

TRUSTEE COUNCIL  
MEETING TRANSCRIPTS  
MARCH 31, 1995

# EXXON VALDEZ OIL SPILL SETTLEMENT TRUSTEE COUNCIL

RESTORATION OFFICE  
Simpson Building  
645 G Street  
Anchorage, Alaska

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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD  
Trustee Council Teleconference Meeting

Anchorage, Alaska  
March 31, 1995  
2:00 p.m.

## TRUSTEE COUNCIL MEMBERS in attendance:

### In Anchorage

STATE OF ALASKA

MR. ALEX SWIDERSKI, Alternate  
for MR. CRAIG TILLERY,  
Trustee Representative for  
BRUCE BOTELHO, Attorney  
General, Alaska Department of  
Law

UNITED STATES DEPARTMENT  
OF THE INTERIOR

MS. DEBORAH WILLIAMS, Special  
Assistant to MR. GEORGE  
FRAMPTON, Assistant Secretary

### In Juneau

STATE OF ALASKA DEPARTMENT  
OF FISH AND GAME

MS. ELLEN FRITTS,  
Alternate for MR. FRANK RUE,  
Commissioner

UNITED STATES DEPARTMENT OF  
AGRICULTURE - FOREST SERVICE

MR. PHIL JANIK,  
Regional Forester

UNITED STATES DEPARTMENT OF  
COMMERCE - NOAA

MR. BILL HINES, Alternate  
for MR. STEVE PENNOYER,  
Director, Alaska Region;

STATE OF ALASKA DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION

MS. MICHELLE BROWN, Deputy  
Commissioner and Trustee  
Representative for MR. GENE  
BURDEN, Commissioner

**TRUSTEE COUNCIL STAFF**

MS. MOLLY MCCAMMON	Executive Director, EVOS Trustees Council, present in Juneau
MR. ERIC MYERS	Director of Operations, EVOS Trustees Council, present in Anchorage

**OTHERS PRESENT who participated**

**In Anchorage**

DR. ROBERT SPIES, Chief Scientist, EVOS Trustee Council  
DR. LESLIE HOLLAND-BARTELS  
DR. JOE SULLIVAN, Alaska Department of Fish & Game  
DR. STAN SENNER

**In Juneau**

DR. DAVID GIBBONS, U.S. Fish & Wildlife Service

**In Washington, D.C.**

MR. BARRY ROTH, U.S. Department of the Interior

**PUBLIC present in Anchorage**

MS. BRENDA BALLACHEY  
MS. GINI PELT (sp)  
MR. DEAN HUGHES  
MR. BILL HAUSER  
D. LINDSEY HAYES  
MR. JAMES L. BODKIN  
MS. LISA THOMAS  
MR. ANDY GUNTHER  
MR. DAVID IRONS  
MS. PAMELA BRODIE  
MS. AMY LOCKE  
MR. BUD RICE  
MR. TIM WOOLSTON

P R O C E E D I N G S

(On Record at 2:03 p.m.)

MS. BROWN: Ready in Anchorage?

MS. WILLIAMS: We are ready in Anchorage.

MS. BROWN: Okay. It's March 31st, 1995. I'd like to call to order the meeting of the Exxon Valdez Oil Spill Trustees Council. I'm Michelle Brown, representing Gene Burden from DEC, and I'd like to announce who is here today: Mr. \*\* for Frank Rue; Alex Swiderski for Bruce Botelho; Phil Janik; Deborah Williams; and Bill Hines for Steve Pennoyer. I'd like to call the meeting to order, and the first order of business is to approve the agenda. Do you have any corrections?

MS. WILLIAMS: Move to approve.

UNIDENTIFIED VOICE: Second.

MS. BROWN: Moved by Ms. Williams, seconded by (indiscernible). The next item is the approval of the minutes we have -- several of them -- five meeting notes from the last meetings. Everyone has got them in their notebooks. Do we want to have any discussion on any of these? Anybody have anything to raise on any of these? Do I have a motion -- to adopt these?

MS. WILLIAMS: I move to adopt.

MS. BROWN: Moved by Ms. Williams, seconded by Mr. Janik -- the meeting notes from February 13, February 22, February 24, February 28 and February 1 are adopted. The second item is for our Executive Director, Molly McCammon, is to report.

MS. MCCAMMON: Good afternoon. I don't intend to make a lengthy report today, but I would like to bring your attention



1 to a couple of items. The first is the financial statement in  
2 the packet that you received last week that indicates the status  
3 of revenues, disbursements and fees in the joint trust funds.  
4 The second item is -- I believe all of you received in your  
5 packet a copy of this raspberry colored document -- we argue over  
6 whether this is raspberry or red -- which is the invitation to  
7 submit restoration projects for federal fiscal year 1996 to the  
8 draft restoration program FY96 and beyond. This is actually a  
9 combination of two documents. It's first of all the invitation  
10 for projects -- project proposals for next year. It is also our  
11 first stab at a -- at the beginnings of a preliminary projection  
12 of what we kind of see as the anticipated restoration needs in  
13 projects for the next three fiscal years, and so it's beginning  
14 and starting to look at things in terms of a long-term context.  
15 It by no means reflects -- it's no endorsement to any of these  
16 things. Any of these projects that basically takes when it's  
17 started in the last one to two years and just projects them along  
18 to their conclusion. It also includes some projects that were  
19 proposed as a result of our mid-January workshop. There are -- I  
20 think it's a fairly complete description of the kinds of research  
21 proposals that we know of at this point, and certainly through  
22 the invitation process there could be new proposals and new  
23 ideas, but this is what we know right now. As part of this  
24 planning process we are embarking on a number of public meetings  
25 in the next month on this proposed plan. Starting next week, we  
26 go to Nanwalek, Port Graham, Cordova, Seldovia, Tatitlek,  
27 Chenega, Homer, Kodiak, Valdez, Seward -- Anchorage -- I'm not

1 sure if I missed any there -- but pretty much most of the major  
2 communities within the spill area to talk about this draft plan  
3 and to let the public comment on it. So, I'll be reporting back  
4 to you in the future to -- on kind of the feedback that we get  
5 from that. If you have any questions or comments at all about  
6 this, this is still in draft and we will be looking to trying to  
7 do a final on it by August.

