's  
18 become more and more difficult to tease out the recovery  
19 from the oil spill versus other limiting factors in the  
20 environment. But I'll rely on Jennifer or Dede if they may  
21 have more information on that.

22 MS. KOHOUT: I think the only thing I'd add  
23 is that, you know, the population may be recovering but it  
24 took a hit after the spill. And so to some extent the  
25 course of monitoring surveys, you're looking to see if

1 there's any indication that there's a little bit of  
2 recovery from that big decline. And that -- so you're  
3 looking at rates to see whether your rates show any  
4 recovery from that initial hit.

5 MR. NEIDIG: So there may be an opportunity  
6 to actually make a determination that those specific  
7 populations are recovering?

8 MS. KOHOUT: There may be, but I'm going to  
9 agree with Catherine that as you get further out, it gets  
10 harder and harder to do that.

11 MR. NEIDIG: Okay.

12 MS. KOHOUT: I'm just suggesting that even  
13 though the populations are declining, it doesn't mean there  
14 wasn't an injury caused by the spill.

15 MR. NEIDIG: Absolutely.

16 MR. ZEMKE: Looking at the three, pigeon  
17 guillemots, Kittlitz's murrelets and marbled murrelets, so  
18 far, you're looking at the justifications of how they  
19 changed and essentially they're saying the same thing, that  
20 we don't -- you know, we can't predict maybe a stable  
21 population, but we know that they're all declining, but  
22 that's probably not due to the oil spill, or at least we  
23 don't know that, and if there's other factors that are  
24 intrinsic with that. So it seems like they should have at  
25 least consistent language between the three.

1 MR. O'CONNOR: Mr. Chairman.

2 CHAIRMAN LLOYD: Yes, Mr. O'Connor.

3 MR. O'CONNOR: Just a brief moment here.

4 The -- herein lies the challenge of the work that we do as  
5 Trustees. And it's sort of a mix of knowing where we are  
6 in the moment before a spill with knowing where we ought to  
7 reasonably be given prevailing ecological and environmental  
8 conditions 20 years after the spill. And this -- requires  
9 a certain amount of obviously clairvoyance, omnipotence,  
10 and common sense. And at this stage of the game, I think  
11 that although it's a noble undertaking to update our  
12 recovery objective status, I have -- I also believe that  
13 this should be a more thorough evaluation and if I could  
14 ever get a memo to you guys, I would explain my thinking on  
15 this subject given the requirements of the Environmental  
16 Policy Act and the updating, if you will, of our  
17 programmatic environmental impact statement. Because as  
18 Craig mentioned, the heartbeat of what we do is a recovery  
19 effort and the restoration effort. And frankly it appears  
20 to me that in many instances we don't have answers nor will  
21 be able to glean answers because of the requirements of  
22 phenomenal knowledge as to prevailing environmental  
23 conditions particularly. And this is a big challenge and  
24 I'm not comfortable making pen and ink changes to these  
25 significant aspects of our work. I think it requires a

1 more thorough evaluation and discussion and a full  
2 evaluation of where we are and where we're going over the  
3 course of the next few years in terms of restoration  
4 activity. So with that thought in mind, I'm  
5 not sure I'm prepared to pass on these recommended changes  
6 at this point. Although I don't disagree with what the  
7 recommendations are, I frankly don't have a predicate upon  
8 which to evaluate the propriety of those changes.

9 CHAIRMAN LLOYD: Thanks. I think that we  
10 are developing that sentiment amongst other Trustee Council  
11 members as well. I guess my proposal would be, assuming  
12 folks -- well, my proposal would be that we ask for a bit  
13 more detailed explanation at a subsequent meeting. And  
14 maybe more participants, not just put it all on your back,  
15 Catherine, to present some of the changes or the rationale  
16 to potential changes, but that other members of the Science  
17 Panel or other investigators come before us and help us  
18 better understand the proposed changes.

19 I assume that if we were to defer this that  
20 we're not necessarily making a comment that we don't agree  
21 with these changes, but simply that we don't believe that  
22 we have sufficient information about them.

23 Elise.

24 MS. HSIEH: We were -- this coming before  
25 you today was a product of being specifically asked to

1 update and re-issue the injured resources and species list  
2 by the 20th anniversary. We came in October 1st, we  
3 repositied the Science Panel. We knew we did not have  
4 enough time with dealing with everything else we've been  
5 dealing with, to pull everyone together, spend time on  
6 this, and hash it all out with the Trustees, liaisons. And  
7 so these changes came from the Science Panel's retreat a  
8 year ago. Was it one year ago?

9 UNIDENTIFIED SPEAKER: Summer of 2007.

10 MS. HSIEH: So, and it had been looked at  
11 by liaisons. We had asked for everyone's comments. It's  
12 been sent to you, asked for your comments. We are under  
13 pressure to re-issue this document by the 20th anniversary,  
14 so Catherine's done an outstanding job putting these  
15 documents together and getting everyone's comments. And we  
16 appreciate all the comments we've received and we  
17 absolutely support any sort of effort that the Trustee  
18 Council thinks is appropriate to create another document,  
19 so.....

20 CHAIRMAN LLOYD: Any other Council member  
21 comments? Larry.

22 MR. HARTIG: Yeah, Denby, I agree that we  
23 need some more time to think about this. I do appreciate  
24 all the effort you've put into it. I just think that one  
25 of the things that we're struggling with here is because of

1 these unknowns, are these appropriately reflected, you  
2 know, accurately reflected in this document. And it may be  
3 that we've just bound ourselves too much -- up too much by  
4 the categories that we created and they -- these things  
5 just don't fit in there or they need some more explanation  
6 or something, you know, to make it more clear where we're  
7 really at.

8                                   And so I think we need to revisit it and in  
9 that I think that we need to look at is there a better  
10 format maybe for some of these. Or, you know,  
11 qualification they need to put on some designation if we  
12 put it in a category. Because if I just read the report,  
13 I'd get one picture. And I think if I talked and got more  
14 detailed answers from the scientists, I'd have a different  
15 picture. That's what worries me.

16                                   CHAIRMAN LLOYD: Any other comments?

17                                   MR. HARTIG: I mean, I read unknown, that  
18 again, as Craig was saying earlier -- O'Connor -- that it  
19 sends a certain message and I seem to think, well, we just  
20 haven't looked at it close enough. I mean, we can say  
21 recovered here or recovering there, but we don't -- this is  
22 unknown. Obviously we need to do something.

23                                   MR. NEIDIG: I had a question.

24                                   CHAIRMAN LLOYD: Go ahead.

25                                   MR. NEIDIG: If we are contemplating not

1 moving forward with this document, what could be the  
2 ramifications of not having something for this 20th  
3 anniversary from our perspective?

4 MS. HSIEH: Well, and I think Rebecca may  
5 be able to speak to this too. We've had a lot of, I mean,  
6 media and public questions about what is the state of --  
7 some people ask the environment. They tend -- I don't  
8 think, Rebecca, they -- people don't tend to ask species  
9 specific inquiries. So I think, you know, there is some --  
10 some people may inquire about this list but I -- have we  
11 had -- have we received inquiries about this list  
12 particularly?

13 MS. TALBOTT: If you go to your top line  
14 numbers, if you go to not recovered or recovering, as I  
15 think was the case in 1999, people don't really spend a lot  
16 of time in the recovered category. They're looking for  
17 those top ones. And you do have a section in the  
18 anniversary report that will just give that brief synopsis  
19 of requests currently.

20 MR. NEIDIG: So we would be able to capture  
21 the fact that we had been working on this and trying to  
22 redevelop this.....

23 MS. TALBOTT: Uh-huh.

24 MR. NEIDIG: .....product. And so we would  
25 be able to hold off and not have egg on our faces, so to

1 speak.

2 MS. HSIEH: Yeah.

3 MR. NEIDIG: Not that that should be  
4 leading our decisions necessarily.

5 MS. HSIEH: We'd be happy.....

6 MR. NEIDIG: Okay.

7 MS. HSIEH: We -- the staff here is  
8 supportive of whatever -- we each share these concerns and  
9 we've discussed them, and the liaisons have. We were asked  
10 to produce an update this month or the next month and so  
11 this is what -- this was the best case scenario given the  
12 time frame. But we're more than happy to alter that  
13 course, so.....

14 MS. BOERNER: And I'd be hoping -- I'm  
15 happy to open discussions again about this. I will say we  
16 are nowhere near consensus on most of this, so I'd really  
17 be interested in engaging the Trustees and kind of letting  
18 you in on the conversations that are happening around some  
19 of these items.

20 MS. HSIEH: It won't be a one-hour meeting.

21 MS. BOERNER: No.

22 MR. NEIDIG: That requires its own work  
23 session.

24 CHAIRMAN LLOYD: Well, okay. I think we're  
25 fairly well down the road of.....

1 MS. HSIEH: Uh-huh.

2 CHAIRMAN LLOYD: .....agreeing not to  
3 proceed at this point. Mr. Tillery.

4 MR. TILLERY: Mine is just on timing. The  
5 anniversary really isn't until late March. Is it possible  
6 to pull this together by then. I know we don't have time  
7 for the symposiums and so forth, but there's a couple of  
8 months now still left though.

9 MS. HSIEH: Well, conceivably, if we got  
10 the Science Panel liaisons and I'm not sure if some of the  
11 PIs all on a telephone call, let's say we did it within two  
12 weeks.....

13 MS. BOERNER: There wouldn't be -- no, we  
14 need to do a retreat. It would have to be multi-day  
15 retreat again.

16 MS. HSIEH: There's going to be a lot of  
17 discussion. It's not going to be a simple process.

18 MS. BOERNER: Unh-unh. (Negative)

19 MR. TILLERY: And there's not going to be  
20 an opportunity during one of these symposiums that have  
21 most of the players in town and.....

22 MS. HSIEH: No. We've already been trying  
23 to cram these players into a bunch of different roles. We  
24 simply are maxed out.

25 MS. BOERNER: And the Science Panel will

1 not be here for the Marine Science Symposium, so -- not in  
2 its entirety.

3 CHAIRMAN LLOYD: Larry.

4 MR. HARTIG: Well, I still have in mind  
5 that we're not going to resolve some of these questions,  
6 you know. Not in two months, not in two years. I'd rather  
7 just have a statement that that's -- this is where it's at,  
8 you know, that there's this disagreement on these issues  
9 and that just goes into the language of the report, you  
10 know.

11 MS. HSIEH: We can get a consensus on  
12 disagreement by March, if you'd like.

13 MR. HARTIG: Oh, I know. But I mean,  
14 sometimes.....

15 MS. BOERNER: Yeah, that won't be a  
16 problem.

17 MR. HARTIG: .....it's all you can say is  
18 that these are the issues, and this is where we're at, and  
19 these are the unknowns. And not -- yeah, that might  
20 simplify this.

21 MS. HSIEH: Yeah, I'm trying to.....

22 CHAIRMAN LLOYD: Now, Larry, are you  
23 referring to the classification of recovering or unknown or  
24 recovered?

25 MR. HARTIG: I'd want a classification.....

1                   CHAIRMAN LLOYD: Or you talking about  
2 the.....

3                   MR. HARTIG: .....on the recovery criteria  
4 objectives.

5                   CHAIRMAN LLOYD: .....objectives.

6                   MR. HARTIG: I think there that it may be  
7 that, you know, there's some uncertainty around it. We  
8 might make a decision but say that there is this  
9 uncertainty in establishing, you know, this recovery  
10 objective. You know, if there is uncertainty around it, we  
11 should just say there's that uncertainty around it and not  
12 put something out there that people think we really know.  
13 You know, whether it's, you know, a stable population or  
14 taking it back to, you know, pre-spill conditions. I worry  
15 that we put out a report that says things without  
16 qualification. When there's all these unknowns around it,  
17 people are not going to appreciate the true situation.

18                  CHAIRMAN LLOYD: Any other comments? If we  
19 were to revisit this, is there a particular format that  
20 people believe would be more amenable to discussion? So  
21 for example, would we want to have the original report with  
22 the existing 2006 objectives and then a suggested change in  
23 track change mode that would whatever the Science Panel may  
24 have agreed to or maybe a preponderance of the Science  
25 Panel had agreed to as the proposed 2009 language, that way

1 we wouldn't be trying to mix and match, we'd have it right  
2 in front of us?

3 MR. HARTIG: Yeah, because it sounds like  
4 there's a lot on this report that there is consensus around  
5 and, you know, that there's -- maybe I'm wrong, but I mean,  
6 there's categories that haven't changed and do we need to  
7 revisit those? I don't believe we do.

8 MS. BOERNER: Yeah, the Science Panel's  
9 justification for their changes is on that brief document I  
10 gave you but we can certainly insert that into the larger  
11 document to put it more in a conceptual frame.

12 CHAIRMAN LLOYD: Given that some of these  
13 decisions in the Science Panel happened some time ago, do  
14 we want them to re-review it?

15 MS. BOERNER: They did re-review it in  
16 October of '08.

17 CHAIRMAN LLOYD: Okay.

18 MS. BOERNER: We sent this back to them and  
19 asked them if they felt that there were any significant  
20 changes that needed to be made and there were none at that  
21 time.

22 MR. HARTIG: And another way of addressing  
23 it if we're short of time is to maybe have some kind of  
24 introductory language that describes the uncertainty in  
25 general and gives some examples of it and says that we're

1 looking forward to a comprehensive, more systematic review  
2 of all the different species. Because I'm getting a little  
3 bit uncertain that even these things that haven't been  
4 changed since the 2006 report need to be revisited.

5 CHAIRMAN LLOYD: Uh-huh.

6 MR. HARTIG: Yeah, as to whether those  
7 correctly reflect, you know, the status quo and the  
8 uncertainties. So maybe that's what we do, is we just have  
9 some -- a general introduction and not try to fix every one  
10 of them and tell people, you know, this -- there is some  
11 uncertainty in this document and we're going to go back and  
12 do a more comprehensive review. And how we're going to do  
13 it and when we're going to do it.

