

1 EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

2
3 November 30, 2022

4 1:07 P.M.

5 Anchorage, Alaska

6 TRUSTEE COUNCIL MEMBERS:

7 U.S. FOREST SERVICE: Mr. David Schmid
8 AK DEPT OF FISH & GAME: Commissioner Doug Vincent-Lang
9 AK DEPT OF ENVIRON CONSERVATION: Commissioner Jason Brune
10 AK DEPT OF LAW: Attorney General Treg Taylor
11 U.S. DEPT OF THE INTERIOR: Ms. Sara Taylor
12 NATIONAL MARINE FISHERIES SERVICE: Mr. Craig O'Connor
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23 Accu-Type Depositions, 301 "K" Street,

24 Suite 200, Anchorage, AK 99501 - 907-276-0544

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1 ALSO PRESENT (EVOSTC STAFF):

2 Dr. Shiway Wang, Executive Director and Science Director

3 Lauri Adams, Program Manager

4 Austin Quinn-Davidson, Program Officer

5 Joy Maglaqui, Executive Assistant

6 ALSO PRESENT (PARTICIPANTS):

7 Kristin Carpenter, Public Advisory Committee (PAC) Chair

8 Ladonna Lindley, Accu-Type Depositions

9 Josie Hickel, Chugach Alaska Corporation

10 Lacey Derr, Alaska Department of Fish and Game

11 Tom Panamaroff, Koniag, Inc.

12 Veronica Varela, U.S. Fish and Wildlife Service

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

3 (On record)

4 CHAIR O'CONNOR: Am I good to get started?

5 (No audible response).

6 CHAIR O'CONNOR: All right, let me get started then. Welcome,
7 everybody. Wait a minute, now I've got to push a button here,
8 apparently. So I'll do that. Okay, it's Craig O'Connor from NOAA,
9 Special Counsel for Natural Resources, sitting as the Chair of the
10 Trustee Council, and when we met back in October, we did not end the
11 meeting, I just said we're going to take a break and we're going to
12 get back together again in November, the end of November and continue
13 this meeting and try to reach closure on some of the issues that we
14 were discussing then, but during the course of the month or so that
15 went by, we did reach out to various entities, talking about the
16 options that we're faced with today with regard to the limitations on
17 monies that we had and those limitations have created complications
18 associated with funding the projects that we had approved last year,
19 over the course of a ten-year period of time.

20 So we're going to revisit those issues and we did take a lot of
21 that out to various folks, including written solicitation for public
22 comments on the alternatives that we had put before us, as well as
23 meetings with the PAC, and we'll get a report on that, as well,
24 today.

25 So without further ado, Shiway, am I good -- or Joy, am I good

1 to move forward on sort of the opening comments here?

2 (No audible response).

3 CHAIR O'CONNOR: All right, I think, first of all, having called
4 us together, let me just make the -- sort of the opening statement
5 that I was told, "This is what you have to say, O'Connor," and they
6 wrote it down because they don't trust me to wander around and fail
7 to do that, which I'm required to do so.

8 Let me go -- thank you, all, for joining the *Exxon Valdez* Oil
9 Spill Trustee Council for our continued November 30 -- 2022 meeting.
10 I'd like to share some instructions and helpful tips on participating
11 in today's online meeting. We're asking that all participants, other
12 than Trustees, PAC members, Council staff, presenters, or those
13 giving public comment, turn their video off to preserve bandwidth,
14 and allow all of us to focus our attention on the speaker.

15 We also ask that you keep yourself muted unless you're speaking.
16 We'll be taking public comment during the meeting, as indicated on
17 the agenda. If you would like to provide public comment, please let
18 us know in the chat, and provide your full name so that we can call
19 on you. If you have already reached out to Council staff in advance
20 to indicate that you would like to provide public comment, we should
21 have you on our existing public comment list, and after moving
22 through the list, and those who have listed themselves in the chat,
23 we'll do a final call for public comment to make sure we've heard
24 from everyone who's interested in providing testimony, and if you
25 need technical assistance during the meeting, please contact Joy at

1 joy.maglaqui@alaska.gov, and Joy has her name up on the screen right
2 now.

3 So all right, let's go ahead and move forward with our agenda.
4 We need to have an approval of the agenda for today. Do I hear a
5 motion to approve this agenda?

6 MR. SCHMID: This is.....

7 COMMISSIONER BRUNE: So moved.

8 MS. LINDLEY: I'm sorry, I didn't catch.....

9 MR. SCHMID: I will.....

10 MS. LINDLEY:who moved, simultaneous speech. Who moved?

11 COMMISSIONER BRUNE: That was Brune.

12 MS. LINDLEY: Thank you.

13 MR. SCHMID: Trustee Schmid seconded.

14 CHAIR O'CONNOR: All right, do I hear any opposition to
15 approving the agenda?

16 (No audible response).

17 CHAIR O'CONNOR: Hearing none, we'll consider it approved.

18 We also have to approve the October 5th, 2022 meeting notes, and
19 those were circulated to us already. Do I have a motion on approval
20 of those notes?

21 COMMISSIONER VINCENT-LANG: So moved.

22 CHAIR O'CONNOR: How about a second?

23 MR. SCHMID: Schmid will second.

24 CHAIR O'CONNOR: All right.

25 COMMISSIONER BRUNE: Point of order.

1 CHAIR O'CONNOR: Point of order, okay.

2 COMMISSIONER BRUNE: Just a question, because this is a
3 continuation of that meeting, do we need to approve those? I -- I'm
4 not opposed to it, Mr. Chair, I just want to make sure we're doing
5 this right.