8 It isn't -- I don't have too much to report in terms of the  
9 habitat protection and acquisition effort other than that we do  
10 have a technical amendment to the AKI-Old Harbor resolution,  
11 which is before you later in the meeting. I could report that  
12 the Chenega and Chugach negotiations are going well, and we hope  
13 to have something in the near future, and the Eyak Core Lands  
14 appraisal hopefully will be done in about a week or so, and  
15 hopefully there will be some action on the Eyak Core Lands. In  
16 the meantime, today is the last day for submission of additional  
17 nominations for the small parcel process. At the next meeting I  
18 will be able to report how many of those have been submitted and  
19 hopefully they'll be evaluated quickly. It shouldn't take very  
20 long to do this.

21 Also in your packet is a report on the Alaska Sea Life  
22 Center, and as you requested at the last meeting it has been  
23 structured so that it tracks the various provisions that were  
24 included in the November 2nd, 1994, Trustee Council resolution.  
25 The major development that is pertinent -- this memo was actually  
26 prepared -- is that on Tuesday night the Seward City Council did  
27 move to adopt the agreement between the Department of Fish and

1 Game and the City of Seward providing for the ownership and  
2 operation of the facility. Additionally, they adopted the  
3 agreement between the City of Seward and the SAAMS Board for  
4 operation of that facility. This was viewed as a major milestone  
5 in the project. The city now has a 30 day appeal period  
6 following the adoption of their resolution. If someone in the  
7 community obtains 120 signatures of 120 registered voters, they  
8 could call for the issue to go to a referendum. But from the  
9 comments that were received in Seward, and I did attend the city  
10 council meeting there, it seemed that those who started out  
11 opposing the project now support it, so -- and that resolution  
12 did pass unanimously by the city. So, this project is on track.  
13 The next major step is the review of the detailed construction  
14 budget and operating plan and the agreement between the SAAMS  
15 Board and the University of Alaska defining the governing and  
16 management structure, and I'll be reporting back to you on those  
17 two items.

18 And that pretty much concludes my report today, unless there  
19 are any questions about these or any other items.

20 MS. BROWN: Thank you, Molly. Are there any  
21 questions? Hearing no questions, we've got four action items  
22 before the board today. The first one is the nearshore  
23 vertebrate predator package. I'll ask Ms. McCammon to introduce  
24 that for us.

25 MS. MCCAMMON: Thank you, Madam Chair. At the  
26 Council's November 2nd and 3rd meeting, the Council deferred  
27 action on a proposed ecosystem project concerning nearshore

1 vertebrate and deferred action until further planning could be  
2 done on the project. Since that time, the project proposers  
3 have, I think, used that funding very wisely and have put  
4 together a very comprehensive proposal that has received  
5 outstanding review from the Chief Scientist and the other peer  
6 reviewers who looked at the proposal, and with that I would like  
7 to turn it over to Dr. Robert Spies in Anchorage who could  
8 describe a little bit more about the proposal.

9 DR. SPIES: Can you hear me clearly in Juneau?

10 MS. BROWN: Yes, we can.

11 MS. McCAMMON: Yes, we can.

12 DR. SPIES: Okay, thank you very much, Molly.

13 Today, you have before you two studies of injured species that  
14 take an ecosystem approach we've been trying to emphasize more as  
15 we've gone through the restoration process. The first of these  
16 is the nearshore vertebrate predator package, and the second is  
17 the apex predator ecosystem experiment, which is a -- a renamed --  
18 -- it used to be called the forage fish interaction program. It's  
19 a continuation of project 94163, which was started in a pilot  
20 mode this past year. You funded both of these projects for  
21 further planning and coordination in November 1994, and soon  
22 after that project leaders were selected, and they included Dr.  
23 Leslie Holland Bartels for the nearshore vertebrate predator  
24 package and -- she's from the National Biological Service -- and  
25 Dr. David Duffy from the Alaska Natural Heritage Program,  
26 University of Alaska Anchorage. Both of those project leaders  
27 are here to answer any detailed questions that may be appropriate



1 for them to respond to from the Trustee Council today. Both of  
2 these projects arose out of the planning effort that was  
3 essentially started in 1994, and we're seeing a profusion of  
4 those now with the Trustee Council support that was made possible  
5 in November 1994.

6 Let's first consider the nearshore vertebrate predator  
7 package. This looks at the recovery of a suite of important  
8 predators: two invertebrate consumers, the sea otter and the  
9 harlequin duck; and two fish eaters, the river otter and the  
10 pigeon guillemot. And they basically asked three questions with  
11 regard to the recovery of these species. Are these resources or  
12 these species constrained by some sort of intrinsic, demographic  
13 factors? That is, if there was some sort of a damage that took  
14 place in '89, it's very slow to recover because the population  
15 was beat back so far, and that it's the intrinsic rate of  
16 increase that's really holding these populations back, and there  
17 are a number of things that are asked in that connection. The  
18 second of these questions, is the recovery basically onstrained by  
19 -- are the resources, because of the spill or because of natural  
20 factors, such as fluctuation in highland, have a reduced food  
21 supply? And thirdly, is the recovery onstrained by continued oil  
22 exposure? Is there an amount -- a small amount of remaining oil  
23 in the environment toxic to these species in somehow affecting  
24 reproduction growths or other processes necessary for full recovery  
25 of the species? And for each of these species then we have some  
26 demographic measures, surveys of the prey base and health  
27 indicators that are being used to answer these questions. We

1 could go through a few of these just in brief to give you a taste  
2 of what the -- what the -- what's being proposed here.