14 CHAIRMAN LLOYD: So are we going to make  
15 some of those decisions now or wait for this to come back  
16 before us with at least a somewhat modified document?

17 MR. HARTIG: I don't know enough to give  
18 direction on that, I'm just offering us some.....

19 CHAIRMAN LLOYD: Yeah.

20 MR. HARTIG: .....alternatives.

21 CHAIRMAN LLOYD: Well, it sounds like, you  
22 know, the staff has more than enough to do given interim  
23 status as well as preparing for the 20th anniversary and  
24 some other assignments that we may well not get back to us  
25 anything substantial for a number of months, let alone

1 trying to convene the Science Panel, et cetera.

2 MS. BOERNER: I would definitely recommend  
3 that we wait until I can get you back a document that has  
4 more of the discussion that you're asking for and it's  
5 clear about the changes we've made. It is going to take a  
6 significant amount of time and it's also, I think, going to  
7 take input from the Trustees to really take a comprehensive  
8 look and really go in deep and really decide where we are  
9 and where we want to go on some of these resources. So  
10 that's longer term. That would not be prepared for the  
11 20th anniversary.

12 CHAIRMAN LLOYD: Yeah.

13 MR. ZEMKE: Yeah, and I think I heard from  
14 you, saying that the Science Panel did look at this not  
15 long ago and said.....

16 MS. BOERNER: Yeah.

17 CHAIRMAN LLOYD: Yeah.

18 MR. ZEMKE: .....this is our best shot  
19 right now without.....

20 MS. BOERNER: Right.

21 MR. ZEMKE: .....a more comprehensive  
22 discussion and evaluation process.

23 MS. BOERNER: Right. Yeah, we had the PIs,  
24 were in that meeting with the Science Panel for some of  
25 these -- we were discussing just so that we could get their

1 take as well, but, you know, there's that mix between  
2 policy and science and we have to make sure that what we're  
3 doing is within the mission of the science -- of the  
4 Trustee Council.

5 MR. HARTIG: I think we got three options.  
6 We don't change anything.....

7 MS. BOERNER: Right.

8 MR. HARTIG: .....and we keep the 2006  
9 report.

10 MS. BOERNER: Yeah.

11 MR. HARTIG: We do as major a revision as  
12 we can, you know, within the time we got, which is not  
13 going to be much.

14 MS. BOERNER: Uh-huh.

15 MR. HARTIG: It's going to be kind of  
16 a.....

17 MS. BOERNER: This memorial that you have  
18 here.

19 MR. HARTIG: And it's going to kind of  
20 leave us in the same position we are, is an incomplete  
21 effort. Or we acknowledge that this is -- that thorough  
22 review needs to be done and we're going to do it. This  
23 doesn't -- this will reflect a consensus and that there are  
24 these areas that we know need to be reviewed and put that  
25 in some kind of introductory language and leave it pretty

1 much as is with that addition.

2                   CHAIRMAN LLOYD: Well, what do you think of  
3 option three then? Is that what you're thinking we're  
4 going to head to?

5                   MR. HARTIG: I don't know if it's feasible,  
6 I just -- I'm putting it out as an idea.

7                   CHAIRMAN LLOYD: Yeah.

8                   MR. HARTIG: I don't know enough to really  
9 -- what I -- I do worry that -- I do worry about -- I guess  
10 it's the lesser of three evils in my mind. I guess I can  
11 say that right now, is that the other two don't leave me  
12 too satisfied. I kind of hate to run through -- people  
13 through the hoops here and over the next two months end up  
14 with something that's still not satisfactory. You know,  
15 where we said, God, if we just had eight months or more we  
16 could have done the right job and we just -- it was a  
17 failed effort.

18                   CHAIRMAN LLOYD: In my sense, it doesn't  
19 make any sense for us to put out yet another document that  
20 we don't believe is comprehensive. So I don't -- I guess I  
21 don't see us being able to race to a conclusion before the  
22 anniversary. And if we acknowledge that, then it seems  
23 like we ought to spend the time necessary to get this  
24 reformatted so that changes are clear. I don't know if we  
25 want to ask the Science Panel to go through it yet one more

1 time but regardless of that, we need another presentation  
2 with some time on our agenda to have Catherine plus maybe  
3 some other folks from the Science Panel present to us some  
4 options for each of these as we go through it. That may be  
5 March, April or May.

6 MR. NEIDIG: Mr. Chairman, I think we're  
7 going to bear some responsibility in this. I think this is  
8 probably -- correct me if I'm wrong, but this is probably  
9 the Science Panel's best attempt at this. So really I  
10 think it comes down to us being able to ask the Science  
11 Panel the questions that we want them to answer.

12 MS. BOERNER: Uh-huh.

13 MS. HSIEH: Uh-huh.

14 MR. NEIDIG: And so we really need to take  
15 that ball and run with it if we're going to hold this thing  
16 up, I think, and be a part of the solving it versus just  
17 say come back with something else when in fact they've  
18 already presented the best.....

19 CHAIRMAN LLOYD: Fair enough. I was  
20 thinking mostly reformatting here.....

21 MS. BOERNER: Right.

22 CHAIRMAN LLOYD: .....and reaffirming. If  
23 they just want to come back and answer questions, that's  
24 fine.

25 MS. HSIEH: We asked them to reaffirm it,

1 as she mentioned it, in October.....

2 CHAIRMAN LLOYD: Okay. And they have.

3 MS. HSIEH: .....before we did this. And  
4 so I do agree with Hans, but what needs to happen is your  
5 questions are coming from a different policy perspective  
6 than the Science Panel and the PIs who created this  
7 document. And we definitely need to have you guys  
8 intersect with them and hash out this perspective as a  
9 mutual one. So we will have to gather you together in some  
10 way, shape or form and have this discussion.

11 MR. TILLERY: When can you do that?

12 MS. HSIEH: It depends on everyone's  
13 schedule. You know how that is. Yeah, I don't think the  
14 Science Panel can take it much further.

15 CHAIRMAN LLOYD: And for a substantial  
16 amount of time it sounds like.

17 MS. HSIEH: Probably for at least a day and  
18 then a follow-up time.

19 MS. BOERNER: Yeah, we didn't -- it took us  
20 two nine-hour days just to look at the one -- the items  
21 that were listed as recovering or not recovering. And it  
22 was a very strenuous two days and I would probably  
23 recommend we would be there again, especially if wanted to  
24 really get in-depth.

25 MS. HSIEH: But we've been -- the staff

1 here has been doing a lot of things on -- that conceivably  
2 should have or would have taken a year and we've been  
3 cramming it in pretty fast, so.....

4 MS. BOERNER: Yeah, without your guidance,  
5 I don't know that we can.....

6 MS. HSIEH: Yeah.

7 MS. BOERNER: .....go any further than  
8 this. I mean, the liaisons have commented and we've  
9 incorporated their comments. The Science Panel has looked  
10 at this twice now. You know, we'll need guidance from you  
11 at this point.

12 MS. HSIEH: I think more than guidance. I  
13 think there needs to be an actual discussion.....

14 MS. BOERNER: Yeah.

15 MS. HSIEH: .....between the science pan --  
16 you know, among the Science Panel and PIs and the Trustees  
17 so that these differences and nuances and perspective can  
18 be further refined.

19 MS. BOERNER: Yes.

20 CHAIRMAN LLOYD: So when would we think we  
21 might be.....

22 MR. O'CONNOR: Mr. Chairman.

23 CHAIRMAN LLOYD: Yes. Go ahead, Craig.

24 MR. O'CONNOR: Since this is the substance  
25 of our work, I think we should be doing it with all due

1 deliverance. And I'm more concerned with adequacy and  
2 accuracy than I am with the anniversary.

3 CHAIRMAN LLOYD: Yeah.

4 MR. O'CONNOR: And so to the extent we need  
5 to do this over time, which I believe we do, I think it's  
6 appropriate to manage it according to the needs for the  
7 adequacy of the work that's being done. And I commend  
8 Catherine and folks for their effort to try to go give us  
9 something. And what they succeeded in doing is  
10 communicating effectively to us that we were asking for  
11 more than they were able to produce. And it requires our  
12 engagement in this process because these are substantive  
13 policy/science decisions that we have to make, make tied,  
14 the work of the Trustee Council. So let's do it  
15 deliberately rather than doing it with some artificial time  
16 line in mind like the anniversary. That would be my  
17 position.

18 CHAIRMAN LLOYD: Well, I think were are  
19 headed there, so now we're trying to decide when might be a  
20 reasonable time to attempt. Reformatting won't take too  
21 long. We're able to.....

22 MS. BOERNER: Not at all.

23 CHAIRMAN LLOYD: Okay. So it's just when  
24 the Trustee Council members might have a day or a day plus,  
25 and when pertinent members at least of the Science Panel

1 and PIs might be available to interact with us.

2 MS. BOERNER: I'm happy to take on the  
3 logistics of that in trying to coordinate that meeting.

4 CHAIRMAN LLOYD: Thanks. My first reaction  
5 to that is probably after our legislative session, which is  
6 mid-April or later.

7 MR. ZEMKE: That seems reasonable. Also it  
8 puts it beyond the.....

9 CHAIRMAN LLOYD: The anniversary.

10 MR. ZEMKE: .....20th anniversary conflicts  
11 also, so.....

12 CHAIRMAN LLOYD: Right. Any comments.....

13 MR. O'CONNOR: That also gives us -- that  
14 amount of time gives us the opportunity to get any new  
15 Federal representatives in place and up to speed with  
16 what's going on.

17 CHAIRMAN LLOYD: Well, I'll agree with you  
18 that they might be in place.

19 (Laughter)

20 CHAIRMAN LLOYD: Mr. Tillery.

21 MR. TILLERY: Just one thing. When this is  
22 being put together and prepared, I think it would be useful  
23 if the scientists or the Science Panel or the PIs or  
24 whoever came to the table with these things. And to the  
25 extent that we're not right on top of that with our

1 knowledge, that we don't know exactly where we stand with  
2 the recovery objective -- and it's not just the ones that  
3 are unknown, but I think there's some that are recovering  
4 that frankly might move or that we don't really know where  
5 they are -- that they come to the table with an ability to  
6 tell us what we need to know. What we can do to either  
7 confirm that that's the correct status for it or to change  
8 that status. If it requires another, you know, population  
9 count, study, survey or something. If it requires somebody  
10 to actually go in and look at cutthroats again, or  
11 whatever. You know.

12 MS. BOERNER: The Science Panel did have a  
13 retreat in Seattle in '07 as well and they did come up with  
14 some restoration ideas for each of the injured resources  
15 and services. I know that was distributed and that's quite  
16 a long time ago at this point. And I'll be happy to share  
17 that with you again prior to that meeting. So maybe that  
18 will be a good building block for us to start.

19 MR. TILLERY: Well, I think they should  
20 come a little bit -- they should work -- maybe start with  
21 that and come up with something.

22 MS. BOERNER: Right. Well, that's what I'm  
23 saying. Yeah.

24 MR. TILLERY: Yeah.

25 MS. BOERNER: That will be our first step,

1 but you know, it will be a good place to start talking.

2 MR. ZEMKE: As far as.....

3 MS. BOERNER: And they'll present that to  
4 you.

5 MR. ZEMKE: .....the transparency also  
6 where Larry had mentioned it, that taking a look at where  
7 there is a divergence of opinions, that that needs to be  
8 nested into the document too.....

9 MS. BOERNER: Yes.

10 MR. ZEMKE: .....so that we can see, you  
11 know, are there two thoughts or maybe four different ways  
12 of looking at it and the rationales behind each one of  
13 those thought processes.....

14 MS. BOERNER: Okay.

15 MR. ZEMKE: .....would be helpful for us.

16 MS. BOERNER: Sure.

17 CHAIRMAN LLOYD: Any other comments from  
18 the Trustee Council members?

19 (No audible responses)

20 CHAIRMAN LLOYD: Well, Catherine, thanks.

21 MS. BOERNER: Uh-huh.

22 CHAIRMAN LLOYD: In terms of process, do we  
23 take up this motion anyway or we kind of made a course of  
24 action.....

25 MS. BOERNER: I don't think so.....

1                   CHAIRMAN LLOYD:   .....that doesn't require  
2 a motion? Okay.

3                   MS. BOERNER: Unh-unh. (Negative)

4                   CHAIRMAN LLOYD: Thanks. And please do  
5 accept our gratitude for getting us this far. This is not  
6 a comment, at least for me, and I don't take it from any  
7 other Council member of a lack of diligence and  
8 preparation. So thanks.

9                   MS. BOERNER: Thank you.

10                  CHAIRMAN LLOYD: Maybe a lack of diligence  
11 on our part, so -- agenda item 9, approval of the FY-09  
12 herring steering committee member contract.

13                  Elise.

14                  MS. HSIEH: As you are all aware, any sole  
15 source contract over \$5,000 has to be approved in name by  
16 the Trustees. The herring committee has been very helpful  
17 and there were meetings here this last late fall, but many  
18 of these contracts hadn't been approved at the September,  
19 what, 28, 29th meeting.....

20                  MS. BOERNER: Uh-huh.

21                  MS. HSIEH:   .....that the Trustees had and  
22 probably should have been. So this is a bit of financial  
23 housekeeping. We're asking you to approve the sole source  
24 contracts for any services that are needed by the herring  
25 committee up to \$7500 for each member. The specific

1 members are Doug Hay, Evelyn Brown, Gary Fandrei, Paul  
2 Hershberger, Rob Campbell, Ross Mullins, Jeep Rice, Steve  
3 Moffitt, Vince Patrick, and Scott Pegau.

4                   CHAIRMAN LLOYD: This approves the  
5 membership of the committee, right? Are we having to deal  
6 with any dollar amounts or anything like that?