6 CHAIR O'CONNOR: I just wanted to be sure that we have an
7 accurate recording of what occurred during the October 5th meeting,
8 and that those are -- that is fully captured in our meeting notes, so
9 that we're all current on where we were. So that's the purpose of
10 having the meeting notes.

11 COMMISSIONER BRUNE: Thank you.

12 CHAIR O'CONNOR: Okay. All right, anybody opposed to those?

13 (No audible response).

14 CHAIR O'CONNOR: All right.

15 At this point, I guess I could open it up to public comments,
16 but I think we should proceed through more of the agenda first.
17 Anybody have any opposition to that, because I want to hear what the
18 PAC had to say and.....

19 DR. WANG: This is Shiway. Really quick, I'm sorry, the agenda
20 does not have public comment on there right now. So I'm not sure if
21 it needs to be officially added or the agenda needs to be officially
22 amended.

23 CHAIR O'CONNOR: All right, do any of the Trustees have any
24 opposition to us opening up to public comments along the course of
25 this meeting?

1 (No audible response).

2 CHAIR O'CONNOR: Hearing none, we will insert it at an
3 appropriate point, and I think what I would have at this stage, is to
4 go forward with the PAC meeting summary and then open it up to, let's
5 see, we're going to have the financial update, data management, okay,
6 let's then have public comment after the PAC presentation, PAC Chair
7 presentation, to keep a flow going. Does that make sense?

8 (No audible response).

9 CHAIR O'CONNOR: All right, Council Chair -- excuse me, the PAC
10 Chair, are you available?

11 MS. CARPENTER: I am here.

12 CHAIR O'CONNOR: Okay, you're on.

13 MS. CARPENTER: Thank you. Thanks, I'm Kristin Carpenter, the
14 Chair of the Public Advisory Committee. Thanks for the opportunity
15 to give a short summary of what we covered yesterday. We, and I'll
16 just be pretty brief, in terms of the action items, we approved one-
17 year -- we recommended approval of one-year funding for killer whale
18 research data management.

19 We did consider the Delta Plan scenarios and took some votes.
20 One vote was two in-favor, four opposed, for the Orange scenario from
21 the Delta Plan. The next vote was four in-favor, one opposed, and
22 one abstain for the Green scenario under the Delta Plan, and the -- I
23 think the main motivation was people felt like it was the middle
24 ground between honoring funding commitments that were made and
25 keeping closer to the original intent of funds having been designated

1 for distinct uses, habitat and research.

2 We did talk about the idea of managing the remaining funds on
3 more of an endowment basis, rather than spending the corpus, which
4 has kind of been the past practice, and that came up because we
5 talked about that whole episode from -- I say episode, I don't know
6 if that's the right word, but the discussion about a year ago where
7 the Think Tank was encouraging setting us -- creating a separate --
8 an endowment separate from the Trustee Council with the remaining
9 funds, and we know why that didn't happen, but that just raised the
10 idea of having talked about an endowment again, and I think that was
11 attractive to some people, because it meant that funds could be
12 available farther into the future, instead of spending it all in the
13 relatively near-term.

14 That was the basis of our discussion and if Sheway or Sara,
15 Trustee Taylor has any -- Trustee Sara Taylor has any modifications,
16 I had other notes that I don't have with me, but like I said, that
17 was the gist of it. We voted. The majority of folks were in support
18 of the Green scenario and we never even discussed the Purple one.

19 COMMISSIONER VINCENT-LANG: So can you.....

20 CHAIR O'CONNOR: All right.

21 COMMISSIONER VINCENT-LANG:tell me what the relative vote
22 breakdown was, and what the people that didn't agree with that
23 position was, just so I get some context over the debate that
24 occurred or the discussion that occurred?

25 MS. CARPENTER: Are you talking about numbers or the discussion?

1 COMMISSIONER VINCENT-LANG: Well, both. What was the final vote?
2 Was it close? Was it unanimous? It wasn't unanimous, you said,
3 so.....

4 MS. CARPENTER: Correct. For the Orange Plan, two people voted
5 in-favor and four people voted against it.

6 COMMISSIONER VINCENT-LANG: Okay, okay.

7 MS. CARPENTER: And for the Green Plan, four people voted in-
8 favor, one voted no, and one abstained, and I mean, there wasn't -- I
9 don't remember a ton of substantive discussion about the Orange Plan.
10 I mean, I think people felt like it was -- it would solve the
11 dilemma, I think is one of the main reasons why people were voting in
12 favor of that.

13 I think the folks who voted for the Green Plan felt like it was
14 the middle ground, you know, it would get us -- it would honor
15 commitments made five years -- up to five years out, and that that
16 was kind of, you know, I mean for my perspective, like people have
17 been told that they are getting their projects funded, you know,
18 enormous amounts of energy have gone into work, planning certain
19 projects, especially the construction projects.

20 You know, the Alutiiq Museum was all set to -- I think send out
21 a request for bids for construction and that would have been really
22 awkward if they were told all of a sudden that they didn't have
23 money, which I don't think was likely to happen, but I -- but I just
24 felt like, you know, that was an example of the fact that people have
25 -- organizations who were told they had money, have gone out and made

1 commitments based on that and they've been looking at hiring people
2 and initiating research and making plans.

3 So we wanted to, at least honor those commitments for what I
4 would call the near-term, so five years out, but I think we felt that
5 going beyond that was -- was compromising the initial intent of the
6 two -- of having the two separate accounts, the Habitat and the
7 Research Subaccounts. So that was why we voted for the Green
8 scenario.

9 COMMISSIONER VINCENT-LANG: Thank you.

10 CHAIR O'CONNOR: Any other questions, Council members?

11 (No audible response).