3 In the case of sea otters for demographics, the aerial  
4 surveys of Knight Island, both surveys that have been started in  
5 the past and continue on, some pup-adult ratio information that  
6 comes out of those surveys, and also some beach searching efforts  
7 for carcasses of dead otters that have been done in the past to  
8 look at age class structure of members that are leading the  
9 population. In the area of health measures for sea otters, there  
10 are blood panels that are being proposed, immune system work, and  
11 induction of P450, an enzyme that is sensitive to oil exposure.

12 In the area of prey availability for sea otters, there's  
13 studies of foraging prey density of subtidal invertebrates,  
14 especially some of their favorite foods, clams, mussels, and sea  
15 urchins.

16 Another invertebrate-eater, the harlequin duck, there are  
17 both survey data being analyzed for the demographic questions,  
18 and also the marking of adult females to look at their rate of  
19 survival in the wild.

20 Under health for harlequin ducks, body conditions, survival  
21 of radio-tagged birds is being done, as well as the  
22 aforementioned P450 analysis. And in the area of prey  
23 availability, prey abundance surveys are being done.

24 For the fish-eating, nearshore vertebrate predators, the  
25 river otter and pigeon guillemot, for the river otter in the area  
26 of demographics, latrine site abandonment rates, some  
27 morphometric information that also relates to health, and then as

1 far as further health parameters, blood parameters such as  
2 haptoglobin, interluken, liver enzymes, blood cell counts, and  
3 some immune system assays are being proposed. And both for the  
4 river otters and pigeon guillemots, the prey availability --  
5 since they both feed to some extent and favor nearshore fish --  
6 nearshore demersal or on-the-bottom fish -- they will surveys  
7 carried out by scuba divers around the several study sites in  
8 Prince William Sound.

9 For pigeon guillemots for demographics, there are trends in  
10 the number of nests that are active and the rate of abandonment  
11 of nests, some measures -- (indiscernible) measures of  
12 reproductive success, and also morphometrics that also provide  
13 information on the health of pigeon guillemots and the colonies.  
14 Blood acute phase proteins and blood panels are being proposed in  
15 the area of the health of the pigeon guillemots.

16 The reviewers have looked at this project very closely and  
17 are very unanimous in their praise of the project. We think that  
18 Dr. Holland-Bartels and the principal investigators have done a  
19 remarkable job in framing a series of testable hypothesis,  
20 looking at a variety of organisms that have different food  
21 sources, organisms that we know were affected by the spill and  
22 may continue to be affected to some extent by the remaining oil  
23 in the environment. It's a very cohesive package, and we think  
24 that the Trustee Council basically made a pretty sound investment  
25 in the planning that has gone on. So, based on the evaluation of  
26 the project that I've made and the reviews that I have received  
27 and the discussions of reviewers, I am recommending that this

1 project be funded as an important ecosystem approach to  
2 understanding the recovery of the nearshore portion of the marine  
3 ecosystem that was so hard hit by the oil spill. Are there any  
4 questions on that particular project?

5 MS. BROWN: Thank you. Do you have any questions of  
6 (indiscernible). Do you have any discussion on this project?  
7 (Indiscernible).

8 UNIDENTIFIED VOICE: I just had a question on the  
9 procedural aspects of various gates that usually these projects  
10 have to go through. In all respects, are we ready to vote on  
11 these?

12 MR. SWIDERSKI: I have question that actually -- a  
13 couple of questions that apply to both projects -- and I'm not  
14 sure if now is the time to ask them. If we're considering voting  
15 now, I guess I would, and it --

16 MS. BROWN: If it's a question of having an  
17 introduction and discussion of the other project, I would do  
18 that.

19 MR. SWIDERSKI: Well, let me -- I'll ask the question,  
20 and then Dr. Spies can maybe decide how to address it, and that  
21 is, how the two projects tie into each other, and I ask that  
22 primarily because I know that pigeon guillemots are one of the  
23 injured species as a focus of both projects? Is that by design  
24 or is that by accident or are they designed such that they will  
25 have, so to speak, a synergistic gain of knowledge or  
26 understanding from the two of them?

27 DR. SPIES: I think so. The pigeon guillemots feed



1 both on pelagic and demersal fish -- nearshore fish -- and the  
2 nearshore portion of their diet is being covered in this project,  
3 and the apex project the relationship of the pigeon guillemot to  
4 the pelagic resources, and in fact we have the same principal  
5 investigator in both, and he will certainly not be doing double  
6 duty here I don't think. I don't know if Leslie Holland-Bartels  
7 has anything to add to that comment?

8 DR. HOLLAND-BARTELS: I, in fact, believe we are  
9 sharing data and are, in fact, complimenting the efforts of both  
10 projects, so we've been in close -- close coordination -- on the  
11 projects.

12 MS. WILLIAMS: Mr. Chairman, I just received a message  
13 from the recorder, and she would ask that all of us identify  
14 ourselves before we begin speaking, for the record.

15 MS. BROWN: Thank you. Mr. Hines.

16 MR. HINES: Madam Chair -- Bill Hines. A question  
17 for Dr. Spies, basically along the same lines as Alex Swiderski's  
18 comments, what is the relationship between the three different  
19 ecosystem and the object of the SEA plan for the apex project and  
20 the nearshore and where the interface is and how does that inter-  
21 relate with one another? Are they just components of a larger  
22 ecosystem plan or what?