7                   MS. HSIEH: This approves the contracts for  
8 any future services that are needed by the steering  
9 committee. The committee has already constituted the  
10 members, so I guess in some ways it's an inherent approval  
11 of the committee members, but we're actually asking for the  
12 specific approval of these sole source contracts, which  
13 probably should have been done at that last Trustee Council  
14 meeting, but was not, so.....

15                   CHAIRMAN LLOYD: Well, I guess I'm  
16 struggling with it because I see the motion but I  
17 don't.....

18                   MS. HSIEH: You don't have.....

19                   CHAIRMAN LLOYD: Am I missing something in  
20 my notebook?

21                   MS. HSIEH: There's no resolution. It  
22 would just be a motion to approve the sole source contract.

23                   CHAIRMAN LLOYD: And what amounts are we  
24 talking about? Have we already been through this?

25                   MS. HSIEH: This would be for future

1 services, so these would be amounts up to \$7500. Anything  
2 over 5 -- excuse me -- yes, anything over \$5000 has to be  
3 pre-approved by the Trustee Council. So if their services  
4 start to creep over \$5000, we would need this approval.

5 MR. ZEMKE: So that's 7500 per each one of  
6 the members?

7 MS. HSIEH: Yes.

8 MR. ZEMKE: So there's 10 members.....

9 MS. HSIEH: That would be up to.

10 MR. ZEMKE: .....so it could upwards of  
11 \$75,000.

12 MS. HSIEH: Uh-huh.

13 MR. O'CONNOR: Mr. Chairman.

14 CHAIRMAN LLOYD: Mr. O'Connor.

15 MR. O'CONNOR: Would you undertake a motion  
16 on this point?

17 CHAIRMAN LLOYD: I would, please.

18 MR. O'CONNOR: All right. Well, I would  
19 move to approve the herring steering committee members as  
20 noted and to approve and authorize, if necessary, the  
21 expenditure of up to \$7500 per individual for their  
22 participation on the herring steering committee during this  
23 fiscal year.

24 CHAIRMAN LLOYD: Thank you. Is there a  
25 second?

1 MR. ZEMKE: I'll second.

2 CHAIRMAN LLOYD: Moved and seconded. Is  
3 there any further discussion?

4 MR. TILLERY: Mr. Chairman.

5 CHAIRMAN LLOYD: Mr. Tillery.

6 MR. TILLERY: Okay. We're approving the  
7 FY-09 herring committee. That's Federal fiscal year '09,  
8 which started in September.

9 MS. BOERNER: October 1.

10 MR. TILLERY: Or October.

11 MS. BOERNER: Uh-huh.

12 MR. TILLERY: And so this would approve  
13 these people from October through next October and it would  
14 approve 7500 dol -- up to \$7500 apiece for their services  
15 during that time period.

16 MS. BOERNER: Yes.

17 CHAIRMAN LLOYD: And this is all within a  
18 previously approved overall budget item. Is that correct?

19 MS. BOERNER: Yes. Yeah.

20 CHAIRMAN LLOYD: Okay.

21 MS. BOERNER: Yes.

22 CHAIRMAN LLOYD: Thank you.

23 MS. BOERNER: It was -- they were approved  
24 in the FY-09 budget.

25 CHAIRMAN LLOYD: Right. Okay. Any other

1 questions or comments?

2 (No audible responses)

3 CHAIRMAN LLOYD: Well, we have a motion on  
4 the table. Roll call. Hans Neidig?

5 MR. NEIDIG: Yes.

6 CHAIRMAN LLOYD: Craig Tillery?

7 MR. TILLERY: Yes.

8 CHAIRMAN LLOYD: Steve Zemke?

9 MR. ZEMKE: Yes.

10 CHAIRMAN LLOYD: Larry Hartig?

11 MR. HARTIG: Yes.

12 CHAIRMAN LLOYD: Craig O'Connor?

13 MR. O'CONNOR: Yes.

14 CHAIRMAN LLOYD: And I vote yes as well.

15 Thank you. Thanks, Elise. The next agenda item, number  
16 10, dealing with the integrated herring restoration plan.  
17 And Catherine can lead us through that with apparently some  
18 help from some other folks as well.

19 MS. BOERNER: Yeah. I'm just here to  
20 introduce the effort and -- come on, Jeep. Jeep doesn't  
21 want to come to the table.

22 (Pause)

23 CHAIRMAN LLOYD: While we're getting set  
24 up, Catherine or Elise or somebody, can you let us know  
25 what it is that you're asking for in terms of potential

1 action from the Council after this presentation? It --  
2 under our list of motions it indicates -- under Item 10 --  
3 tentative. Well, okay, so what might be the range of  
4 options or expectations?

5 MS. BOERNER: I would imagine the range  
6 would be that you can look at the plan as it's presented to  
7 you, the draft, and say this is exactly what we want to do  
8 and we want to pursue all the first year projects that are  
9 recommended in the plan. That's your first.....

10 CHAIRMAN LLOYD: Uh-huh.

11 CHAIRMAN LLOYD: I guess kind of the other  
12 end of that, you can say that this is the first time you've  
13 reviewed the plan in public and perhaps provide comments  
14 back to the steering committee and to the office to take  
15 further action on certain items like you have with the  
16 injured resources list.

17 Or I guess we could end up somewhere in the  
18 middle where we approve the plan conceptually however there  
19 may be some edits perhaps to a first year plan that you  
20 would like to make.

21 CHAIRMAN LLOYD: Uh-huh.

22 MS. BOERNER: So there's definitely quite a  
23 range there in what you'd like to do.

24 CHAIRMAN LLOYD: Okay. Thanks. Any other  
25 Trustee Council questions before we launch into the

1 presentation?

2 (No audible responses)

3 CHAIRMAN LLOYD: Okay.

4 MS. BOERNER: Okay.

5 CHAIRMAN LLOYD: Please.

6 MS. BOERNER: Well, this -- the plan as you  
7 have -- the draft plan you have in front of you is the work  
8 of almost two years now of the herring steering committee,  
9 including the committee that -- the 10 members that met  
10 over the summer in Cordova. We had four four-day meetings.  
11 And Dr. Rob Campbell from the Prince William Sound Science  
12 Center and Dr. Jeep Rice will be presenting the program as  
13 we have it for you.

14 CHAIRMAN LLOYD: Thanks.

15 DR. RICE: Actually Rob will do it.

16 CHAIRMAN LLOYD: You're just here for local  
17 color, is that it?

18 DR. RICE: I'm here to give him moral  
19 support.

20 CHAIRMAN LLOYD: You got his back.

21 DR. RICE: I got his back, yes.

22 DR. CAMPBELL: I'm one of the newer  
23 members. I just joined in April while Jeep has been there  
24 the whole time. And I guess he thought he'd put the new  
25 guy on the hot seat.....

1                                   CHAIRMAN LLOYD:  Yeah.

2                                   DR. CAMPBELL:  .....because he doesn't know  
3 any better.  So you have the draft and it is kind of a big  
4 document.  So what I'm here today to do is to put herring  
5 in context really quickly and then walk through the main  
6 sections of the document.  The objective, the options, our  
7 recommendations.  Gloss over some of the problematic stuff,  
8 and finish with where we are now and perhaps where we would  
9 like to go.

10                                  Herring is a keystone forage species in the  
11 North Pacific.  Pretty much everything that eats fish eats  
12 herring at some point in its life cycle.  It's also  
13 supported a lot of fisheries, specifically in Prince  
14 William Sound.  There's been commercial fisheries for over  
15 a hundred years.

16                                  As we all know, following the oil spill in  
17 1989, the population crashed.  It fell below the threshold  
18 for a fishery in 1994.  It was reopened again for two years  
19 in '97 and '98 and it's been closed since there.  There's  
20 been a lot of ink used on the causes behind that and there  
21 are many hypothesis.  They're not all mutually exclusive  
22 either.  Obviously there's the oil spill.  There was a  
23 disease outbreak.  There's evidence that there was  
24 ecosystem changes which influenced the availability of  
25 food.  And of course there was fishing activity on them.

1                   Now the thing about herring populations is  
2 that they do fluctuate. They go up and down quite a lot,  
3 but they usually rebound. And there is pretty good  
4 consensus that this has not happened yet. And there's,  
5 again, many reasons why that may be. There have been  
6 disease outbreaks fairly regularly since the crash. There  
7 is some evidence that predation rates have been increasing.  
8 As I mentioned, pretty much everything eats herring. Many  
9 bird species, many marine mammals. Whales, humpback whales  
10 particularly have been increasing in recent years. There's  
11 about two and a half times more now than there was in '89.  
12 As well, releases of hatchery pink salmon have increased  
13 and there are numerous other fish predators on herring that  
14 haven't really been assessed that much.

15                   There's also changes in ocean climate we  
16 know, which alters the productivity of the ecosystem and  
17 ultimately influences how much food is available to  
18 herring, can it grow. And there's also potentially  
19 competitors that have moved in to replace herring in their  
20 place in the ecosystem.

21                   So where we are now is that they are not  
22 recovered. The Fish and Game forecast for 2009 is 17,000  
23 tons. So again, still below the fishery threshold. As  
24 well, pigeon guillemots, which also not recovered rely on  
25 herring, as do some of the other birds, murrelets that are

1 unknown. And there was a lot of discussion about that  
2 today.

3                   So the job of the working group was to try  
4 and come up with a restoration plan for herring.  
5 Every.....

6                   DR. RICE: Can we go back to that one  
7 slide?

8                   DR. CAMPBELL: Sure.

9                   DR. RICE: I'd like to just make one  
10 comment. So we can never really go back and determine why  
11 they crashed, so our focus is clearly on why they're not  
12 recovering. We would like to know that answer, but it just  
13 is not scientifically possible. So those are the four  
14 generalized areas you might say that we're really focused  
15 on. What I want to draw your attention to, that those  
16 things are operating on all the life stages, all the time.  
17 And if one of those is dominant in this year on a  
18 particular life stage, it may not be the dominant factor  
19 the following year. So it's complicated.

20                   And secondly, these factors are operating  
21 on the Sitka Sound and Togiak and other areas. But the  
22 dominant force there may not be the dominant force that's  
23 negative say here in Prince William Sound. So again, it's  
24 a complicated problem. It's not trivial.

25                   MR. HARTIG: Can I answer -- ask a couple

1 of quick general.....

2 DR. RICE: Yeah.

3 MR. HARTIG: .....questions here? I  
4 remember when we were all down in Cordova and we also were  
5 having that discussion about natural cycles of herring.  
6 And I recall that they are like decades. I mean, it isn't  
7 like every five years or every 10 years or 11. It's  
8 decades. Is that correct? And if that's correct, do we  
9 know what causes those natural cycles?

10 DR. RICE: Well.....

11 MR. HARTIG: I remember they were quite  
12 large.

13 DR. RICE: Well, again, it depends on where  
14 you're at. And sometimes we have clues that it's very  
15 oceanographically driven, and that's when two different  
16 populations in different regions are kind of going up and  
17 down together. That kind of tells us that it's  
18 oceanography, probably bottom up forces, which sometimes  
19 cause an event. Right now Prince William Sound is not in  
20 sync with Sitka. It used to be at one time. And so we  
21 have a different set of processes that are probably more  
22 dominant say than the Sitka Sound processes that are  
23 radiating out from there.. So you don't know what the  
24 dominant factors are. It's -- there are cycles but right  
25 now the cycle seems to be broken and then you have this

1 non-responsive recovery line. It should be -- you know,  
2 doing something like that but right now it's kind of going  
3 out there flat. We don't know exactly why and we forecast,  
4 we could forecast that it's going to be below the fishery  
5 threshold forever right now with the amount of knowledge we  
6 have, which isn't enough.

7 MR. HARTIG: Okay. Thank you.

8 DR. CAMPBELL: Great. So as with any  
9 restoration activity, there needs to be fairly well-defined  
10 goals. And a lot of thought and time has gone into this.  
11 It's fairly glossed over in the draft, so I thought I'd  
12 spend a little bit more time on it because it's come up  
13 several times, where are these numbers coming from. The  
14 three goals are a spawning biomass above 43,000 tons for  
15 six to eight years. We would like to see two strong  
16 recruitments of age three fish during time and to see  
17 spawning in at least three geographic regions.

18 Now this was developed by Mark Carls, Steve  
19 Moffitt, Tom Dean, Kim Trust originally. And what they did  
20 was first they took a record of spawning biomass that goes  
21 back to the mid-seventies and they calculated the geometric  
22 mean. So that's just a measure of central tendency. And  
23 about half of the biomasses that were observed were above  
24 43,000 tons. So that's where that number came from.

25 Next they looked a record recruitment going

1 back to the twenties. And looking only at positive  
2 recruitment, so where recruitment is higher than average,  
3 again did a geometric mean, and about 25 percent of the  
4 recruitments were above 220 million fish. That's where  
5 that came from.

6 Now next, using those indicators of strong  
7 classes, they looked at the frequency that they occurred at  
8 and on average they occurred every three or four years.  
9 And so wanting to see two of those, that's where the six or  
10 eight year number came from. The third goal was put on by  
11 the Birton (ph) group in response to concerns that herring  
12 spawning had compressed within the Sound and they weren't  
13 spawning where they had done so historically. And that the  
14 number three is largely arbitrary.

15 MR. TILLERY: Mr. Chairman.

16 CHAIRMAN LLOYD: Craig.

17 MR. TILLERY: On this six to -- what is  
18 like average or mean -- you're talking about not above  
19 43,000 tons each year for six to eight years, but the  
20 average or the mean for six to years, mean. I mean if --  
21 how close -- does that mean that -- does that mean we can  
22 be six to eight years out even if it recovered really well  
23 starting right now, but what's it been like for the last  
24 four or five years?

25 DR. RICE: Well, what we're seeing there is

1 that we're not going to be comfortable saying to you that  
2 the population has recovered until this criteria is met.  
3 This is not the criteria for opening fisheries, that would  
4 be the responsibility of Fish and Game and.....