12 CHAIR O'CONNOR: No. All right, thank you very much, appreciate
13 it.

14 At this point, I think it's pretty clear that we're talking
15 about various options because we don't have enough money to get
16 everything done over the course of the next 10 years, and just by way
17 of a little bit of background, financial background, Shiway, maybe
18 you could give us sort of the current status of the two accounts,
19 just in total amount of money in each one with the financial update
20 at this stage.

21 DR. WANG: Okay, sounds good. Let's see, I am going to share my
22 screen. So I just have the agenda up, which shows the financial
23 updates. The Subaccount balances as of the end of October are
24 \$56,033,641 (sic) for the Research Subaccount, and \$81,748,897 in the
25 Habitat Subaccount. Funds for FY22, this current fiscal year, have

1 been released, except for two Habitat projects: the Bookey Parcel
2 Project and the Associated Eagle Rock Facility Improvements Project,
3 and those total to \$8,710,010.

4 CHAIR O'CONNOR: Okay, all right, so that's kind of the stage
5 that we're at. We ain't got enough money to do everything we wanted
6 to do and so now we're going to have to be making decisions, which is
7 what we sent out for public review and comment over the last several
8 weeks to get some thought from folks.

9 At this point, what I would do, without any opposition from
10 anyone, is open it up to public comments to set the stage, if you
11 will, for a further discussion with regard to those options, and a
12 determination by the Council as to what option to choose, based upon
13 the information that we've collected over the course of time, what we
14 hear from the public, as well as what we just heard from the PAC.

15 So if there's no objection to that, and hearing none, I think
16 we'll just proceed accordingly.

17 Normal protocol for public comments is those who have already
18 put their name into the chat, I will call on first. Those who then
19 want to add, that haven't already put it in, indicate in the chat
20 that you want to do it, giving your full name. The normal approach,
21 which we will stick with, is that individuals have two minutes for
22 their comments and organizations, representatives of organizations
23 have three minutes.

24 You're free to speak on any topic and if you're participating by
25 phone, please unmute yourself by pressing the unmute button on your

1 phone, and then also pressing star-six, which is standard approach
2 under the Zoom protocol.

3 All right, can you, Joy or whoever -- who is managing the chat,
4 let me know who is first up on the list?

5 DR. WANG: Hi, we have Josie Hickel (indiscernible - speaking
6 simultaneously) in the chat.

7 CHAIR O'CONNOR: Josie, are you available?

8 MS. HICKEL: I am. Hi, thank you. Josie Hickel, I'm with the
9 Chugach Alaska Corporation and my comments today represent Chugach.
10 We did submit a letter of support for Alternative Orange, and the
11 reason that we like that alternative was, again, because it provides
12 what we believe is the most flexibility, the combining of the Habitat
13 and Research Account, the ability to -- with the ability to get a
14 greater investment return on the funds, and the other part of that is
15 because it does allow more -- the Trustee Council the ability to make
16 decisions related to the prior commitments that were made for the
17 funding allocation, and I think the concern that we have is that if
18 we end up having to go back out for public comment and a public
19 process that then -- that jeopardizes some of the funding
20 alternatives that we had secured in the past or at least that we
21 thought we had.

22 We are happy that we did get the funding awards and of course,
23 the five-year funding option is very positive and we really do
24 appreciate all the work of the Trustee Council, the PAC and also the
25 staff has been great in working with us and helping us on our

1 projects, but again, our position is based on just wanting to see
2 those commitments that were made by the Trustee Council for funding
3 executed with the maximum amount of benefit and flexibility to the
4 organizations that were told that they had the funding. Thank you.

5 CHAIR O'CONNOR: Thanks. Thank you very much. Who's next?

6 MS. MAGLAQUI: We have Lacey Derr from DFG.

7 CHAIR O'CONNOR: Lacey.

8 MS. DERR: Thank you, Mr. Chair, and greetings, Council members.
9 My name is Lacey Derr, and I am the new Program Coordinator 2 for the
10 Alaska Department of Fish and Game. So basically, I'm your new EVOS
11 liaison and working to really consolidate and be a point of contact
12 for everyone to help with these kinds of difficult conversations that
13 are coming up.

14 I would just like to bring one -- a little -- a few concerns to
15 the Board's attention that I think will be important to kind of
16 reflect upon as you go forward with your agenda today. I have barely
17 even brushed the surface, but I am working from the bottom up of all
18 projects, and some concerns that I'm seeing, just want to make sure
19 that the Trust Council understands the funding process.

20 So say, Project XYZ was allocated \$7 million over the next five
21 years, that doesn't mean that Project XYZ gets all \$7 million on day
22 one, and we're seeing things come through, invoices that we're
23 receiving for funds being spent out of the allocated fiscal year, so
24 spending ahead when the monies aren't there.

25 One of the things that we're really going to be looking to do is

1 keep everyone within their budget and those allocations and try and
2 streamline the process to help balance those books at the end of the
3 day, that way, we can get more accurate numbers, more accurate
4 visions moving forward and really do reach all of those projects that
5 we're trying to reach and support.

6 So if there's anything that I can do to help Council members or
7 ask questions -- answer questions, please feel free to reach out to
8 me, and I'm grateful to be here and meet everyone, and I look forward
9 to working with everyone.

10 DR. WANG: Craig, you're on mute again.

11 CHAIR O'CONNOR: My wife suggests that's because I don't have
12 anything meaningful to say, but anyway, thank you, Lacey, and
13 welcome, no mean task that you're undertaking here, so appreciate it
14 very much.

15 DR. WANG: Craig, I just wanted to mention to the Council that
16 our understanding is that Lacey was hired to help our office do all
17 the things that we can't do because we don't have access to State
18 systems. So we should be the point of contact for all PIs who are
19 being contracted by the State, and we are really excited to have her
20 help us make things more efficient in the future.