23 DR. SPIES: Well, I think they -- they generally  
24 compliment each other, Bill. The SEA program, of course, is  
25 focused on the recovery of pink salmon and herring in Prince  
26 William Sound, and as a result of that project a lot of the fish  
27 populations are being surveyed at certain times where they --

1 particularly when they interact with the larval fish in the  
2 system in the west and northwest side of the Sound. The forage  
3 fish project, which we'll get to in a moment, is focused on the  
4 forage fish themselves as a prey base for the seabirds, and  
5 they've got a little bit different focus in that they are  
6 interested in that period of time when the seabirds are breeding  
7 and provisioning their chicks and around the important seabird  
8 colonies in Prince William Sound. So, it's a little bit  
9 different spatial and temporal focus because it's a little bit  
10 later in the year and slightly different areas. The nearshore  
11 vertebrate predator package is somewhat similar, but it's taking  
12 a nearshore look -- look -- at these species that spend a lot of  
13 time in the nearshore areas, such as pigeon guillemots, river  
14 otters, sea otters, and have a lot of their prey base in those  
15 areas. They are also looking at food availability, but it's over  
16 a longer stretch of time and it's not limited to a particular key  
17 times in the reproductive cycle or when the young are being  
18 produced, as the other two projects. I think they're part of a  
19 really larger look at these spill area ecosystems, and I think  
20 there's probably opportunity in the future to somehow coordinate  
21 these more, but I think the -- they are separate starts right  
22 now, and each of them is asking separate questions and is getting  
23 organized with -- within -- the organization is taking place  
24 within each entity, and I think there will be opportunities to  
25 interface these projects as we go along. At this time, I don't  
26 think it's wise to try to make one big project out of it. It's  
27 just too much that's going on. I know SEA people themselves are

1 right now just -- are working very hard day and night to try to  
2 keep up with just the demands of this project, let alone try to  
3 interface with two other projects.

4 MR. HINES: Madam Chair, just wondering how they're  
5 going to communicate, how the PI's are going to communicate with  
6 each other? It seems there should be some type of continuity.

7 DR. SPIES: Yeah, there's quite a bit of cross-talk  
8 going on right now, Bill. For instance, the hydroacoustics  
9 workshop in Cordova these last three days and the representatives  
10 from the forage fish study and the SEA program together talking  
11 about use of hydroacoustics in these studies to quantify fish  
12 populations, use of common calibration methods, common software,  
13 and data packages, and common -- possible common databases. So  
14 there is quite a bit going on, and I think perhaps Leslie could  
15 comment on the interaction she's had with some of the other  
16 programs from the nearshore vertebrate predator point of view.

17 DR. HOLLAND-BARTELS: We're in close coordination,  
18 for example, on the pigeon guillemot issue, but we're also  
19 looking at -- we've started examining samples from the SEA  
20 project that may be useful for the nearshore project as far as  
21 invertebrate recruitment, so we are in those discussions and  
22 looking at the oceanographic data that they may have that will be  
23 for use on our project. So, we already have coordination between  
24 the three projects in several different areas, and then, of  
25 course, within the workshop environment -- the Trustees workshop  
26 -- we have had continuing conversations.

27 DR. SPIES: Bill, also I might add in my answer that

1 there is -- that there's some coordination going on outside of  
2 the EVOS process with EVOS projects. For instance, Minerals  
3 Management Service is funding Dr. John Pie (ph) to the National  
4 Biological Services to do some work on seabirds around the Barren  
5 Islands, and that's very much -- we've been talking very closely  
6 with him on the apex project, and he's been attending our  
7 hydroacoustic workshops and so forth. There's also work with  
8 other aspects of the U.S. Fish & Wildlife Service. For instance,  
9 Dr. Irons has got an aspect in his kittiwake studies that's  
10 funded by Fish & Wildlife Service outside the EVOS Trustee  
11 process, and he'll be coordinating, of course, that work with  
12 that foreclosed under the nearshore vertebrate predator -- excuse  
13 me -- the apex studies.

14 MS. BROWN: Thank you, Dr. Spies. Are there any  
15 other questions?

16 MS. MCCAMMON: This is Molly McCammon. I think that to  
17 answer Mr. Janik's question, when project proposals in the past  
18 have come before the Trustee Council they've come in the form of  
19 a brief project description of about three or four pages. What's  
20 different, and following the Council's action on that brief  
21 project description (indiscernible -- poor teleconference  
22 quality), of the detailed budget, NEPA compliance, and a review -  
23 - peer review on the detailed project description. Because what  
24 you have before you is actually the detailed project description,  
25 and that's what you're being asked to take action on today, the  
26 steps that would still follow after this, after your approval if  
27 you so choose, would be -- the budget has gone through a review



1 prior to action today, and there is information on that in my  
2 recommendation -- NEPA compliance would still have to be secured  
3 before the project could go into the field, the money would have  
4 to be obtained through court request, and that court request  
5 would have to have the review of the Department of Justice and  
6 the Alaska Department of Law. In addition, this project in  
7 particular has an aspect of a collection of several birds in it,  
8 that aspect of the project would still be subject to further  
9 review and would not be authorized until it had gone through that  
10 review.

11 MS. BROWN: Do we have -- would the group prefer to  
12 have a discussion of the next project before we take action here  
13 -- so that it's -- interrelation . . .

14 MS. WILLIAMS: Yes.

15 MS. BROWN: . . . seems to be a question?

16 MS. WILLIAMS: Yes.

17 MS. BROWN: Okay. Can we could ahead -- would you  
18 like to introduce that project?

19 MS. McCAMMON: The next project before you is the apex  
20 predator-forage fish project. It's a continuation of 95163, and  
21 I'd like Dr. Spies to again go through this and describe the  
22 results of the peer review session. Dr. Spies?