5 MR. TILLERY: Right.

6 DR. RICE: .....they have their criteria  
7 for that. But for us to say all of a sudden the population  
8 bounces up to 43,000 metric tons, we're not going to walk  
9 away and say our job is done. We're not going to feel  
10 comfortable until we have a succession of years where  
11 that's the average.

12 MR. TILLERY: But we haven't been above  
13 43,000 tons for -- since '92? Is that right?

14 DR. RICE: Yeah, '90 -- yeah, '90.....

15 MR. TILLERY: So we would not be able to  
16 say these have recovered under this definition.....

17 DR. RICE: That's.....

18 MR. TILLERY: .....for a minimum of six  
19 years, even if it miraculously recovered this.....

20 DR. RICE: That's correct.

21 MR. TILLERY: .....coming year.

22 DR. RICE: We're not going to feel  
23 comfortable. And, you know, if you knew all the factors  
24 and understood them precisely as to why and all the stars  
25 were all lined up, well you could, but we don't know that.

1 So we're not going to feel real comfortable saying they're  
2 recovered until we have a pattern, a trend that we believe  
3 and feel comfortable with.

4 CHAIRMAN LLOYD: Can you quickly go back to  
5 the previous graph? Okay. So the threshold is at 25?

6 DR. CAMPBELL: 22.

7 DR. RICE: 22.

8 CHAIRMAN LLOYD: 22. Okay. And your  
9 suggested criterion is 43,000 for six to eight years.

10 Okay. Thanks.

11 DR. CAMPBELL: All right. So before  
12 undertaking any kind of restoration activities, there are  
13 some certain basic data needs that need to be met to know  
14 what's happening with herring in the Sound. Some are being  
15 collected now, some are not. And those are covered in  
16 detail in the draft. But just in broad strokes, we need to  
17 have some idea of how many herring there are and where they  
18 are. How common disease outbreaks are and where they're  
19 occurring. Some idea of losses to the population to  
20 predation, perhaps migration, and some idea of the food and  
21 oceanographic conditions.

22 With that in mind then, any restoration  
23 option where we're actively trying to bring back herring is  
24 basically just either increasing births or reducing deaths.  
25 And so the group basically brainstormed and came up with as

1 many ideas to accomplish that as we could think of. And  
2 this is the first list that we came up with, that would be  
3 supplemental production, growing fish and adding them to  
4 the wild. Predator management, either removing or hazing  
5 predators. Somehow supplementing the amount of food  
6 available to them. Mitigating disease. Removing  
7 competitors. In the event that fishery reopens, improving  
8 management strategies to reduce fishing mortality or  
9 fishing related disease for protecting spawning habitat.  
10 Moving eggs or making the decision to take no action.

11                   Now from that big list, the group basically  
12 crossed off those which we could demonstrate to be  
13 completely ridiculous or un-feasible or simply not doable  
14 and came up with several recommended options. And that  
15 was, supplemental production, producing herring by culture  
16 and adding them back into the population. Supplementing  
17 carrying capacity. That would be to address a bottleneck  
18 in their life history. Their first year as juveniles,  
19 there's pretty good evidence can be very high mortality due  
20 to starvation during the winter. So the idea would be  
21 either to provide them a little bit of food during the  
22 winter or try to move nutrients up to the surface to  
23 enhance productivity to let that happen naturally.

24                   As well, as far as managing competitors or  
25 predators, most are hands-off but the idea of altering

1 pollack populations was also agreed upon and something  
2 likely. And it has come up where the ranking of these  
3 options came from. And I would stress that this is isn't  
4 really a list by order of likely of success. What we wound  
5 up doing in the end was voting on what we thought was more  
6 likely. So it's more a weighting of the members of the  
7 group.

8                   All of these options have some fairly  
9 serious problems that need to be assessed before moving  
10 forward with any of them. In order to go towards  
11 supplemental production, there are disease implications  
12 that need to be taken care of. There is the need to be  
13 able to mark the fish, to tell them apart from natural  
14 ones. There are permitting issues. Same with any  
15 supplementation of carrying capacity. There's also scale  
16 issues to deal with. And any management of predator to  
17 competitors also has scaling and permitting issues.

18                   All of these potentially have unintended  
19 consequences, and that's been pointed out a lot by  
20 reviewers as well. So we're really advocating a  
21 precautionary approach to take really small steps, to look  
22 at this much more closely in terms of the feasibility and  
23 that with pilot studies and workshops. One workshop has  
24 already been held on marking technologies for herring in  
25 December of last year.

1                   We also recommend that this baseline data,  
2 the stuff that we need to know about what's happening in  
3 Prince William Sound with herring should go on as soon as  
4 possible and maybe even be stepped up a notch.

5                   CHAIRMAN LLOYD: Before you move on, you  
6 very quickly mentioned for predator/competitor management,  
7 that many were hands-off and then focused on pollack. When  
8 you say hands-off, what do you mean?

9                   DR. CAMPBELL: Some of the predators on  
10 herring are endangered species, so it's simply not feasible  
11 to be having anything to do with.....

12                  CHAIRMAN LLOYD: So that's a policy or  
13 legal determination, not a scientific one.

14                  DR. CAMPBELL: Right.

15                  CHAIRMAN LLOYD: Okay. And pink salmon and  
16 there's some others that are not endangered, so do you have  
17 some other generalized thinking in that regard or some  
18 other species that we may not be thinking about right now?

19                  DR. CAMPBELL: Right. Like you said, it is  
20 a policy decision. Sea lions or whales were fairly easy to  
21 say that that's hands-off. I don't think anybody would  
22 disagree with us. We did recognize that something like  
23 pink salmon is a predator on herring in the document.  
24 Actually, in the document as it is, they're listed as a  
25 competitor and that should be switched. But again, it's a

1 policy decision. It's in the document but it's not for to  
2 say either way.

3                   CHAIRMAN LLOYD: Okay. I guess I'm  
4 concerned of eliminating even the ones that you think are  
5 easily eliminated.

6                   DR. RICE: We didn't say that.

7                   CHAIRMAN LLOYD: Well, for example, yeah,  
8 an endangered species. But still, if there's scientific  
9 question or scientific viewpoint that says that actually  
10 there might be some benefit even though people are  
11 presuming that they are legally or policy-wise untouchable,  
12 I still think that that might be interesting information.  
13 But anyway, that's a rhetorical comment.

14                  MR. TILLERY: Some of those are also  
15 injured resources, aren't they?

16                  CHAIRMAN LLOYD: Well, are they?

17                  MR. TILLERY: Don't we -- all right. I'm  
18 not sure if it would be the predator, aren't seals and  
19 killer whales?

20                  DR. RICE: Humpback whales aren't, but  
21 killer whales are.

22                  MR. TILLERY: Killer whales. Seals?

23                  DR. RICE: We're thinking some of those are  
24 feeding and the seals are. So it's -- that gets into  
25 another layer of complexities in their recovery.

1                   CHAIRMAN LLOYD:  Anyway, thanks.  Mostly a  
2 rhetorical comment for the time being.

3                   DR. CAMPBELL:  There's a big section on  
4 problematic issues.  It's not really appropriate for me to  
5 tell you about that because that's not my job.  Just really  
6 quickly, we did recommend that there be a steering  
7 committee as is used for most every large scientific  
8 endeavor.  There was a recommendation that there should be  
9 a person who's responsible for getting a lot of this work  
10 done, a herring coordinator.  And something else that came  
11 up a lot was the idea of community involvement, that's  
12 through both communication and involvement in community  
13 members wherever possible.

14                   So where we are now is the draft that you  
15 have has been peer reviewed by four peers and it's been  
16 seen by the PAC.  And we have comments back from them.  
17 There aren't any serious problems with it but there are  
18 lots of small things that need to be done yet.  It is still  
19 a draft.  One of the reviewers called it a good  
20 intermediate level document, which is about right.

21                   So I tried to go through my notes from the  
22 PAC meeting and from the reviews that we have and identify  
23 some of the more major things that need to be done still.  
24 Obviously it's been written by 15 people so it needs some  
25 technical editing to just clean up the document, the

1 verbiage, the outline, all of that.

2                   As I said before, this has come up with  
3 pretty much every group. We need to spend a lot of time  
4 assessing the feasibility of these things before moving  
5 forward with anything active. In terms of permitting and  
6 both scale and cost issues, is it even possible, and if so,  
7 what it will cost.

8                   Some of the reviewers also mentioned that  
9 it's very hard to come up with a plan like this without any  
10 idea of how much it's going to cost. So funding needs to  
11 be included.

12                   Also, several people have mentioned that it  
13 still could be somehow more integrated. Now integrated is  
14 a funny term -- fuzzy term. It is integrated right now in  
15 that herring within the ecosystem is considered and there's  
16 been an attempt to try and integrate the activities by  
17 having someone in charge of coordinating all of those, but  
18 there is still some need for some synthesis activities to  
19 integrate all the data that comes up. Something to come up  
20 with a picture of what herring is doing in the Sound.

21                   And that's all I have for you today.

22                   DR. RICE: Go back to the last slide and  
23 I'll make just a couple of comments. The funding is a huge  
24 issue in a way because one thing that Rob didn't go into  
25 very much detail is, you know, the list for year one of 10

1 or 12 or 15 types of projects that are going to be started.  
2 And it's hard to -- we didn't put a money value on those.  
3 We don't know if that's one million dollars or 10 million  
4 dollars. You know, we didn't go ahead kind of do some back  
5 of the envelope calculations as to whether this study is  
6 worth a hundred thousand or what.

7                   So that's an issue. So consequently the  
8 peer reviews are all, you know, catch that, of course, and  
9 whatnot. But it's kind of hard to do that because you  
10 don't know what the scale of the program is. And that  
11 starts to get into a philosophical or policy decision by  
12 you guys, is to -- you know, is this a one million dollar  
13 program for one year or is it a 10 million dollar program  
14 for two or three years or is it a 50 million dollar program  
15 for 20 years.

16                   So we didn't tackle that question. We  
17 don't have the authority to, so to speak. And so without  
18 an answer to that, some sort of scaling, we can't go back  
19 then and then say, well, we should do priority projects  
20 three and -- one through five and we'll spend two million  
21 dollars in the first year and ramp up for say four or five  
22 and go for ten. I mean, we can't do that sort of thinking.

23

24                   So without having some sidebars, you know,  
25 and sort of thing, we really can't go to the next level.

1 So the peer reviewer correctly identifies this as an  
2 intermediate level document. It is that document that we  
3 would go forward and build that next structure on how big a  
4 thing we're going to have.

5 I know that my Trustee says, well, don't --  
6 tell me what you need. Well, that's the easy way out for  
7 you guys to say that, you know. But, you know, we can't go  
8 to that next level without an interaction there and some  
9 guidance. And it really doesn't make sense to fund year  
10 one unless you're really going to have some thoughts about  
11 what you're going to do in year two, three, four, and five.  
12 I think the priorities in year one would be to begin the  
13 core projects, but again, which -- just using that, that's  
14 a relatively simple example. Which core projects should  
15 you do? Well, it depends on whether you're talking about a  
16 10 year or a 20 year horizon, or just a three year horizon,  
17 you know. It matters as to whether you're really going to  
18 go through with the -- some sort of form of supplementation  
19 or not.

20 So these are -- you know, trying to come up  
21 with a finalized plan right now is just not possible. It  
22 would certainly, you know, need to and should boost it up  
23 with one more level but we need to have an interaction with  
24 you on where you think philosophically you should go. Put  
25 some scale to it and then charge us to go another level,

1 another notch up.

2                   CHAIRMAN LLOYD: I think that we might have  
3 some comments from some other staff and I wonder if you  
4 want to engage in questions, interchange with Rob and Jeep  
5 now, or have some staff presentations first and then give  
6 and take with any or all of them?

7                   MR. HARTIG: It doesn't matter to me.

8                   CHAIRMAN LLOYD: Do we have some staff that  
9 was -- speak on this, Elise?

10                  MS. HSIEH: No, I think that there's been a  
11 lot of staff discussions about the integrated herring and  
12 restoration plan. And also, a lot of discussion about the  
13 invitation, which is next on your agenda, which has  
14 basically a length of the herring, which is if there's  
15 anything that could be discussed or suggested in that area,  
16 then that would be helpful. For example, if you wanted to  
17 ask staff to review the document and come up with a few  
18 recommendations to put in the invitation and also send it  
19 to the herring committee and have them give comments on  
20 that list, for example. Something like that to move  
21 forward towards the invitation, that would one route to go.

22                  CHAIRMAN LLOYD: Well, maybe we don't have  
23 staff that wants to come forward. So, Larry, did you --  
24 looked like you were going to embark on some questions.

25                  MR. HARTIG: Yeah, I had a question for

1 Rob, and that is, in looking at -- you know, there's an  
2 earlier slide there where you had, you know, the various  
3 options to try to get the herring to recover. And, you  
4 know, like dealing with the predation, you know, and I've  
5 wondered, is -- and maybe this is maybe what the PAC was  
6 asking too. You know, if there's some kind of risk  
7 analysis here. Because.....

8 DR. RICE: Right.

9 MR. HARTIG: .....when I look at the.....

10 DR. RICE: That's part of the funding.

11 MR. HARTIG: It may be that some of these,  
12 like dealing with, you know, pollack and establishing a  
13 fishery there -- and I don't want to speak for Fish and  
14 Game by any means on this.....

15 DR. RICE: Yeah.

16 MR. HARTIG: .....maybe that's a fairly low  
17 risk option. And you say, okay, let's just go do that, see  
18 what happens. You know, something that you could implement  
19 rather quickly and easily. And it may be doubtful that it  
20 will have -- get you all you want to do, up to the 43,000  
21 metric tons, but the -- but it would be helpful. There's  
22 others.....

23 DR. RICE: Well, let me just comment on  
24 that. I think that when we look at this list there's kind  
25 of like eight pathways to go. And they're not necessarily

1 mutually exclusive here.....