21 CHAIR O'CONNOR: Great, thank you. All right, who's next?

22 MS. MAGLAQUI: That's all we have, Mr. Chair, for now.

23 DR. WANG: No, I see -- yeah, hold on a second, I see somebody
24 else. I just have a chat from Tom Panamaroff. He just says, "I'd
25 simply like to echo Josie Hickel's comments."

1 CHAIR O'CONNOR: Okay.

2 DR. WANG: And Tom is representing Koniag, Regional and
3 Legislative Affairs.

4 CHAIR O'CONNOR: Okay, thanks, Tom. Anyone else?

5 (No audible response).

6 CHAIR O'CONNOR: All right, then we'll close the public comment
7 period, and move on. I guess Shiway, could you just bring us quick
8 up to date on the funding issue we had with regard to the Killer
9 Whale Monitoring Project, so that we can close the door on that?

10 DR. WANG: Yeah, I sure can. As you all know, at the October
11 meeting, the Council funded the Long-Term Killer Whale Monitoring
12 Project for FY23. This project is required to comply with the
13 requirements and the data - in the Council's data policy and these
14 services are provided by the Council-funded data management program.

15 So the cost for the data management services for FY23 for the
16 Killer Whaler Monitoring Project is \$12,780 with GA, and we forgot to
17 include that at the last meeting.

18 CHAIR O'CONNOR: Okay, so we need a motion to approve that going
19 forward.

20 COMMISSIONER BRUNE: Mr. Chair, I move we approve \$12,780, hold
21 on.

22 CHAIR O'CONNOR: Thank you. Great echo, Jason, great echo going
23 on. So all right, do I have a second?

24 COMMISSIONER BRUNE: Sorry about that technology. I'll read the
25 full motion, Mr. Chair. I apologize. I move we approve \$12,780,

1 which includes GA, for the Data Management Program Project 23170113
2 to ensure the Council's data policy requirements are met for the
3 Long-Term Killer Whale Monitoring Project 23120114-N, for the FY23
4 funding cycle.

5 CHAIR O'CONNOR: Thank you. Thank you. Is there a second to
6 that motion?

7 MR. TREG TAYLOR: (Indiscernible) I'll second it.

8 CHAIR O'CONNOR: All right, is there any.....

9 MS. LINDLEY: Sorry, I didn't hear. It was very low. Who
10 seconded?

11 MR. TREG TAYLOR: Treg Taylor.

12 MS. LINDLEY: Thank you.

13 CHAIR O'CONNOR: Great, okay. All right, is there any
14 opposition to the motion?

15 (No audible response).

16 CHAIR O'CONNOR: Hearing none, motion's approved. Thank you.

17 All right, at this point, Shiway, do you want to walk us through
18 the FY23 to '33 spending scenarios?

19 DR. WANG: I would love to.

20 CHAIR O'CONNOR: Really, and here we were just being so honest
21 up until now. Okay, go for it.

22 DR. WANG: Okay, so I have meeting material number six up on the
23 screen, and these are the most recent FY23 through '33 spending
24 scenarios for the Research Subaccount, the Habitat Subaccount, and
25 then both subaccounts combined.

1 The first row here, for remaining, assumes no gain or losses,
2 and then the next row here remaining with the two asterisks, assumes
3 an annual 3% growth rate. The expected spending, annual spending
4 includes projects approved last year and also at the October 5th
5 Council meeting, and the proposed budgets for the FY27 through '33
6 Council General Operating Budget, and the long-term research and
7 monitoring programs integrated program management for FY27 through
8 FY31.

9 The Research Subaccount is projected to be insufficient to fully
10 support all projects funded by this subaccount past FY25 or FY26,
11 depending on the net asset value of the subaccounts. The Habitat
12 Subaccount will likely have an excess of at least \$26 million of
13 unencumbered funds by FY32, and if the legislation can be amended and
14 the Council decides to use the Habitat Subaccount funds for approved
15 projects that are currently supported by the Research Subaccount, all
16 projects can likely be funded through FY29, assuming no losses in the
17 value of the subaccounts.

18 So you'll notice that this is a slight change from the previous
19 spending scenario that was presented in October. This is because we
20 were able to track down some unspent funds from previous projects and
21 reallocate these funds for current projects, and I'll pause there.

22 CHAIR O'CONNOR: Any Council members have any questions?

23 (No audible response).

24 CHAIR O'CONNOR: All right, go ahead, Shiway.

25 COMMISSIONER VINCENT-LANG: So this is where we are standing

1 today with the spend plan that we have, right?

2 DR. WANG: That is correct, Doug.

3 COMMISSIONER VINCENT-LANG: Okay, thank you.

4 DR. WANG: You're welcome.

5 COMMISSIONER VINCENT-LANG: And with the investment portfolio we
6 decided at the last meeting, right, (indiscernible).....

7 DR. WANG: Yes, that is correct. It is, yeah -- yeah.

8 CHAIR O'CONNOR: All right, go ahead, Shiway.

9 DR. WANG: That's all I had.

10 CHAIR O'CONNOR: Okay, all right. Anybody else have any
11 questions?

12 (No audible response).

13 CHAIR O'CONNOR: All right, moving right along, Sara, I think
14 you're on, lady. Shiway, you had something?

15 DR. WANG: Sara, yeah, would you like me to pull up your
16 PowerPoint?

17 MS. SARA TAYLOR: Yeah, sure, that'd be great.

18 DR. WANG: Okay.

19 MS. SARA TAYLOR: Yeah, we'll walk through -- this is a
20 PowerPoint that I gave at the PAC meeting that kind of helps walk
21 through how we can figure out how to deal with those spending
22 scenarios that we just saw, (indiscernible) funding strategies to
23 deal with those.