23 DR. SPIES: Okay. The oil spill, as we all know,  
24 resulted in a significant mortality of seabirds. Some have  
25 estimated as many as a half a million sea birds may have been  
26 killed by the spill, and some of these species were, in fact, in  
27 decline from the late seventies, as far as our information

1 indicates, and six years after the spill we still have some  
2 species of sea birds that have apparently not recovered. This  
3 project is an innovative attempt to determine if the food of sea  
4 birds is limiting the sea bird populations in the spill area, and  
5 the general hypothesis that is being proposed is that there has  
6 been a shift in the Prince William Sound marine trophic structure  
7 that has prevented the recovery of injured species. Some of the  
8 evidence for this shift comes from studies of pigeon guillemot's  
9 diet. Pre-spill, in 1979, studies indicated that about 55% of  
10 the food items brought back to pigeon guillemot nests on Naked  
11 Island were sandlance, a very important forage fish species to  
12 sea birds throughout the Gulf of Alaska. Indications are from  
13 similar data collected in 1994 that there's less than 10% of the  
14 diets of two pigeon guillemot colonies in Prince William Sound.  
15 This is the sort of evidence that suggests that with the  
16 continuing decline that they be linked back to food resources in  
17 the area. This project is really an attempt to measure the  
18 availability of different forage fish species, such as sandlance,  
19 herring, pollock, eucelone (ph), and capelin, and the feeding and  
20 reproductive success of the sea birds that are recovering from  
21 the spill.

22       You've got two documents before you. One is a 109 page  
23 proposal that came from Dr. David Duffy and the reviewers that  
24 was in your packet. In addition, there was a three-page revision  
25 that outlined some of the changes that were made after review of  
26 this larger package earlier in the month. The initial package  
27 came in at about \$1.6 million for the remainder of '95. After

1 review and questions about potential overlap in projects, it was  
2 reduced by -- through the efforts of Dr. David Duffy -- by over  
3 25% to \$1.16 million, and the second three-page document outlines  
4 some of the changes that were going to be made as a result of  
5 that latest revision. If we could just turn to page 12 of the  
6 larger proposal, the apex proposal, it outlines the general  
7 hypothesis that I've just stated about the Prince William Sound  
8 marine trophic structure in a series of 10 working hypotheses,  
9 and they relate to -- the first one, for instance, relates to the  
10 structure of Prince William Sound -- the trophic structure of  
11 Prince William Sound -- changing the decadal scale. The second  
12 one refers to the depending on plankton as a -- determining the  
13 abundance of forage fish species of sea birds. The third one, on  
14 the spatial responses of the forage species to oceanographic  
15 processes; the fourth, to productivity, the size of forage fish  
16 species, change of energy potential available to sea birds  
17 changes; the fifth, forage fish characteristics and interactions  
18 among sea birds limit availability of sea bird prey; the sixth,  
19 forage fish -- excuse me -- sea bird foraging group size  
20 composition reflect prey patch size; the seventh one, which is a  
21 key hypothesis, the sea bird diet composition and amount reflects  
22 the changes in the relative abundance and distribution of forage  
23 fish at relevant scales around colonies; the eighth, changes in  
24 sea bird reproductive reflective differences in forage fish  
25 abundance as measured in adult sea bird forage trips and chick  
26 meal size and chick provisioning rates -- that's another key  
27 hypothesis; the ninth, sea bird reproductive productivity

1 determined by differences in forage fish nutritional quality; and  
2 finally the tenth hypothesis -- working hypothesis -- sea bird  
3 species within the community react predictably to different prey  
4 species.

5 And then if we can turn now to the three-page proposal. It  
6 should be available to everyone here. It's the -- the outline I  
7 referred to earlier from Duffy as to how the program would change  
8 under this new budgetary constraint -- essentially refocused the  
9 study to inter-annual comparison between two colonies of very  
10 different forage fish environments, environments in Prince  
11 William Sound, particularly around Naked Island and around the  
12 Barren Islands in the Gulf of Alaska, and the pilot -- we  
13 essentially consider this a pilot project -- and the pilot  
14 project will explore different areas, the first of which is the  
15 degree of spatial variability of the food environment in Prince  
16 William Sound and its effect on reproductive success of  
17 kittiwakes and pigeon guillemots. The second is the degree of  
18 temporal variability in local fish abundance during the summer.  
19 This will be done by hydroacoustics from fishing vessels. Third,  
20 the importance of food concentrations for sea bird foraging, and  
21 that's by hydroacoustics and observation; and the fourth, the  
22 feasibility of using fish energetic conditions as an index of  
23 population trends, and this will involve analysis of the  
24 energetic content and nutritional quality of the fish that are  
25 being used by the sea birds; and the fifth is the foraging range  
26 of kittiwakes in Prince William Sound; and, finally, the sixth,  
27 they will include the analysis of existing dietary samples that



1 were gathered last year.