2 MR. HARTIG: Right.

3 DR. RICE: .....but we're not going to go  
4 through all eight alone. And so you're right, what we have  
5 to do is what's the feasibility, and to me that includes  
6 risk, but maybe not to others. But, you know, what's the  
7 feasibility, what's -- and cost is part of that, so it's  
8 cost.....

9 DR. CAMPBELL: Unintended consequences.

10 DR. RICE: Unintended consequences is a  
11 common term we use in all the discussions. But what's the  
12 risk, what's the cost, what's the likelihood of success.  
13 You know, all those sort of things. And so we really need  
14 to develop that for each of these options. And so I see --  
15 you know, I don't see us going ahead, you know, with option  
16 four or something like that, you know. I see us going  
17 ahead with all options in terms -- with a feasibility study  
18 of some sort.

19 MR. HARTIG: Right. But some these, like  
20 the supplemental production, I mean, in as much as, you  
21 know, that it's difficult in some instances, you know, to  
22 deal with NEPA, I mean, I think some of these would trigger  
23 that.

24 DR. RICE: That one definitely would. And  
25 of course there's really four or five options potentially

1 to supplementation. It's not just, you know, one pathway  
2 there if you're going to go that route. And it's not  
3 trivial obviously. It's complicated. But we really need  
4 to have a -- somebody spend several months trying to figure  
5 that out, whether the various pitfalls, what's the risk,  
6 what's the -- what are the smart things to do in  
7 preparation.

8 I think for some of these, you know, what  
9 is it that we need to know and contemplate and figure it  
10 out before we make a decision on this particular option.  
11 And you need to do that for all of them.

12 CHAIRMAN LLOYD: Anyone else? Questions?

13 MR. TILLERY: So Craig, to make sure I  
14 understand this then, for you to come back with a more -- a  
15 firmer or a more concrete recommendation, you would like to  
16 know generally what kind of a time line the Council views  
17 as appropriate and what kind of a funding commitment.

18 DR. RICE: Yeah.

19 MR. TILLERY: So.....

20 DR. RICE: It makes a difference. Whether  
21 you're talking about one mil, 10 mil, 50 mil, or a hundred  
22 mil.

23 MR. TILLERY: Kind of a.....

24 DR. RICE: You're not talking 200 mil  
25 because you don't have that much left, so.....

1 MR. TILLERY: Not anymore, apparently.

2 (Laughter)

3 MR. TILLERY: But so -- if we were -- I  
4 mean, it seems to me that -- some of the things are  
5 obvious. One, is it looks like from the restoration  
6 objectives, you're at least looking at a six-year time line  
7 if -- and apparently long -- so it's a long-term project.  
8 It's not two or three years maximum.

9 DR. RICE: Okay.

10 MR. TILLERY: I think the other thing that  
11 you're dealing with is it's an important project. The  
12 Council has identified herring along with lingering oil as  
13 one of the two most important projects left. So I think  
14 within those parameters, the Council probably needs to and  
15 can come up -- I assume you don't have -- do you have a  
16 projection as to the time line we were still going to be  
17 worrying about this, then this wouldn't be such a big  
18 mystery, right?

19 DR. RICE: Right. I'm -- right now I  
20 envision, based on what I know now, a 20-year horizon.  
21 Don't know how long it will take, but I envision whatever  
22 you do is going carry over a 20 year period and maybe will  
23 be extended.

24 MR. TILLERY: Okay.

25 DR. RICE: Even if we're successful.

1                   CHAIRMAN LLOYD: That's sobering news.

2                   DR. RICE: Yeah, there are no guarantees.  
3 You know, option eight there, no action except for  
4 monitoring, for example, is -- it may be the default option  
5 ultimately.

6                   CHAIRMAN LLOYD: Well, if you're looking at  
7 a 20 year time horizon or about, and even if we were to  
8 say, okay, let's ballpark 20 million dollars, what kind of  
9 activity program can a million dollars a year on average  
10 get you?

11                  DR. RICE: Not much.

12                  MR. ZEMKE: Or would you want to pulse it  
13 where you spend five million one year.....

14                  CHAIRMAN LLOYD: Well, right.

15                  MR. ZEMKE: .....and then.....

16                  DR. RICE: Right. There would be  
17 strategies, but what it would say is that we're probably  
18 not going into supplementation. You know, if we do a  
19 feasibility study for \$20,000, for example, and, you know,  
20 the bottom line of the feasibility study for the  
21 supplementation is it will cost 30 million dollars. You  
22 know, 10 in infrastructure and five per year to run it for  
23 five years or something like that. Well, we're done.  
24 We're not going to go there.

25                  MR. ZEMKE: Obviously there's the loop

1 though too, like you say, that we need efficacy, saying  
2 well, if we spent 30 million dollars hypothetically on  
3 supplementation such as the hatchery or something like  
4 that, you know, what is the efficiency of actually  
5 producing results. Well, we don't know that. And, you  
6 know, if it was a hundred percent, we were going to get --  
7 you know, we were going to be above 43,000 per year for 10  
8 years, then, well, it may be worth doing that. But if it's  
9 -- well, we only have about 20 percent confidence that  
10 we're going to be between 20 and a hundred thousand tons,  
11 you know, then we'd probably say, well, we don't want to go  
12 that way because there's too much risk involved.

13 DR. RICE: Too much risk. Right. Risk and  
14 whether it will succeed but then there's also those other  
15 risks, as in disease or some other issues that we haven't  
16 quite thought of, something like that.

17 CHAIRMAN LLOYD: Larry.

18 MR. HARTIG: Do we realistically believe  
19 any of these other options, even coupled with each other,  
20 if we exclude supplemental production, that we have a good  
21 shot at recovery?

22 DR. CAMPBELL: Well.....

23 DR. RICE: You want a stab at that?

24 DR. CAMPBELL: Yeah. Carrying capacity  
25 potentially, again, we need to sit down and do some math.

1 The biogenics of herring are pretty well known, so one can  
2 figure out how much food is needed. It's pretty easy to  
3 pump up deep water from down below. There's people working  
4 actively on that technology. That's basically what happens  
5 in the summer when the wind blows the right way, we get  
6 upwelling and we get little blooms of production. So this  
7 would just be doing that. So, yeah, if it was -- if the  
8 equipment was cheap enough, once it's in the water, it runs  
9 on waves.

10 MR. HARTIG: Another question I have is you  
11 have relocation of eggs and I was just wondering if you  
12 could do it geographically. And I know that herring don't  
13 spawn in the exact same area and same distance from shore  
14 every year, but could you target different areas of the  
15 Sound and say it's more likely that they would come back in  
16 this geographical area and that we target that first?

17 DR. RICE: That's part of the strategy you  
18 would have to develop, but yeah. One risk, for example, is  
19 if you spawn the herring out there in Rocky Bay in  
20 Hinchinbrook Entrance and they get swept out to sea and no  
21 good comes that, or is it ocean winds, et cetera, that are  
22 carrying them into the northeast bay. So, you know -- so  
23 if you're to do a supplementation or feeding or, you know,  
24 one of these other issues, we'd probably do it in one of  
25 those northeast bays or a series of them. Take the

1 northwest bays to let them know (ph), but you know, I mean  
2 that's -- you're correct. That's sort of the thinking that  
3 goes behind the feasibility concept.

4 MR. ZEMKE: Well, there's temporal and  
5 spacial problems with that too, is that, one is, you know,  
6 can we mark enough fish to really know; and then two is  
7 that we won't know for at least.....

8 DR. RICE: Three years.

9 MR. ZEMKE: .....eight years or so. Three  
10 years the first time and the is that a successful -- for  
11 just that one time or is it we meet the two-cycle event  
12 there. So, you know, we're probably looking at a decade  
13 before we even know, so how many pilot studies will we need  
14 to do to be able to validate some of these strategies?

15 DR. RICE: So you nailed it in the sense  
16 that this is not trivial, that it's complex and it doesn't  
17 make any sense to start unless you're willing to go pretty  
18 far down the pathway. Having incremental funding one year  
19 at a time is no way to run a project, so you may have to  
20 have a -- prove up -- proof of concept or progress checks.  
21 But I mean, you know, you don't want to be halfway with a  
22 hatchery building, for example, and then you need the next  
23 Trustee approval to put the roof on.

24 MR. ZEMKE: It seems like at least in the  
25 short term we're not going to be able to have -- you know,

1 short term meaning by the invitation, we're not going to be  
2 able to have much of that information be able to help us  
3 guide.....

4 DR. RICE: No.

5 MR. ZEMKE: .....where we want -- what we  
6 want to ask. But at the same time, there's -- I think what  
7 comes forth is this kind of key or core data needed to do  
8 -- either run the pilots or understand some of the  
9 processes.....

10 DR. RICE: I think.....

11 MR. ZEMKE: .....that are going on. But I  
12 don't see that in here. It's kind of listed in the list  
13 one year but at the same time I don't really have a  
14 definitive idea of what those are and what they cost,  
15 so.....

16 DR. RICE: Yeah, I think that -- and that  
17 would be part of the RFP process, is to take project X and  
18 actually lay it out a little bit on, you know, what people  
19 would be submitting an RFP on. I think the RFP would --  
20 and I had spoke with staff about this, so, you know, but  
21 it's an open question. I think the RFP would be dominated  
22 by say half or some fraction anyway of those core projects,  
23 getting some of those continuing and started and the other  
24 half -- I'm just using that as an arbitrary amount -- would  
25 be slanted toward feasibility studies, possibly some lab,

1 making a little with marking. You want to actually throw  
2 some fish in a tank and eggs and larvae to start marking,  
3 but a lot of it would be a desk exercise with how many fish  
4 we need to mark on the output and how many do you need to  
5 come back or get three years later or one month later to  
6 see if you're having any success with that. So, and those  
7 would be desk type exercises. And how much it would cost  
8 and, you know. I think to make a logical decision about  
9 supplementation as an example, you would have to cost it  
10 out. You know, is it -- can we do supplementation over a  
11 10 year period for 10 million dollars? Or is that a  
12 hundred million? So having a feasibility study on paper to  
13 see what you could or couldn't do is appropriate.

14 MR. ZEMKE: Okay.

15 MR. O'CONNOR: Mr. Chairman.

16 CHAIRMAN LLOYD: Mr. O'Connor.

17 MR. O'CONNOR: Yes. I guess the first  
18 question that I have at this point is to harken back to  
19 Jeep's early comment with regard to -- or ability to link  
20 the current condition of herring to the spill. And we have  
21 been challenged with that issue for a number of years and  
22 we are making certain assumptions as we proceed that there  
23 is some linkage, or whether there's linkage or not, we do  
24 have to focus on herring as a critical component of the  
25 ecosystem with regard to other species that were impacted

1 as a result of the spill.

2 I think the focus for our restoration and  
3 the, if you will, the recovery objective that is driving  
4 the planning exercise needs to be carefully evaluated  
5 because if what we are doing is going to focus on the  
6 requirements to make herring or bring herring back to a  
7 condition where they are at a level that is appropriate to  
8 support the recovery of other injured species that are in  
9 some way dependent upon herring, I think we have one  
10 recovery objective and perhaps that would define the  
11 undertaking and the projects that we might engage. If our  
12 goal is to return it to the condition so that it will  
13 support a commercial fishery, I think that may drive our  
14 decisions in a different direction.

15 I deposit that a statement but also as a  
16 question. Is that an accurate observation on my part?

17 CHAIRMAN LLOYD: Jeep?

18 DR. RICE: Oh, let me answer that. No.

19 CHAIRMAN LLOYD: All right.

20 DR. RICE: And the reason is, is that we  
21 went -- it goes back to that recovery goal. The recovery  
22 goal is 43,000 metric tons for over a number of years. And  
23 it -- obviously if a fisherman and Fish and Game looked at  
24 it, they'd say, wow, we can have a fishery if we get to  
25 those levels, but I think the driver here is the ecosystem.

1 Our definition of a healthy ecosystem for Prince William  
2 Sound is to hit that goal. And if we hit that goal or any  
3 fraction thereof, the higher the better, the better -- the  
4 closer to full recovery for the Sound, the pigeon  
5 guillemots or anybody else we are. And I guess I'm not  
6 representing your agency there. You know, we're not the  
7 Bureau of Commercial Fisheries anymore like we used to be  
8 in 1968 and 9. We're here for the ecosystem, so that's our  
9 primary goal. So that would be my answer or response to  
10 you.

11 MR. O'CONNOR: So all that's been developed  
12 in this plan, the questions, the recommendations, the  
13 thoughts, are being driven by the goal to recover the  
14 ecosystem to a reasonable level of herring production, if  
15 you will, herring populations, concentrations, that would  
16 make the ecosystem as healthy as possible with regard to  
17 those species that have been injured as a result of this  
18 spill.

19 DR. RICE: I think that that's the  
20 dominant. Certainly Ross Mullins and the fishermen in  
21 Cordova are -- you know, they're input was based on  
22 returning the population to a commercial fishery level and  
23 I understand that. But that's not our obligation. Our  
24 obligation is to the natural resources and to the ecosystem  
25 and that's -- so I think that goal dominates bringing back

1 the commercial fishery. If both can happen, you know,  
2 okay, that's great. That's a big plus. But I don't think  
3 that the commercial fishery drives this.

4 MR. O'CONNOR: If we are able to bring it  
5 back.....

6 DR. RICE: Yes.

7 MR. O'CONNOR: .....to the levels that  
8 you're suggesting, would we be having to influence the  
9 decisions of Denby and his folks with regard to whether or  
10 not they would open the fishery?

11 DR. RICE: Now you're above my pay grade.

12 MR. O'CONNOR: Regardless of -- I'm sorry?

13 DR. RICE: I said now you're above my pay  
14 grade.

15 MR. O'CONNOR: Oh. (Laughter) Well, I  
16 guess I'm concerned with what it is we're trying to  
17 accomplish and the rationale for the Council's engagement I  
18 think for the most part is based upon restoring the  
19 ecosystem to the point where it will adequately support  
20 those species that are in -- were injured as a result of  
21 the spill. This is a restoration effort for other species,  
22 not a restoration effort for herring because we can't  
23 clearly demonstrate the linkage to the spill and the  
24 downturn of herring. So I want to be sure as we move  
25 forward with whatever actions we take that we are driving

1 to that ecological and ecosystem end with restoration of  
2 other critters in mind more than the idea of bringing back  
3 herring simply because it was a resource that we can  
4 demonstrate was injured as a result of the spill.