24 DR. WANG: You guys are seeing something different.

25 MS. SARA TAYLOR: Yeah, this is the.....

1 DR. WANG: Okay, let's see, sorry, I've got a bunch of screens
2 here. Okay, here we go.

3 MS. SARA TAYLOR: So as Shiway just kind of explained to us, if
4 we - if we could spend our money on any project we wanted, we still
5 don't have enough money to come through on some of the obligations
6 those last two years of funding for the 10-year projects.

7 So there is still work to be done, in terms of figuring out what
8 we need to do to make sure that we can maximize the impact of the
9 funds that we do have remaining and make sure that we're investing
10 them the best way that we can.

11 So next slide. So back when the subaccounts were created, this
12 was kind of the issue -- this is what the Trustee Council had been
13 doing for about five years at this point. At that point in 1999, the
14 Settlement had been spent along these lines. So about 23% of the
15 Settlement had been spent on research, monitoring, and general
16 restoration, about a little over half of it had been spent on habitat
17 protection and acquisition.

18 Two hundred thirteen million of the Settlement was put into
19 reimbursements for the agencies on projects that they had undertaken
20 that were eligible for reimbursement from the Settlement Account, and
21 public information, science management, and administration was about
22 4% of the Settlement at that point, and every year, about \$12 million
23 was put into a restoration reserve. So that was about 23% of the
24 Settlement ended up in this restoration reserve, which was about \$175
25 million on the last installment.

1 And what the Trustee Council did was it went out and engaged the
2 public pretty extensively on what the long-term restoration needs
3 were for the region, and those long-term restoration needs included a
4 very comprehensive, balanced approach to how the -- how the needs
5 would be met for all these, you know, all this kind of cacophony of
6 needs would be met, in terms of restoration, and there would be a
7 complementary commitment to scientific research and monitoring, to
8 applied science to inform and improve management, to continued
9 general restoration activities, support for community-based efforts.

10 That was very key during that discussion, was having more
11 community-led efforts and more community-led conversations and
12 protection for additional key habitats in the region.

13 So when the -- when the subaccounts were created, \$55 million
14 was placed into Habitat, about \$25 million of that was for several
15 small parcel acquisitions that were being considered at the time and
16 also possibly some additional -- some additional consideration in the
17 future, and about \$30 million was set aside for a Koniag parcel that
18 was also under consideration at the time.

19 So those set-asides were for habitat acquisitions that were kind
20 of in the works, and then \$120 million was going to be set aside into
21 the Research Subaccount, but it ended up actually being about \$87
22 million.

23 Next slide. So the funding issues that we face today, after
24 build -- you know, kind of building on what the restoration needs
25 continue to be and to continue that path that we began 20 years ago,

1 we're staring at a remainder in our Habitat Subaccount that is not
2 allocated, a shortage in the Research Subaccount, which is over-
3 allocated. Then we have a shortage in available funds through fiscal
4 year '31, and we also have that funding eligibility tied to
5 subaccounts by law.

6 So getting to that last chart, where our problems are pretty
7 well confined at this point to the last two years, requires doing
8 something about that, and we are also, as we've learned, subject to
9 market unpredictability in gains and losses.

10 Next slide. So we came up with three alternatives, and these
11 alternatives are basically paths forward, in terms of figuring out
12 solutions. So Alternative Orange basically presents -- we're going
13 to be combining the subaccounts or we're going to be authorizing
14 expenditures from the Habitat Subaccount instead of from the Research
15 Subaccount, and it requires one of the following paths, like one of
16 these paths must be followed.

17 So we have to ask Congress to authorize the spending, because of
18 the restrictions that are in law. We have -- we can ask Congress to
19 repeal those restrictions that are in law, and we can also -- without
20 congressional action, move the funds to the Natural Resource Fund
21 that the Department maintains for damage recovery, and there's also
22 the Court Registry. We could move the funds to either of those
23 places, and that would allow us to spend them however we like, but we
24 would also potentially lose interest income by putting them in those
25 accounts.

1 So the result from doing this would be to remove those barriers
2 to funding Council decisions as long as funds are available. It may
3 result in less funds if we have to move the -- if we have to move the
4 money into a different account, but it definitely does provide
5 priority funding for our five-year projects and Congress would have
6 to act before the Research Funds are exhausted, otherwise, we kind of
7 have to adopt the one where we move the money.

8 So next slide. A second alternative path, we could walk forward
9 together to solution, would have us revisit the funding decisions
10 that were made at the October 2021 meeting, the January 2022 meeting,
11 and the October 2022 meeting, so basically revisit kind of the
12 decisions that we made with guidance from the PAC, from public, from
13 Tribal consultation, from the Science Panel. Through community
14 engagement, we would engage the public, but the funds would have to
15 fit within those current restrictions.

16 So we would essentially have 26 million in Habitat funds
17 available that do not have a home now. They don't have a -- we
18 haven't allocated them to any projects. This alternative does not
19 require any action by Congress or any different -- anything different
20 than what we current -- the current restrictions that we're dealing
21 with.

22 It does ensure every project is funded through the first five
23 years, because we can restructure our previous funding decisions. So
24 we would be able to think about -- we wouldn't have to necessarily go
25 and do another invitation, but we could think about the projects that

1 were funded and how to kind of reorganize them, and we could
2 reconsider some of the Habitat projects that were submitted, but it
3 does provide -- the downside to Alternative Purple is that it does
4 provide complete uncertainty regarding any funding being available
5 after the first five years, and that includes for Council operations.

6 Next slide. So there's kind of a middle ground here, which
7 Alternative Green was designed to reflect, and this would say, we're
8 -- you know, we're very committed to these projects, but we do have
9 to figure something out for those last two years, or more, depending
10 on how the spending scenarios play out in real-time.