2       Some of the hypotheses that will generally be tested in this  
3 first year pilot are outlined in the second page. First will be  
4 the comparison of the Barren Islands with Prince William Sound --  
5 Prince William Sound sea bird species that is, the kittiwake,  
6 tufted puffin, and pigeon guillemot have a nutritionally poor  
7 diet than do species in the Barren Islands, and that will be  
8 comparison with the kittiwake, tufted puffin, and common murre in  
9 the Barrens. Secondly -- the second hypothesis -- the nesting  
10 success and nesting condition of Prince William Sound is poor.  
11 Third, direct measurement through acoustic sampling and trolls  
12 will show that nutritionally favorable foraging species are more  
13 abundant in the Barrens; and/or the fourth hypothesis, foraging  
14 studies show all or just nutritionally superior forage fish  
15 species are more accessible in the Barren Islands. And within  
16 Prince William Sound we can go onto a fifth hypothesis, acoustic  
17 sampling and foraging studies show spatial variability and prey  
18 abundance and availability -- that's almost a given. The sixth  
19 hypothesis, the distribution and abundance of forage species is  
20 temporally stable within the sampling period. Seventh, the  
21 variability is reflected in differences in nesting productivity  
22 in (a) kittiwakes during extensive surveys of up to 26 colonies  
23 across the Sound, (b) kittiwakes studies extensively during the  
24 breeding season at Shell Bay, Eleanor Island, South Elkluk (ph)  
25 Bay, and Naked Island, and (c) guillemots at Naked and Jackpot  
26 islands, and (d) puffins at Naked Island and (indiscernible)  
27 Rocks. And generally, the hypothesis that will be tested and the

1 historical data will prove to be valuable and useful for testing  
2 of hypothesis concerning forage fish population, ecosystem  
3 changes in the northern Gulf of Alaska and Prince William Sound  
4 complex. And that, eight -- or this is really the ninth one --  
5 the pilot data will show sharp disparities and energetic  
6 condition between prey species, suggesting strong testable  
7 hypotheses for future work; and ten, completion of initial  
8 analysis will similarly suggest that competition for food and  
9 predation are important factors in determining composition of the  
10 forage community, generating strong testable hypotheses for  
11 future work.

12 That's a general background on that project. There are  
13 actually 10 separate projects that are included in the package --  
14 that since I've gone through so many hypotheses I forgot some --  
15 unless the Trustee Council members wish we'll kind of leave the  
16 description of the project at that.

17 The reviewers, again, felt that this was a very, very  
18 promising project. The reviewers have been saying for quite a  
19 few years now, and I certainly agree, that one of the major  
20 things we're dealing with in the oil spill area is a decline of  
21 sea birds and mammals and that there are some climatic factors at  
22 least and certainly the spill has contributed to those declines  
23 in a way that we are concerned about, and that we really should  
24 be doing something about forage fish. It's an area that's very  
25 unknown, there's not much data available. There is some  
26 historical data that is being proposed to be analyzed in the Gulf  
27 of Alaska in connection with the first project under this

1 proposal, the umbrella proposal, but in general we have very  
2 little information, and that to really understand the recovery of  
3 these species and, I think, leave a legacy from the spill science  
4 activities that understanding how this system works and what's  
5 affecting and what's causing these declines is an -- would be an  
6 appropriate focus of the Trustee science program.

7 I think that is also a program not without risk. It's a  
8 cutting edge program. It's addressing the recovery resources, so  
9 it's appropriate for the Trustees to consider it, but there are  
10 some innovative new technologies, particularly simultaneous  
11 application of hydroacoustic technologies to many species in the  
12 areas around colonies, and trying to link that with the  
13 reproductive success of birds and the foraging activity. To my  
14 knowledge, this ambitious a program has not been taken before,  
15 and on the other hand, if the Trustees do decide to fund this, I  
16 think that we are partially successful at least in reaching our  
17 goals here, that they will contribute really to the understanding  
18 of the ecosystem. So, my recommendation, after considering the  
19 comments of the reviewers, several rounds of review, is that this  
20 is a good study, and it's an appropriate one, and something that  
21 we will learn quite a bit from.

22 MS. BROWN: Thank you. Are there any questions from  
23 Council members? Any further discussion?

24 MR. SWIDERSKI: Michelle, this is Alex Swiderski. I  
25 actually have a question. I would like to go back to the prior  
26 study, the nearshore vertebrate study, because I have a -- the  
27 Department of Law has a very serious concern about the collection

1 issue, and I neglected to bring that up earlier, but -- and I  
2 have a specific concern here because, as I understand it,  
3 harlequin ducks is one of the species in particular that has not  
4 recovered, is still not breeding, there is a very limited number  
5 of harlequin ducks in Prince William Sound, at least in the oiled  
6 portions of Prince William Sound, and we're talking about  
7 collecting -- I'm not sure if it's 25 of those ducks or 25 ducks  
8 from somewhere else. So, I think it's safe to say, and this  
9 really does because a question that Dr. Spies -- that -- at least  
10 as currently I don't think the Department of Law could support  
11 collection of harlequin ducks or the other birds without very  
12 strong, very clear, convincing evidence at the time you bring  
13 this question before us, if you do, that that will have a -- a  
14 clearly beneficial effect on restoration of those species that  
15 are being collected, and really the second part of this is that I  
16 would like some assurance now that if at some point in the future  
17 you come to us with the request to collect birds and the Trustee  
18 Council says, no, you are not going to be able to collect birds,  
19 that the study will nevertheless be a productive study, and the  
20 reason I ask that is that I wouldn't want to hear the argument  
21 that, well, you've spent a million dollars, you've spent more  
22 than a million dollars and this study is useless unless we can  
23 collect those birds.

24 DR. SPIES: I certainly agree that any taking of  
25 harlequin ducks from the population of the type here -- we have  
26 great concerns about their recovery on the western side of Prince  
27 William Sound -- would have to be very, very carefully



1 considered. My understanding is -- and I think we need to do a  
2 full review on this question and it is anticipated as a kind of a  
3 separate exercise that the ducks will be taken in the fall, and I  
4 think that this is a time when we're having more ducks in the  
5 area than what we see during the breeding season. I don't know  
6 if Dr. Holland -- Leslie Holland-Bartels -- can make any  
7 comments, further comments along those lines.