5                   And you feel, Jeep, that the package that  
6 has been put together thus far, notwithstanding the fact  
7 that it is -- that there are many options and there are no  
8 sideboards of a meaningful nature yet that this plan at  
9 this stage will provide that kind of foundation for our  
10 future evaluations should be taken.

11                   DR. RICE: Yeah, and also there's those  
12 core projects that we mentioned. A lot of those are very  
13 ecosystem -- tools for monitoring the ecosystem. There  
14 would be some oceanography there. There's -- how big are  
15 the juveniles before and after the winter. You know, those  
16 are all things that are going to play into Fish and  
17 Wildlife Service knowledge base, so to speak, to manage  
18 pigeon guillemots and other species. I mean, in other  
19 words, all the natural resource agencies can use that sort  
20 of core data. I hate to use the term GEM-like, so to  
21 speak, but that was the original goal of GEM, was to supply  
22 ecosystem-wide concept of measurements that would provide  
23 data to any and all users, so to speak, to help them manage  
24 all of those natural resources. And this plays out towards  
25 that goal also. Not as completely as GEM, but partway

1 there.

2 MR. TILLERY: Mr. Chair.....

3 MR. O'CONNOR: Is there opinion over those  
4 of the experts on your panel, if we restore herring to the  
5 levels that you're suggesting we should strive for, will  
6 that in turn restore the quality of the ecosystem and  
7 enhance if not finalize the recover of other species that  
8 have been impacted as a result of the spill? Is this  
9 enough, is my question, to the restoration of other species  
10 such as killer whales or pigeon guillemots or other  
11 critters that haven't necessarily recovered? Will this  
12 bring them back?

13 DR. RICE: Well, there are no guarantees  
14 when you're tinkering with the ecosystem and this -- so  
15 there are no guarantees here. We're not that smart.  
16 Certainly our agency is trying to evolve toward ecosystem  
17 management, but that's a 30, 40, 50 year horizon before  
18 we'll get to the really great end point. So, no, there's  
19 no guarantee but yet in terms of do I believe this is our  
20 best shot at that? The answer to that would be yes.

21 As far as that transient killer whale pod,  
22 for example, that is not recovering, no, herring is not  
23 going to bring that particular pod back. That particular  
24 pod is on a non-recovering one-way path toward extinction  
25 it would appear and, hey, that's just the way it is. But

1 for the bulk of the species, herring and a few other forage  
2 fish trans -- sand lance and eulachon, et cetera, those are  
3 arguably by far the most valuable species in the Sound  
4 because they connect the cowries that are generated by  
5 phytoplankton and copepods, they connect the cowries, the  
6 pathway on up to the birds, the fish, lots of fish, and  
7 marine mammals.

8                               So to me they're the most -- well, they're  
9 -- are a low profile species for the most part as far as  
10 the public because they're thinking halibut and king salmon  
11 and that sort of thing. These are arguably the most  
12 important, valuable species to work with.

13                           CHAIRMAN LLOYD: Is that it for now, Craig?

14                           MR. O'CONNOR: Yeah, that's it for now.

15                           CHAIRMAN LLOYD: Thanks.

16                           MR. O'CONNOR: Yeah, any other questions  
17 are above my pay grade too.

18                           CHAIRMAN LLOYD: The other Craig.

19                           MR. TILLERY: Mr. Chairman, I guess I have  
20 a significant disagreement with the views that were  
21 expressed. Herring are an injured resource. While we  
22 haven't been able to definitively tag it to the spill or  
23 come up with the exact linkage or the explanation, we have  
24 traditionally, and it's -- and put it in our injured  
25 species list, viewed it as a species injured by the

1 resource -- as injured by the spill. It is -- has an  
2 important function, and a very critical function,  
3 obviously, as the base of the ecosystem. But it also has  
4 an important function as providing a service to the people,  
5 which is something we are responsible for restoration. And  
6 I do not think that our sole obligation or even the -- you  
7 know, the vast majority of our obligation is simply to the  
8 ecosystem. I think we have a significant obligation also  
9 to restore to a level that it will provide a service.

10                   Now having said that, I guess I -- since  
11 the restoration goal is double what it was required to have  
12 a fishery, I had sort of assumed that this would deal with  
13 both of them, but I don't -- while the ecosystem is  
14 critically important, I don't think people should disregard  
15 the importance of the herring as providing a service to  
16 commercial fishermen.

17                   CHAIRMAN LLOYD: Well, thanks for that.  
18 That's similar to my line of thinking as well, and I guess  
19 I don't have a judgment at this point whether the 43,000  
20 ton restoration goal would absorb, you know, a likely level  
21 of commercial harvest. Maybe you can explain whether or  
22 not those types of -- any commercial exploitation was  
23 factored into the reasonableness of a 43,000 ton goal at  
24 all.

25                   DR. CAMPBELL: The exploitation rate is 20

1 percent when there is a fishery. And just looking at what  
2 we have here since 1980, 20 percent of pre-spill numbers is  
3 still well above the threshold. It's still well above  
4 43,000 tons as well.

5 CHAIRMAN LLOYD: Right.

6 DR. RICE: I don't think that went into the  
7 thinking of the 43,000 figure. I mean, in other words,  
8 that's your business. That's your agency's function.

9 CHAIRMAN LLOYD: Uh-huh.

10 DR. RICE: And so we were not going to  
11 dictate when you should or shouldn't open a fishery or, you  
12 know, change the threshold or whatever. We were just  
13 messing around with what number would we feel comfortable  
14 with as defining the population as recovered.

15 DR. CAMPBELL: And that's based on biomass  
16 going back to '77, which is about when the modern fisheries  
17 for roe and food and bait started, so that's biomass with  
18 fishing activity on it.

19 MR. TILLERY: So that -- to me that sounds  
20 like that this -- the recovery objective we have  
21 accommodates restoration on the surface. I think it's very  
22 possible.

23 DR. CAMPBELL: Well, yeah.

24 DR. RICE: Yeah. We didn't -- I didn't  
25 mean.....

1 DR. CAMPBELL: Yeah, it's conservative.

2 DR. RICE: .....to eliminate it, I just  
3 said that to me, in a priority setting, that those fish are  
4 more viable in terms of an ecosystem than they are to the  
5 service. You guys are into the politics. You got to have  
6 a different set of rules. But, you know, to me the  
7 ecosystem is, you know, it's got to be healthy. That's our  
8 most important goal by far. Not just a little bit but by  
9 far. Because without the healthy ecosystem, you won't have  
10 those other functions. You won't have tourism, you won't  
11 have a commercial fishery. You may not have salmon. I  
12 mean, you know, in other words there's impacts all over the  
13 map that keep them healthy.

14 MR. TILLERY: But it should be important to  
15 note that commercial fishing for herring is not something  
16 politics. This Council has a legal obligation to restore  
17 services. And almost -- no matter how we -- and we debate  
18 how that goes back and forth. But no one really quarrels  
19 that where you have an injured resource and that service is  
20 dependent upon that injured resource, that we have an  
21 obligation to restore that service by restoring that  
22 resource, if we can. It's not politics, it's really.....

23 DR. RICE: Okay.

24 MR. TILLERY: .....our responsibility.

25 DR. RICE: I stand corrected.

1                   CHAIRMAN LLOYD: Larry.

2                   MR. HARTIG: Well, I think Craig O'Connor  
3 had a good point, and that is, it concerns me that if we  
4 were going to go out and spend 10's of millions of dollars  
5 on herring and there's -- and the scientists are saying  
6 that the depressed populations are at this point linked to  
7 the spill, we need to have some way of justifying the  
8 expenditure of that money beyond just that we feel sorry  
9 for the herring fishermen, and I do. I think, you know, we  
10 -- I'd like a more solid basis than that, and so I'd like  
11 to know, you know, those species that are not recovered,  
12 you know, that we want to help besides the herring, you  
13 know, with restoring the herring to some degree, maybe not  
14 up to the 43,000 metric tons per year, you know, is there  
15 something we could do on herring that would help their  
16 recovery. And do we have that somewhere? I mean, do we --  
17 has that been analyzed?

18                  DR. CAMPBELL: No, that needs to be done.  
19 That would be part of a feasibility.....

20                  MR. HARTIG: Yeah, I think that's something  
21 we need to do as an early step in this evaluation.

22                  DR. CAMPBELL: And, actually I have a  
23 question. Herring in is in the list of impacted species,  
24 right? Does that not imply that the oil spill is.....

25                  MR. HARTIG: Well, that's.....

1 DR. CAMPBELL: .....in part responsible?

2 MR. HARTIG: Well, that's another question  
3 I had too as I was sitting here thinking about the other  
4 report we just talked about and whether that's, again, an  
5 accurate portrayal of the situation. When we said we put  
6 herring in not recovered, that implies it's not recovered  
7 from the spill and that the spill caused that problem. I  
8 mean, that's how I read that report. And maybe that's,  
9 again, not an accurate reflection of what is really the  
10 truth. That's what I worry, again, about that report.

11 CHAIRMAN LLOYD: Well, I think it goes well  
12 beyond that report. I think we're operating under either  
13 previous decisions or assumptions that yes indeed they were  
14 injured or else they wouldn't be on the injured species  
15 list. I'm hesitant to reconsider all of that at this point  
16 and whether or not this version of the Trustee Council  
17 wants to reevaluate whether or not herring were indeed  
18 injured.

19 MR. HARTIG: Yeah, I'm trying to segregate  
20 our feelings from our legal obligation here.

21 CHAIRMAN LLOYD: Yeah.

22 MR. HARTIG: That's what I'm trying to do,  
23 is -- you know, especially if we're talking about a big  
24 chunk of money going towards herring versus something else.  
25 You know, I want to make sure that we're doing the right

1 thing legally.....

2 CHAIRMAN LLOYD: Uh-huh.

3 MR. HARTIG: .....you know, as Trustees.

4 And it concerns me when you say that there's not a causal  
5 link here.

6 CHAIRMAN LLOYD: Mr. Tillery.

7 MR. TILLERY: I'd be happy to address that.  
8 I think.....

9 MR. HARTIG: Now is this a legal opinion or  
10 is this kind of Craig's feelings about this?

11 MR. TILLERY: This is a legal view, is that  
12 we have been looking at herring over the years, trying to  
13 find if there is a link for a lot of reasons, one of which  
14 is to make sure that it is an injured species as a result  
15 of the spill. But also, because once you find the reason,  
16 you're more likely to find a restoration means of -- a way  
17 to deal with it.

18 We -- where we have down is that in the  
19 absence of information, I think, due to the -- essentially  
20 the time that you can see on that chart of when this  
21 decline occurred, and the failure, continued failure to  
22 recover, that we were going to view herring as an injured  
23 species, it's being treated as a species that was injured  
24 by the oil spill. And -- but that is buttressed by the  
25 fact that even if weren't it is so critically important

1 to the ecosystem as a whole and is so many of the other  
2 species and it's not something that, you know, really  
3 requires a definitive investigation at this point.

4 MR. HARTIG: I struggle a little bit with  
5 that last piece.

6 DR. RICE: Let me throw my two cents in.  
7 From a scientific perspective, there was damage to herring  
8 in 1989. Okay. And that's not -- I mean, there's damaged  
9 larvae, there's a forest recruiting class center from the  
10 '89 through, so there's good evidence of oil and herring  
11 overlapping and effect.

12 The '93 crash is debatable. Did the crash  
13 really start in '89 and, you know, we didn't detect it till  
14 '93? That's part of the problem that you have there. So  
15 there the data is a little bit -- the crash part is a  
16 little bit equivocal. But tied into that is a disease. We  
17 know the direct cause is disease but did the oil have an  
18 influence on causing that disease susceptibility.

19 And, you know, so then we get into the  
20 what-ifs and whatnots and you can't definitively say beyond  
21 a shadow of a doubt that the oil caused the '93 crash.  
22 Okay. But likewise, we also can't say the opposite, that  
23 it didn't have a role.

24 And then lastly, the last bit of philosophy  
25 or concept would be there are direct things and then there

1 are indirect consequences, unintended consequences. And  
2 several of us believe but cannot prove that it's these --  
3 the secondary effects, these ecosystem effects that caused  
4 the crash for the herring in '93. So -- but we can't prove  
5 it. We don't have the database. We would spend probably a  
6 hundred million or some huge amount to find out we didn't  
7 it was going to happen, so those studies were never done  
8 and we can't go back there. But we definitely can't say  
9 that oil didn't have its role. We just can't prove that it  
10 did.

11 MR. HARTIG: How about the last question  
12 though? I asked it once before, you know, can we say that  
13 any of the species that haven't recovered that are on the  
14 injured species list would be helped by at least some  
15 degree of herring recovery?

16 DR. RICE: I think there, I think that the  
17 presumption is a lot more positive. I mean, there's  
18 several species that are very forage -- well, most of them  
19 are forage fish and some of them very directly. Pigeon  
20 guillemots, I mean, you know, I mean, these are fish that  
21 are going to harvest a fair number of herring if they're  
22 there. And if they build up enough towers, then they'll  
23 have a higher reproductive rate. So yeah, I think that  
24 just using that as a single example would suggest.....

25 CHAIRMAN LLOYD: We have an agenda item

1 before us and that is to do something, I guess, with regard  
2 to this proposed program. Can I get a sense from you, Rob,  
3 or Jeep, what it is you believe the Council ought to be  
4 doing with regard to this report? Or the proposed plan  
5 program?