11 So this alternative would have us revisit the Council decisions
12 on the 10-year invitation. So it would give us that full-funding for
13 all five-year projects, but it would have us get that public
14 participation aspect of Purple that has us get guidance from the PAC,
15 from the public, et cetera, to revisit the 10-year projects,
16 essentially, to look at a way that we could potentially restructure
17 the spending to either get a lot of projects to five years or get
18 some equitable distribution of the funds that we have available.

19 There's a lot of ways that we could do it and I think we're
20 hopeful that through this public engagement process, we will arrive
21 at a real consensus on something that can work.

22 The thing about Alternative Green though, is that it does
23 require choosing one of the options from Alternative Orange so that
24 we can be sure we cover the gap for those five-year projects, because
25 we will be able to engage then on the 10-year projects, knowing that

1 the five-year projects are in the bag.

2 The funds will not have to fit within the current subaccount
3 restrictions that way, which will maximize the available funds that
4 we have to support all of these approved projects for as long as
5 possible.

6 Next slide. We took public comment on the alternatives from
7 October 7th to November 7th. It's, obviously, not necessarily a
8 numbers game, but these were how -- these were the general
9 indications of support in the comments that we did receive. There
10 were some themes that I kind of drew out of these public comments.
11 There seemed to be support for flexibility in resolving the shortfall
12 for the approved projects.

13 There was support for continuing research to ensure that the
14 funds are available for five-year projects, for engaging stakeholders
15 to continue restoration progress, and for continued transparency. So
16 I'll just point out, too, that the support for Purple did include
17 support for keeping the accounts separate.

18 And next slide, just anyone have any questions or any --
19 anything they would like to explore about any of those different
20 alternatives? I think.....

21 COMMISSIONER BRUNE: Yeah, first of all, Sara, I just wanted to
22 say thank you so much for all of the effort that you've put into
23 this. It's -- it was just an insane amount of work and I really
24 appreciate all of your efforts. Thank you. Thank you. Thank you.

25 The -- I know that the legislative history that -- of the

1 congressional act that authorized the subaccounts indicated that the
2 Habitat Account was to be used to fund administrative costs.
3 However, from my research, it appears that until 2015, all of the
4 administrative costs may have been coming out of the Research
5 Account, and since 2015, only a small portion of the administrative
6 budget has actually come from Habitat.

7 So I guess I wanted your thoughts on that, because my gut would
8 be that equal representation of funding administrative costs should
9 come from both subaccounts, and because they haven't, is that --
10 could that potentially be a way to at least make up some of the delta
11 in the Research Subaccount that you've outlined?

12 And I know we don't have those answers per se, but I think it
13 might be something that we would consider tasking the staff to do and
14 authorizing that delta to be moved between Habitat and Research so
15 that that could provide more opportunity, if and when the accounts
16 aren't ultimately merged.

17 MS. SARA TAYLOR: I think that would be consistent with where I
18 think we're at, in terms of the trajectory that we started with the
19 beginning of the Council, right. When -- when the subaccounts were
20 created, that public process -- and I'm very open to any member of
21 the public that's here that was a part of the process, I would
22 appreciate you putting your name in the chat, maybe we can
23 incorporate your expertise into our discussion, but from the readings
24 that I did of the history of the Council, when the two subaccounts
25 were created, it was to foster the two most successful aspects of the

1 Council to that point, one of which being the amazing research and
2 monitoring program that it developed, including the lingering oil,
3 right. That was a big thing, like that was very successful.

4 Everybody wanted that to continue.

5 Then, there was the Habitat Protection and Acquisition Program.
6 Everyone wanted that to continue. These two projects were going to
7 move forward with their respective kind of funds and the public
8 science, administration, and data management, all of those things,
9 the costs of administering the Council, all that, just kind of kept
10 coming from Research.

11 There's a lot of things that were just shifted to Research,
12 possibly, I think, I don't know exactly, but just from the status
13 reports, it kind of looked like Habitat had to stay intact because it
14 was kind of dedicated to things, right. You had these pots that were
15 set aside specifically for things that the Council wanted to fund,
16 and so I think that it was -- it made a lot more sense to take that
17 money from Research, but I don't think that it makes sense that, you
18 know, we don't look at it that way now, and I don't think I would
19 have looked at it that way then, either.

20 I can see where people might have thought it made sense to draw
21 it out of Research, but for 20 years to draw all of that resource out
22 of the Research and Habitat Program (sic), including general
23 restoration, like all of it came out of this amount, while Habitat
24 sat generating income, which was great, to support a great program,
25 right.

1 And I think it -- I think it's fair to go and evaluate to what
2 extent Habitat should have been shouldering some of that burden for
3 its own use, right.

4 COMMISSIONER BRUNE: Yeah.

5 MS. SARA TAYLOR: Its participation in this program that we have
6 funded, right.

7 COMMISSIONER BRUNE: Yes.

8 MS. SARA TAYLOR: How can we make sure that project pays its
9 way, the same way that Research always did, right.

10 COMMISSIONER BRUNE: Yeah, Sara, I would -- I'm not making a
11 motion right now, but I would propose either after we conclude our
12 discussions and make our motions, that we either incorporate a
13 statement authorizing staff to equalize historic payments from
14 Habitat and Research, and transfer -- I mean, it wouldn't be
15 authorizing actual spending of money. It would just be authorizing
16 transferring of funds from Habitat to Research so that there was
17 equal parts paid for by Habitat and Research, and I would like the
18 Council to consider that as part of any motion that is made, because
19 I think that will help in where we are going forward. Thank you,
20 Sara.