8 DR. HOLLAND-BARTELS: Yes, I'd be happy to. The  
9 proposed collections, as far as the process is concerned, we've  
10 been in contact with Dan Rosenberg and Tom Roffey (ph) of the  
11 State in relation to this issue, and we specifically are aware  
12 and concerned about the issue of collecting harlequin ducks in  
13 the oiled area, and that has been a specific item of discussion  
14 and will not occur -- the numbers would not be collected from the  
15 oiled area. The proposed collected birds represent less than .3%  
16 of the estimated winter numbers, and therefore constitute minimal  
17 impact to the population. So, we've discussed all these issues.  
18 The significant advantage of doing this is that we create a one-  
19 time ground-truthing of non-lethal methodologies for all out-year  
20 studies related to harlequin ducks, that that's a big advantage.  
21 So, we strongly feel and have applied for our permits, so we are  
22 going through the normal permitting process, that the take of the  
23 animals is, from a restoration standpoint and also from a  
24 scientific standpoint and a population impact standpoint,  
25 justifiable. But it is something that I would be more than happy  
26 to provide all the documentation for, as we must do for our  
27 permitting process.

1 MS. WILLIAMS: Ms. Chairman, if I could raise a few  
2 issues regarding this point.

3 MS. BROWN: Yes. Please do, and then after you Ms.  
4 McCammon.

5 MS. WILLIAMS: Okay. This is Deborah Williams. I had  
6 a chat with Leslie before this meeting to talk about this  
7 particular point. I raised concerns about collecting,  
8 particularly in the spill area, and Leslie did tell me that there  
9 wouldn't be any collection in the spill area, which I thought was  
10 very important. But the other thing that was discussed that I  
11 knew previously, and I would like ADF&G to chat about briefly,  
12 and that is that there is a legal sport take of harlequin ducks  
13 in the spill area of two per day, I believe, and out of the spill  
14 area 10 per day, and I was wondering whether the Trustee Council  
15 ever addressed the advisability of the legal sport take of  
16 harlequin ducks in the spill area, given the fact, as Mr.  
17 Swiderski pointed out, that the numbers are not recovering. And,  
18 we don't have to talk about this right now, but I would like to  
19 talk about this before the end of this meeting because I think it  
20 is relevant to our responsibilities for the recovery of species  
21 and, even if we don't believe we can answer this question, it  
22 might be one worthy of spending a little time thinking about and  
23 discussing at our next meeting whether we would recommend as a  
24 council to the Board of -- Game -- I guess -- that until the  
25 harlequin ducks are fully recovered or at least more recovered in  
26 the affected area that the take of harlequin ducks be curtailed.  
27 But I think that is something worthy of reviewing, and it may

1 have been reviewed before, before I came on the board, but I  
2 would again, sometime before the end of this meeting, like to  
3 look at that issue.

4 MS. BROWN: Yes, a very good point.

5 DR. GIBBONS: Madam Chairman, this is Dave Gibbons. I  
6 believe in 1993 and also 1994, there's been emergency closures on  
7 harlequin ducks. So, I think we've dealt with it -- Fish & Game  
8 has dealt with it in that manner in the past. The Council has at  
9 one point written a letter to the Game Board and saying basically  
10 what you said, Deborah, that we're concerned with the taking of  
11 harlequin ducks and that a closure should proceed.

12 MR. SWIDERSKI: Madam Chair, this is Alex Swiderski. I  
13 actually remember closures going back as far as 1990 in response  
14 to exactly this -- that issue. I actually do have a follow-up  
15 question, if I could ask that.

16 MS. BROWN: Ms. McCammon.

17 MS. McCAMMON: Madam Chair, if I could address the  
18 collection issue. This was an issue before the Council last  
19 year. At that time, the Council requested that the Executive  
20 Director notify them if there were any collections anticipated in  
21 any of the project proposals that had been proposed for the last  
22 of the year. At that time, there were two proposed collections  
23 for -- it would be FY94 projects at that time. One of those  
24 proposed collections was dropped by the sponsoring agency, and a  
25 second proposed collection, after review by the Chief Scientist,  
26 the Chief Scientist's recommendation was not to go forward with  
27 it. Following that -- following that discussion last year, staff

1 had extensive discussions among the staff of all of the agencies  
2 because there was some confusion -- there was some interest --  
3 concerns that the Council not have some kind of duplicative  
4 review if there were existing federal and state review systems,  
5 and I did have staff review the various (indiscernible) systems  
6 that both the state and federal agencies have in place, and in  
7 fact a number of the questions that the Chief Scientist had were  
8 similar to the questions that must be answered in order to obtain  
9 those permits; however, what I have proposed and in working with  
10 the Chief Scientist and with the agencies liaisons of all of the  
11 affected agencies is a process for the Council to have for review  
12 of these kinds of projects, which includes the Chief Scientist  
13 looking at the project very closely and answering a number of --  
14 I believe all of you have a copy of that proposed review process  
15 -- but answering such questions such as how many individuals  
16 would be proposed to be collected, how is the general health of  
17 the population, is the proposed take likely to affect any  
18 population trends, is the proposed take germane, are there any  
19 effective alternative means to obtain the data, what will be lost  
20 if there is no take allowed, what can we realistically hope to  
21 learn that would justify the collection, and have federal and  
22 state permits been procured, and if not, why not. Consistent  
23 with the policy that you adopted last year, what I would propose  
24 is that use this more elaborate. It's the same policy but it's  
25 just a little more fleshed out than it was last year: Has the  
26 Chief Scientist reviewed the proposed collection, consulted with  
27 peer reviewers and others with appropriate expertise. It could

1 be that this review would be conducted concurrent with the  
2 federal and/or state permit review; it may be separate from it.  
3 The Chief Scientist would then make a recommendation to myself  
4 that would be based on its scientific merit. I would relay that  
5 recommendation to the Trustee Council and to the Public Advisory  
6 Group prior to making any final authorization on the actual take,  
7 and if this would be -- this is consistent with the approach that  
8 was taken last year, and this is what I would propose that we do  
9 for the two proposed take collections for this summer.