6 DR. RICE: Well, I guess I think you ought  
7 to accept it as an intermediate report and not a final  
8 report. You ought to charge us to continue on to make --  
9 bring it up another level. And you ought to give us some  
10 guidance on what your vision is for a herring plan, if you  
11 will, which would then help guide the RFP that's going to  
12 presumably come out in a month or so.

13 CHAIRMAN LLOYD: So presumably that harkens  
14 back to some of the things that you had spoken about  
15 before. If we were to accept this as a intermediate draft,  
16 you would like some idea of parameter, such as are we  
17 talking about an annual program, which is kind of the  
18 absurd level, up to a 20 or 30 year possible program an  
19 then maybe a ballpark estimate of the magnitude of funding  
20 that might be available assuming that a....

21 DR. RICE: Yeah.

22 CHAIRMAN LLOYD: .....good program could be  
23 laid out.

24 DR. RICE: And you don't have to sign it in  
25 concrete.....

1                   CHAIRMAN LLOYD: Right.

2                   DR. RICE: .....and live by it.

3                   CHAIRMAN LLOYD: Right. To give you a  
4 target to refine the plan.

5                   DR. RICE: Yeah.

6                   CHAIRMAN LLOYD: Okay. Other than time and  
7 money, is there another parameter that you'd like to see  
8 some conceptual guidance on right now?

9                   DR. RICE: None comes to mind. Obviously  
10 those factors will influence staff as they develop the RFP  
11 for the upcoming year and the magnitude of it.

12                  CHAIRMAN LLOYD: And do we as a Council  
13 perhaps get back at some point after giving you the  
14 guidance, some idea of maybe refined feasibility or  
15 likelihood of benefits? So for example, if you were given  
16 20 million dollars for 20 years, could supplementation  
17 possibly provide for a six to eight year provision of  
18 43,000 metric tons? Is it even within likelihood, that  
19 kind of question and answer?

20                  DR. RICE: Right. I think that if you say  
21 go forward and go forward with some sort of guidance that  
22 that would drive the RFP to develop those feasibility  
23 tests, so to speak, for each of those alternatives, and  
24 we'd just start the core program, and you know, we would  
25 get started. But I think that in a year or -- I don't know

1 the time frame on it, but we still have to take this plan  
2 up to one more notch, which would allow decision making at  
3 some point in the future. Right now you can make a  
4 decision. If we said, you know, approve the  
5 supplementation or approve option five or whatever, you're  
6 -- we're not there. So that's really the charge, is that  
7 we need to do what it takes to get to the next decisionary  
8 level without over-extending.

9                   CHAIRMAN LLOYD: Elise or Jennifer, do you  
10 have any amplification of that in terms of what guidance  
11 you think the Council ought to be providing right now?

12                   MS. HSIEH: Well, I guess I was just  
13 thinking of the practicalities and with the administrative  
14 aspect, it sounds like there's two ways to go. One, which  
15 is to task the integrated herring group to get back  
16 together and take -- you know, give them some parameters  
17 and then have them see how that affects this document. The  
18 other is to have the agency staff, staff, the Trustee  
19 Council and the group refine a list of suggested  
20 feasibility studies and core project information that Jeep  
21 has suggested and get that in the invitation for February.

22                   So I -- actually I was just thinking of the  
23 different routes.....

24                   CHAIRMAN LLOYD: Uh-huh.

25                   MS. HSIEH: .....in receiving that.

1                   MR. ZEMKE: It sounds like maybe both could  
2 be done but in publicly different time frames also. For  
3 the invitation I think.....

4                   DR. RICE: That's.....

5                   MR. ZEMKE: .....the time we have, then  
6 probably that second option is one we're probably looking  
7 at. Whereas the actual re -- kind of drafting with more  
8 detailed risk analysis based on guidance that the Trustee  
9 Council could give you, whether it's 20 year -- or 20  
10 million in 10 years or 50 million in 20, or 5 in 5, then,  
11 you know, that is going to take much longer, I would  
12 imagine, to be able to flesh out a little bit, a rational  
13 approach.

14                  MS. HSIEH: Although the Trustee Council  
15 could add those sidebars. Of course that would help shape  
16 things right up front. I'm not suggesting that you rush to  
17 that sort of judgment, but I'm just saying that of course  
18 that -- if the Trustee Council had that consensus, of  
19 course that would take things to another level as well.  
20 I'm not suggesting that you make that decision today.

21                  MR. NEIDIG: Did the steering group discuss  
22 what would be encompassed in say a one year plan versus a  
23 three year plan versus a five year plan versus a 10 year  
24 plan, all the way up to the 30 year plan? I mean, we need  
25 to understand exactly what it is we might be looking at and

1 what value that's going to bring. If we decide to go a  
2 certain route, I just feel that we need probably a little  
3 bit more information before we're able to make that  
4 decision based on your expertise and the expertise of the  
5 group, obviously.

6 DR. RICE: I think we got there and we ran  
7 out of gas basically by the time we got to that point. But  
8 nevertheless, I think the vision in there would be  
9 consensus of this within the group. We were thinking, you  
10 know, a 20 year horizon. We weren't thinking one year at a  
11 time. We do have a list of projects or whatever there for  
12 year one, but that was kind of thrown out there, but we  
13 were definitely thinking in terms of one year, three year,  
14 10 and 20 sort of thing, so.....

15 MR. NEIDIG: And then in terms for this  
16 RFP, is -- were there any kind of conclusions drawn about  
17 the feasibility of or the importance or the ranking in some  
18 of these different studies that might be done, making those  
19 a three-year proposal for instance? So that the scientists  
20 and the various groups that might do these things have  
21 continuity in funding and know what it is....

22 DR. RICE: Right.

23 MR. NEIDIG: .....they're going to be able  
24 to do. I mean, it seems to make a little bit more  
25 practical sense to me versus having people keep coming

1 back. Obviously you'd have to set it up in a way that we  
2 would allow and assure that we're getting the results that  
3 we expect and have some breaking points that you could  
4 withdraw funding I guess at some point.

5 DR. RICE: Now.....

6 MR. NEIDIG: But I think all those are  
7 taken care of in contract.

8 DR. RICE: I'd say in general that we were  
9 normally thinking more of a -- a study is two or three  
10 years minimum.

11 MR. NEIDIG: Okay.

12 DR. RICE: You know, maybe a ramp up here,  
13 do it for two years, and reporting six month period after,  
14 something like that. So that would be more of the common  
15 approach. There are very few one-year studies that begin  
16 and end.....

17 CHAIRMAN LLOYD: Yeah.

18 MR. NEIDIG: Right.

19 DR. RICE: .....in a year anymore. It just  
20 doesn't work, administratively or.....

21 MR. NEIDIG: Right.

22 DR. RICE: .....scientifically, so we were  
23 never thinking about.....

24 MR. NEIDIG: It doesn't get you anything at  
25 the end of the day. Okay.

1 MR. O'CONNOR: Question, Mr. Chairman.

2 CHAIRMAN LLOYD: Yes, sir. Go ahead.

3 MR. O'CONNOR: Jeep, if we were to  
4 authorize at this point moving forward with you guys  
5 working with staff to develop the early generation studies,  
6 the studies that we think -- you think need to get put into  
7 the field and out to be captured in this solicitation  
8 that's coming out next month and attached a -- sort of a  
9 philosophical concept that we're not going to invest more  
10 than three to five million dollars in those projects as an  
11 early overture with regard to the development of an over-  
12 arching plan, would that be feasible and does that make any  
13 sense? So that would give you some sort of a spending  
14 range.....

15 DR. RICE: Yeah.

16 MR. O'CONNOR: .....with this earlier --  
17 this early initiative. Is that too much? Too little?  
18 Does it make any sense?

19 DR. RICE: Right now it sounds all right.

20 DR. CAMPBELL: Yeah.

21 DR. RICE: Rob's shaking his head,  
22 positively I guess. Shrugging I guess. No, that sounds  
23 about right. That sounds appropriate.

24 CHAIRMAN LLOYD: Is that a motion, Mr.  
25 O'Connor?

1 MR. O'CONNOR: Mr. Chair.....

2 MS. HSIEH: May I make an administrative  
3 sort of.....

4 CHAIRMAN LLOYD: Go ahead.

5 MS. HSIEH: .....process recommendation?  
6 If I could recommend that staff work with the herring  
7 group, come up with this list, send it to the herring  
8 group, get comments, refine it on a -- this will be on a  
9 fast track, of course. And then send it to the Trustees  
10 and liaisons after it's been refined by the group. So  
11 we're talking about three steps in and then get it into the  
12 invitation. That sounds like a reasonable process.

13 CHAIRMAN LLOYD: Okay. Craig, I don't know  
14 if I stepped on you, but were you making that as a motion?  
15 (No audible response)

16 CHAIRMAN LLOYD: Uncharacteristically mute.  
17

18 MR. O'CONNOR: No, no, I -- because I  
19 turned off the button.

20 CHAIRMAN LLOYD: Yeah.

21 MR. O'CONNOR: I was -- I didn't hear what  
22 the comments were that were just made, but yeah, I was  
23 going to make a motion.

24 CHAIRMAN LLOYD: Elise was laying out a  
25 number of administrative steps between staff and the

1 herring group that would develop the specific language for  
2 the invitation.

3                   MR. O'CONNOR: All right. Well, Mr.  
4 Chairman, I would just add one comment that is always  
5 popular with you guys, and that's that this is -- has NEPA  
6 written all over it. So as we move forward with our next  
7 overtures, we need to be engaging that, the NEPA planning  
8 process in that effort.

9                   With that mind, my thought, which I will  
10 articulate hopefully in a motion here when I move, that we  
11 request that staff working with other appropriate entities  
12 develop an appropriate solicitation for February's  
13 presentation that will focus on the most pivotal studies  
14 that need to be done to further inform our decision in the  
15 development of a herring plan. And that the spending goal  
16 for that undertaking be in -- within the range of three to  
17 five million dollars, realizing that this is arbitrary,  
18 let's at least try to have some sideboards to the  
19 expenditures as we begin this process.

20                   CHAIRMAN LLOYD: Is there a second?

21                   MR. NEIDIG: I'd like to ask him to repeat  
22 the motion. I'll second it.

23                   CHAIRMAN LLOYD: You're cruel.

24                   MR. NEIDIG: I'll second.

25                   CHAIRMAN LLOYD: It's been moved and

1 seconded. Any discussion with regard to the motion?

2 Craig.

3 MR. TILLERY: Mr. Chairman, I find the  
4 motion totally appropriate with the exception of the  
5 monetary sideboards. Five million would be more than we're  
6 targeting to spend on the entire restoration program for  
7 this year. Three million would -- I'm not even sure what  
8 we got right now. I don't remember from that earlier  
9 presentation what our current amount is. But that's a lot  
10 of money. I would rather it be sort of no more than a  
11 certain amount and with the proposal sort of prioritized  
12 with an explanation leading up to that. But to me, five  
13 million just seems really out of the ballpark, I think,  
14 unless there's an explanation as to why there needs to be a  
15 real pulse, as was said earlier.

16 DR. RICE: I'll just speak for myself. I  
17 think we're a little bit premature for a pulse. To me this  
18 would be a ramp up year. It doesn't mean there wouldn't be  
19 a project in the water, or fish in the water, but no me in  
20 the water, but it's still -- I think it's premature to say  
21 we're going to go out there and do a two million dollar  
22 core program, for example, get that in. Do you want to  
23 comment or not?

24 DR. CAMPBELL: I don't know. There might  
25 be some pulsing to get the program started, but I was just

1 thinking any kind of feasibility study for any of the  
2 options would be fairly cheap.

3 DR. RICE: Yeah, I could see the otolith,  
4 being able to put fish in the tank and proceed, but.....

5 DR. CAMPBELL: Right.

6 DR. RICE: .....it's hard for me to  
7 envision a massive field effort at this point right now,  
8 because it's not -- we're not there.

9 CHAIRMAN LLOYD: Well, it struck me too  
10 that three to five million was a bit on the high side, but  
11 Craig O'Connor, did you have a rationale for those  
12 numbers??

13 MR. O'CONNOR: No. Other than I've never  
14 seen anything come in cheap. And the -- what I didn't want  
15 to do is put a cap on this undertaking if the studies that  
16 staff and the technical folks believe are appropriate to  
17 further inform our decision and exercise this planning  
18 effort, I don't want to unduly cap that or artificially cap  
19 it because it's important to get the information. If the  
20 numbers are one to three, if the numbers are a buck and a  
21 half, I don't care so much on the numbers, just as long as  
22 we're making a meaningful effort, not artificially  
23 constraining what needs to be done. And the -- I guess  
24 that's it. I don't care what the numbers are, I just want  
25 to get moving.

1 CHAIRMAN LLOYD: Okay.

2 MR. O'CONNOR: And I'm assuming these  
3 projects, some of these projects, base on the comments that  
4 Jeep made, are going to be two or three year projects  
5 anyways.....

6 CHAIRMAN LLOYD: Uh-huh.

7 MR. O'CONNOR: .....and we can do them, you  
8 know, budget them so we don't have to keep coming back each  
9 year or what have you. We've got it within the full range  
10 that we need to spend. That's all I'm striving for.

11 CHAIRMAN LLOYD: Does anybody want to  
12 modify the language in terms of dollar amounts in the  
13 motion we have before us?

14 MR. ZEMKE: Was the motion seconded?

15 MR. NEIDIG: Yes.

16 CHAIRMAN LLOYD: Yeah.

17 MR. TILLERY: May I ask a question?

18 CHAIRMAN LLOYD: Yeah.

19 MR. O'CONNOR: I submit my motion.....

20 MR. TILLERY: So, Jeep, what number.....

21 MR. O'CONNOR: .....to make it one to  
22 three.

23 MR. TILLERY: What number would you think  
24 is more -- is kind of an upper range beyond which it really  
25 is going to be kind of ridiculous? In other words, you

1 might not get that last amount of money but you'd at least  
2 like to throw those numbers out.