21 CHAIR O'CONNOR: Thank you. Any other Trustee have any comments
22 or questions regarding what Sara's presented?

23 COMMISSIONER VINCENT-LANG: Well, I support what Jason said, if
24 we've been funding projects out of the wrong bin for the last 10, 15
25 years, I think we have an opportunity to adjust future spending to

1 more correctly balance how we've done that, how we should have been
2 doing that in the past.

3 So I think we have an opportunity to rebalance the books a
4 little bit to get rid of some of this delta or deficit that we have
5 moving forward.

6 CHAIR O'CONNOR: Okay. Any other Council members?

7 (No audible response).

8 CHAIR O'CONNOR: I will add one comment on the -- on your
9 earlier presentation. I can't remember which option it was, but
10 putting the money either into the Court Registry account or into
11 DOI's Natural Resource Damage Assessment monies, both of those would
12 be interest-earning, but very much on a limited way.

13 I think if it goes in the Court Registry account, the Court
14 charges, I think it's a half a point just to administer it, and the
15 interest in prior years that was generated out of that fund was
16 negligible, at best. The NRDAR account that DOI has actually is, to
17 some degree, has been fairly successful in getting some decent
18 interest, but they certainly haven't, and this is not a comment on
19 their ability, it's a comment on the legal restrictions on how the
20 money is to be invested, but if we could -- if we could get back to
21 the good old days, we're much better off staying out of federal
22 funding and getting back to using our investment strategy as we have,
23 up until now.

24 Having been around this -- Exxon since the day it ran aground, I
25 can reflect on your historical perspective, and I think it's pretty

1 damn accurate. The one thing that, quite honestly, we had to do was
2 if we were going to be able to get the money invested outside of
3 either the NRDAR account or the CRIS account with the Court, we had
4 to make the trades that we made, and that particularly, you
5 enumerated some of the projects in the habitat world that were
6 critical to Senator Murkowski, Sr., at the time when we got this
7 legislation.

8 So that's where we were, and as you mentioned, one of the
9 projects, particularly a large one, Koniag, fell off the table, but
10 nothing was done to reallocate monies, and it was sort of -- well,
11 Habitat will be Habitat and we'll figure out how to spend all this
12 money, and we did have -- the staff and the Trustees did have a sense
13 that we should be preserving those monies, certainly for Habitat, if
14 those opportunities presented itself that made sense by way of
15 restoration.

16 So I think you've done a good job of capturing the history,
17 Sara, at least as my recollection, and with any luck at all, if we
18 can move forward and unhandcuff ourselves in some way and be able to
19 use monies a little bit more fungibly, I think that's a -- that will
20 be a good thing.

21 At this point, I would just ask, is there -- as you solicited,
22 Sara, is there anybody in the public that wants to provide a comment
23 on what Sara had to say?

24 (No audible response).

25 CHAIR O'CONNOR: All right, hearing nothing, then at this point,

1 I'm certainly standing ready to entertain a motion of some sort with
2 regard to what path we should be taking now, because that is our task
3 at this meeting is to make that decision. So unless folks have other
4 comments, questions, or concerns about the alternatives presented, I
5 would entertain a motion on what course we should take.

6 MS. SARA TAYLOR: Mr. Chair, I'd like to make a motion.

7 CHAIR O'CONNOR: Please.

8 MS. SARA TAYLOR: I move we approve the Delta Plan Alternative
9 Green, as described in the Discussion Draft Delta Plan dated
10 September 26, 2022, Alternative Green, which includes Option A, to
11 seek congressional authorization to remove the condition in Public
12 Law 106-113, that the funds be allocated and managed in separate
13 subaccounts. Trustee Council is to engage the public in revisiting
14 its previous funding decisions for fiscal year '27 through fiscal
15 year '31, as described. The Science Panel and PAC will be asked to
16 revisit the proposals funded and offer recommendations to the Trustee
17 Council on how best to maximize the number of projects that can be
18 funded. The Trustees will also work to maximize the use of the funds
19 remaining in both the Research and Habitat Subaccounts, including
20 through potentially looking back at efficiencies we can find, monies
21 we can find, and the degree of public participation and involvement
22 in the decision-making process will also be an emphasis. Funding for
23 any public engagement activities will be allocated evenly from the
24 Research and Habitat Subaccounts.

25 CHAIR O'CONNOR: All right, is there a second to the motion?

1 COMMISSIONER BRUNE: I'll second. This is Jason.

2 CHAIR O'CONNOR: All right, thank you, Jason.

3 COMMISSIONER BRUNE: And Trustee Sara Taylor, is the -- that
4 last statement that you made meant to capture the discussion or could
5 I propose a friendly -- about the -- going back and giving staff
6 authorization to look at administrative costs and equally distribute
7 them, either historically or going forward, making them so that
8 they're (indiscernible) from the Habitat Account to make up for that
9 delta, or is that something you think we should make as a separate
10 motion?

11 MS. SARA TAYLOR: I would accept that friendly amendment. I
12 think that falls within what I was trying to get at.

13 COMMISSIONER BRUNE: Perfect, thank you.

14 COMMISSIONER VINCENT-LANG: So Sara, this is Doug. I've got a
15 question. So you said though -- you used the word "including" a
16 couple of different times and the Green Plan has a couple of
17 different options underneath it, that one of which you described as
18 the one that I support, which is going back for a congressional fix,
19 but it also has two other ones, and when you say the word
20 "including," do those two others remain in your motion or is it just
21 you're basically choosing the Green Option with Alternative A, and
22 not B or C moving forward?

23 MS. SARA TAYLOR: I choose Alternative A to the.....

24 COMMISSIONER VINCENT-LANG: Okay.

25 MS. SARA TAYLOR:exclusion of Alternative B and C, yeah,

1 and I.....

2 COMMISSIONER VINCENT-LANG: Okay, that's -- that's my hope and
3 I'll support this motion with that, but I do not want B and C moving
4 forward as part of this -- as part of the Green moving forward.