3 DR. RICE: I guess the one question in my  
4 mind is whether you're talking about, as he put it there,  
5 three to five. Is that three to five for just next fiscal  
6 year.

7 MR. TILLERY: On an annual basis.

8 DR. RICE: Or -- that seems a little high.  
9 I guess what I envisioned would be next year we would spend  
10 two, three, something like that, and possibly, possibly  
11 ramping up to four or five in succeeding years. Without an  
12 infrastructure issue, I just don't see us going much past  
13 that at all. If you had an infrastructure issue where  
14 you're going to build a hatchery from 10 million, well,  
15 that's different but.....

16 MR. TILLERY: Mr. Chairman.

17 CHAIRMAN LLOYD: Yes.

18 MR. TILLERY: I don't know exactly  
19 procedurally, but I'd request an amendment to Mr.  
20 O'Connor's motion that would ask them to look at a range of  
21 projects with a no more than three million dollars that --  
22 but with those projects sort of prioritized with an  
23 explanation of why that -- those priorities are  
24 appropriate.

25 CHAIRMAN LLOYD: That's three million

1 annually?

2 MR. TILLERY: Annually.

3 CHAIRMAN LLOYD: Okay.

4 MR. TILLERY: Well, for the next year at  
5 least, three million for this coming year, but.....

6 DR. RICE: How about raising the cap  
7 slightly up to four for the second and third year?

8 CHAIRMAN LLOYD: Well, we're getting down  
9 to some pretty fine negotiations here.

10 MR. TILLERY: Well, again, I don't want to  
11 unduly constrain it.....

12 CHAIRMAN LLOYD: Right.

13 MR. TILLERY: .....because it may -- there  
14 may be.....

15 CHAIRMAN LLOYD: Right. This is conceptual  
16 money talk, right? So we're not committing anyway. Let's  
17 just make that an amendment. So is there a second to the  
18 amendment?

19 MR. O'CONNOR: Mr. Chairman, I accept that  
20 as friendly amendment to my motion.

21 CHAIRMAN LLOYD: Well, assuming that we're  
22 allowed to do that, how about if we just then accept that  
23 as a friendly amendment and that becomes the motion.

24 MR. HARTIG: Now Hans has to agree too.

25 MR. NEIDIG: I concur.

1                   CHAIRMAN LLOYD: Great. The second concurs  
2 so the motion before us is three million annually for the  
3 first year and perhaps four for subsequent years. Okay.  
4 Does that provide sufficient guidance for the next  
5 exercise?

6                   DR. RICE: Yeah.

7                   CHAIRMAN LLOYD: I'm getting head nodding  
8 in the affirmative from.....

9                   DR. RICE: Like we have the power to  
10 approve.

11                  CHAIRMAN LLOYD: Yeah, right. Team members  
12 and staff, are we done with discussion or are there any  
13 other points from Council members?

14                  MR. ZEMKE: I guess one question. In the  
15 last three years, how much annually have we spent on  
16 herring related projects?

17                  MS. BOERNER: On average, about two  
18 million.

19                  CHAIRMAN LLOYD: Okay. If you're ready to  
20 call for a vote. I guess we are. Hans Neidig?

21                  MR. NEIDIG: Yes.

22                  CHAIRMAN LLOYD: Craig Tillery?

23                  MR. TILLERY: Yes.

24                  CHAIRMAN LLOYD: Steve Zemke?

25                  MR. ZEMKE: Yes.

1                   CHAIRMAN LLOYD: Larry Hartig.

2                   MR. HARTIG: Yes.

3                   CHAIRMAN LLOYD: Craig O'Connor?

4                   MR. O'CONNOR: Yeah.

5                   CHAIRMAN LLOYD: That's good. It's your

6 motion. And I vote in the affirmative as well. So there

7 we are. Thanks. Do we need a break?

8                   MR. NEIDIG: No.

9                   CHAIRMAN LLOYD: I'm kind of.....

10                  MR. NEIDIG: Charge.

11                  CHAIRMAN LLOYD: .....racing to adjournment

12 too.

13                  MS. HSIEH: We just have one last thing.

14                  CHAIRMAN LLOYD: Yes. Okay. So you mean

15 the next to last thing on the agenda being Item 11, which

16 is the.....

17                  MR. COLBERG: I'd like to reconsider Mr.

18 Tillery's vote.

19                  (Laughter)

20                  CHAIRMAN LLOYD: I want to welcome, I

21 think, Attorney General Colberg back into the Department of

22 Law Council seat. Thank you, Mr. Tillery, for helping us

23 through that last one.

24                  Item number 11 is the draft FY-2010

25 invitation for proposals. And Catherine, are you leading

1 us through that as well?

2 MS. BOERNER: I am.

3 CHAIRMAN LLOYD: Thank you.

4 MS. BOERNER: I'm afraid, but I'll go for  
5 it. I will say before we move on to the invitation, the --  
6 we just had our third annual PI herring team meeting in  
7 December. And I'll say even outside of the program that  
8 we're developing here the amount of integration that that  
9 team has done of its own volition has been tremendous.  
10 It's been a big cost savings for the Trustee Council and a  
11 time savings. They've really, really worked hard to share  
12 data, to share vessel time, and I think this is only going  
13 to encourage more of that as well as bringing the community  
14 into that participation. So there's been a lot of effort  
15 there.

16 And also I just want to say a huge thank  
17 you for the people over the summer, the 10 members of the  
18 herring working group that did meet. I mean, they  
19 volunteered almost a month of their time in the busiest  
20 field season, the time in between the meetings, and with  
21 incredibly divergent viewpoints, but it's amazing that we  
22 got such a good document. And I just wanted to thank them  
23 for all their input.

24 So on to the FY-10 invitation. The  
25 invitation has been discussed at length with legal counsel,

1 the liaisons, agency personnel, the Trustees. And for this  
2 fiscal year, we decided that the priorities would be  
3 lingering oil; the restoration of Pacific herring, as we  
4 just discussed; the marine pollution affecting injured  
5 resources and services, the reduction of marine pollution;  
6 and then the category of restoration of injured resources  
7 and services.

8                   That final category was place in there  
9 because while we do have very focused efforts for the  
10 fiscal year, we also want to make sure that if people have  
11 innovative ideas to help restore other resources or  
12 services on our list that they have that opportunity to  
13 submit.

14                   I will bring to your attention some -- I  
15 guess two new things that we're going to include in this  
16 invitation. One of them is the request that every project  
17 come in is at least a two year project, which would allow  
18 for one year of field work and then one year of report  
19 writing, getting your data to the office and addressing  
20 peer review comments.

21                   With our current system, their project  
22 funding ends at the end of September 30th of that fiscal  
23 year, their final report is due to us on April 15th of the  
24 next fiscal year, and then they're not able to get  
25 reimbursed or paid for that time that they're writing the

1 report, that they're responding to peer review comments,  
2 and that they're getting their data together. I do think  
3 it's helped us kind of develop this large delinquent list.  
4 I mean, it's hard to get people to do work that they're not  
5 getting compensated for. And we feel that we get a better  
6 product if we're giving people the time and the money to  
7 allow them to do that.

8                   We're also going to add the reference to  
9 the 10 percent language which you approved earlier in the  
10 day, so that the final year of the project, which would be  
11 the report writing year, not a field year, will be withheld  
12 until the final deliverables are delivered.

13                   The herring section is a placeholder right  
14 now. And as you just directed in your last motion, we will  
15 be able to provide you with a staff provided and a herring  
16 steering committee team reviewed list of projects for that  
17 year, which can be inserted into this document.

18                   I'm here to answer any questions.

19                   CHAIRMAN LLOYD: Okay. Are there any other  
20 staff comments from agency staff, liaison staff, Elise,  
21 Jen? No? Council members? The purpose here is to approve  
22 this, right?

23                   MS. BOERNER: Yes.

24                   CHAIRMAN LLOYD: To allow it to be sent out  
25 as the invitation.

1 MR. COLBERG: I so move.

2 CHAIRMAN LLOYD: Is there a second?

3 MR. HARTIG: I second.

4 CHAIRMAN LLOYD: Okay. Mr. O'Connor, are  
5 you still with us?

6 MR. O'CONNOR: I am, Mr. Chairman.

7 CHAIRMAN LLOYD: Any comments or questions  
8 with regard to the FY-2010 invitation?

9 MR. O'CONNOR: I don't believe I do. I  
10 think we ought to get it out.

11 MR. ZEMKE: I guess I have one process  
12 question. We have February 27th as the proposed invitation  
13 issue date.

14 MS. BOERNER: Uh-huh.

15 MR. ZEMKE: Is that -- do we have  
16 sufficient time to be able to roll in the integrated  
17 herring proposal process that was outlined in the previous  
18 motion.....

19 MS. BOERNER: No.

20 MR. ZEMKE: .....into that process?

21 MS. BOERNER: It may push that schedule  
22 slightly and I can provide you with an alternate schedule  
23 based on the time frame that we would need to provide you  
24 that list of questions.

25 MS. HSIEH: But I think it's our intent to

1 try and meet that. That staying the date.

2 MR. NEIDIG: Question.

3 CHAIRMAN LLOYD: Okay. The question has  
4 been called. Hans Neidig?

5 MR. NEIDIG: Yes.

6 CHAIRMAN LLOYD: Talis Colberg?

7 MR. COLBERG: Yes.

8 CHAIRMAN LLOYD: Steve Zemke?

9 MR. ZEMKE: Yes.

10 CHAIRMAN LLOYD: Larry Hartig?

11 MR. HARTIG: Yes.

12 CHAIRMAN LLOYD: Craig O'Connor?

13 MR. O'CONNOR: Yes.

14 CHAIRMAN LLOYD: And I vote affirmatively  
15 as well. And here we are.

16 MS. BOERNER: That was too easy.

17 CHAIRMAN LLOYD: That was too easy.

18 MS. BOERNER: Thank you.

19 CHAIRMAN LLOYD: Thank you, Catherine.

20 Looks like that brings us to the end in the agenda. Is  
21 that correct? That is correct. Okay. A motion to  
22 adjourn?

23 MR. NEIDIG: Actually, if I might, Mr.  
24 Chairman, I'd like to take a moment, if you'll indulge me  
25 to.....

1                   CHAIRMAN LLOYD: Please do.

2                   MR. NEIDIG:       .....make a couple of  
3 comments.

4                   CHAIRMAN LLOYD: Yes, Mr. Neidig.

5                   MR. NEIDIG: As I part ways. First of all,  
6 I'd just like to take the opportunity to thank the EVOS  
7 Trustee staff. The staff does a tremendous job in  
8 supporting the Trustees and during my time here I have  
9 truly appreciated all that you do. You do a fantastic job  
10 and that's a very difficult job because you have a lot of  
11 bosses. I'm going to get all choked up.

12                  CHAIRMAN LLOYD: You want a hanky?

13                  MR. NEIDIG: I might. Do you pack one of  
14 those.

15                  CHAIRMAN LLOYD: No, but I can find one for  
16 you.

17                  MR. NEIDIG: I also would like to publicly  
18 thank Jennifer Kohout, US Fish and Wildlife Service; Dede  
19 Bohn, with the USGS; and Gina Belt, US Department of  
20 Justice. It's been a privilege to work with all three of  
21 you. Thank you so much for all your help and support. I  
22 truly needed it and appreciated it.

23                  I would also like to introduce Rowan. Are  
24 you still on?

25                  MR. : Yes, I'm here.

1                   CHAIRMAN LLOYD: Wow.

2                   MR. NEIDIG: Wow.

3                   CHAIRMAN LLOYD: Perseverance.

4                   MR. NEIDIG: Rowan is back in Washington,  
5 D.C. He is the acting director of the Fish and Wildlife  
6 Service and I have it under good authority that today the  
7 Secretary will sign the letter making him the Trustee  
8 effective on January 20th for the Department of Interior.  
9 Rowan is a past Regional Director here in Alaska. He's  
10 very familiar with the EVOS Trustee Council and its work as  
11 well as the oil spill, and I leave the Department of  
12 Interior in good hands with Rowan taking my place and  
13 Randall's place here on the Trustee Council.

14                   Thank you, Rowan.

15                   To my fellow Trustees. Have fun. No, I  
16 wish you all the best as you continue to grapple with the  
17 challenging EVOS issues. There never seems to be any limit  
18 to them and it's truly important work that you all do and  
19 it's been a privilege to get the opportunity to get the  
20 opportunity to work with all of you. Thank you.

21                   CHAIRMAN LLOYD: Hans, well, thanks for  
22 your comments. Thanks for your good work over the years  
23 representing Interior with the Trustee Council. And wish  
24 you continued good fortune.

25                   MR. NEIDIG: Thanks. Talis?

1 MR. COLBERG: Thank you, Hans.

2 (Laughter)

3 MR. ZEMKE: Well, thank you, Hans, for the  
4 cool hand and humor that you sometimes have been able to  
5 infuse into sometimes rather dry deliberative processes  
6 that we're all involved with. But good luck in all your  
7 future endeavors and make sure you catch lots of fish.

8 MR. NEIDIG: I hope to. I appreciate it.  
9 Thank you.

10 MR. HARTIG: I hope you get a well-deserved  
11 break, Hans, and that we do see you back in some other  
12 position here on a schedule that suits your desires.

13 MR. NEIDIG: Thanks, Larry. I appreciate  
14 that. I would move that we adjourn.

15 CHAIRMAN LLOYD: Is there a second?

16 MR. HARTIG: Second.

17 CHAIRMAN LLOYD: Any objection?

18 (No audible responses)

19 CHAIRMAN LLOYD: We're adjourned.

20 REPORTER: Off record at 12:17 p.m.

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

22 (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 167 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Meeting recorded electronically by Computer Matrix Court Reporters on the 16th day of January 2009, commencing at the hour of 8:43 a.m. and thereafter transcribed under my direction and reduced to print:

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DATED at Anchorage, Alaska this 31st day of January 2009.

SIGNED AND CERTIFIED TO BY:

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