5 MS. SARA TAYLOR: Neither do I.

6 COMMISSIONER VINCENT-LANG: Okay.

7 CHAIR O'CONNOR: All right, any other questions, comments,
8 concerns from the Council?

9 (No audible response).

10 CHAIR O'CONNOR: All right, I guess it's time for the question.
11 Is there any opposition to the motion?

12 (No audible response).

13 CHAIR O'CONNOR: Hearing none, the motion is approved as
14 presented. Thank you, Sara, very much.

15 MS. SARA TAYLOR: (Indiscernible).....

16 COMMISSIONER VINCENT-LANG: Yeah, Sara, thank you for all of
17 your work on this. It really is appreciated.

18 CHAIR O'CONNOR: Yeah, very much so, all right.

19 MS. SARA TAYLOR: Mr. Chair, Shiway has her hand raised.

20 CHAIR O'CONNOR: Yes, Shiway, you have your hand.....

21 DR. WANG: Hi, thank you. I just wanted to let the Trustees
22 know that going back that far in the records may be incredibly
23 difficult to tease out what should have been coming out of Habitat
24 versus Research. We will do our best and I.....

25 COMMISSIONER VINCENT-LANG: (Indiscernible) do your best

1 (indiscernible).....

2 DR. WANG: I will do my best, and I know that I think Elise has
3 tried to do this in the past and it didn't -- wasn't very successful.
4 So we will -- we'll do our best and let you guys know how it goes.

5 COMMISSIONER VINCENT-LANG: Well, what I -- what I would
6 recommend is if you -- if you have a question, leave it on the list
7 and bring it to a group of us to take a look at it, so.....

8 DR. WANG: Okay, sounds great, thank you.

9 COMMISSIONER BRUNE: I would say if you have a question, fund it
10 from Habitat.

11 CHAIR O'CONNOR: I was thinking of charging it to Jason. All
12 right, is there anything else to come before the Council today?

13 MS. SARA TAYLOR: Mr. Chair, I would like to recognize --
14 Veronica, would you like to ask that question?

15 MS. VARELA: Can you hear me?

16 MS. SARA TAYLOR: Yes.

17 CHAIR O'CONNOR: Yeah.

18 MS. VARELA: Okay, no, I just wanted to make sure we understood
19 what Orange A was, because I think in the handouts' material, A was
20 described differently than what you presented in your PowerPoint, I
21 think. So I just wanted to make sure we understood what Orange A
22 was.

23 MS. SARA TAYLOR: Okay.

24 COMMISSIONER BRUNE: Real quickly, and I mean, Veronica, I
25 appreciate the question, I'm just going to say we passed Green,

1 though, so.....

2 MS. VARELA: Right, but we -- with an addition of Orange A, part
3 of Green is including Orange A.

4 CHAIR O'CONNOR: Yeah.

5 MS. SARA TAYLOR: I want to clarify, whatever letter I said is -
6 - the intent was to seek congressional authorization to remove the
7 condition in Public Law 106-113 and have the funds be allocated and -
8 - that -- that requires us to allocate and manage the funds in
9 separate accounts. That is my intent, whichever option that is, in
10 whichever document is out there, and I apologize if that was
11 different, yeah, I'm sorry about that.

12 CHAIR O'CONNOR: Okay, does that resolve the matter, Veronica?

13 MS. VARELA: I think so.

14 CHAIR O'CONNOR: Okay.

15 MS. VARELA: One, I think had to do with like removing the --
16 like striking down or changing the legislation entirely to remove
17 that original language. The other was to seek authorization to spend
18 it the way you'd like to spend it.

19 MS. SARA TAYLOR: Right. I mean to -- I mean to remove the --
20 remove -- remove the condition in the Public Law.

21 MS. VARELA: Okay. Okay, thanks.

22 MS. SARA TAYLOR: Yes. Thank you. Thank you for that
23 clarification.

24 CHAIR O'CONNOR: Okay, any other questions, comments, concerns
25 at this point?

1 (No audible response).

2 CHAIR O'CONNOR: All right, I think I might entertain a motion
3 to adjourn and call it good.

4 COMMISSIONER VINCENT-LANG: So moved.

5 COMMISSIONER BRUNE: Second.

6 CHAIR O'CONNOR: Any opposition to adjourning?

7 (No audible response).

8 CHAIR O'CONNOR: Hearing none.....

9 COMMISSIONER VINCENT-LANG: Last time, that failed.

10 CHAIR O'CONNOR: I know, well, you know, I've learned. I've
11 learned. Okay, thank you. The price we paid by not listening to you
12 is significant. So anyway.....

13 COMMISSIONER BRUNE: Thank you, Mr. Chair.

14 COMMISSIONER VINCENT-LANG: Thank you.

15 CHAIR O'CONNOR: Thank you. Talk to you guys later. Bye, bye.

16 UNIDENTIFIED SPEAKER: Thanks, all.

17 2:05:14

18 (Off record)

19 (END OF DAY)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
STATE OF ALASKA)

I, Lisa Nelson, CSR No. 5907, Notary Public in and for the state of Alaska and reporter for Accu-Type Depositions, do hereby certify:

THAT the foregoing pages numbered 2 through 36 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Meeting recorded electronically by Accu-Type Depositions Court Reporter on the 30th day of November 2022 and thereafter transcribed under and reduced to print:

THAT the Transcript has been prepared at the request of:
EXXON VALDEZ TRUSTEE COUNCIL
Anchorage, Alaska

DATED at Anchorage, Alaska this 10th day of December 2022.

SIGNED AND CERTIFIED TO BY:



Lisa N. Nelson
Notary Public, State of Alaska
My Commission Expires: 02/06/24