10 MS. BROWN: This is Michelle Brown. I would like to  
11 see if we could, again, answer the question that Mr. Swiderski  
12 raises. If, in fact, it turns out that the Council does not  
13 authorize the collection, what would be the impact on the study  
14 results.

15 DR. SPIES: Yes, I was going to get to that second  
16 part of that of his question once we got over this take question,  
17 but my understanding, and I will certainly ask Leslie Holland-  
18 Bartels -- Dr. Bartels -- Holland-Bartels -- to comment further,  
19 but my understanding of the way this project is put together that  
20 the take of harlequin ducks that is proposed in this project is a  
21 relative small part of the overall project. It might something -  
22 - our ability to determine in this particular case something  
23 about body condition in a more absolute sense, and we may have to  
24 do it with data that is more relative in its nature. I would,  
25 however, comment that on some of the other projects that the  
26 scientific standard for determining dietary intake, and under the  
27 forage fish projects, for instance, if there was taking, any



1 aspect of those, that the scientific, kind of the criteria is  
2 that the actual examination of the stomach contents is really  
3 necessary, and that the stomach pumps, as I understand it, don't  
4 work all that well, and so, I think we have to be open to the  
5 possibility that to do credible scientific studies that we are  
6 going to probably have to shoot some birds eventually here, and  
7 the question is whether we are going to do it in a regional  
8 manner in accordance with what we know of the populations in the  
9 area or not, and I think that the process that Molly outlined  
10 addresses those questions fairly squarely.

11 MS. BROWN: Are there any other questions?

12 MR. SWIDERSKI: Madam Chair, I have a follow-up  
13 question. Bob, is it fair -- would it be fair to say that your  
14 comment on the taking of harlequins would apply as well to the  
15 taking of the other birds contemplated in this nearshore ver --  
16 invertebrate study; that is, that it's -- the taking of those as  
17 well is not a critical component of that study.

18 DR. SPIES: I -- I think I'll have to refer that  
19 question to Dr. Holland-Bartels.

20 DR. HOLLAND-BARTELS: Critical is a hard question to  
21 answer. I agree with Dr. Spies on the harlequin take. It is a  
22 relatively small part of the overall project. As I said earlier,  
23 it provides for the ground-truthing for techniques that we can  
24 use in out-years and that other projects are interested in using.  
25 It provides a methodology that would be more precise and that  
26 allows us to tease apart the founding factors that we have been  
27 unable to tease apart related to the lack of recovery. So, from

1 that standpoint I think it's important. As far as the overall  
2 integrated study is concerned, it would not make or break the  
3 project. We have take involved for two other species in the  
4 project, those of goldeneye and white-ringed sconers. As Dr.  
5 Spies indicated, in the issue of diet and prey distribution, take  
6 is the standard scientific methodology applied to these species  
7 in studies that are ongoing in coastal waters of Alaska and many  
8 other places. The design that we have allowed us to have a  
9 variety of different windows into questions. So, we close out  
10 one window, not being able to look at the diet issue with the sea  
11 ducks, it doesn't eliminate the other windows that we have. It  
12 just -- at this point I can't say how it confounds our final  
13 ability to analyze what ends up being a fairly complex picture.

14 MS. BROWN: Thank you. I just have a follow-up  
15 question of Ms. McCammon. The procedure that was used and that  
16 you're proposing, is it something that we need to take action on  
17 or is there already action in place during the last time the  
18 issue was brought up.

19 MS. MCCAMMON: Madam Chair, I think this could be  
20 something that the Council could either adopt formally or it  
21 could be (indiscernible -- extraneous noise). I don't think it  
22 necessarily requires action.

23 MS. BROWN: Thank you. Is there any further  
24 questions or discussion?

25 MS. WILLIAMS: Madam Chairman, this is Deborah  
26 Williams. I also discussed this briefly with Dr. Holland-  
27 Bartels, but I'll just mention it to the Council. As we've

1 already established the take for the harlequin ducks will be  
2 outside of the spill area, and of course there is a legal hunting  
3 harvest of those for, I believe, 10 a day, and would just urge  
4 the scientists in looking at their design to maximize the  
5 possibility of working with hunters, be they subsistence or  
6 sport, on take. I realize that presents some challenges, but I  
7 do think that if they can be legally harvested through hunting  
8 that we should maximize our opportunity to work symbiotically  
9 with the hunting community with this effort.

10 DR. SULLIVAN: This is Joe Sullivan with Alaska  
11 Department of Fish & Game. We have Dr. Stan Senner here who  
12 worked for the department several years ago, and in a manner of  
13 speaking is working for us again. But in any event, there are  
14 some considerations relative to hunting that I think minimizes  
15 the impact to the resident harlequin duck, which we are talking  
16 about now, and I'll ask him to address that.

17 DR. SENNER: Yes. This is Stan Senner, and I can  
18 just shed a little light on the harlequin hunting, and Alex  
19 Swiderski made reference to it before. The situation has been,  
20 since at least I believe the fall of '91, although I may be off  
21 by a year, that there was a total closure on harlequin hunting  
22 until the end -- until October 1st, and that was designed to  
23 protect the resident breeding population, which is the group of  
24 birds that's really at risk here. After October 1st, then the  
25 regular sport hunting for harlequins was allowed, and I believe  
26 that limit of 10 per day was in order. However, talking just  
27 yesterday with our ADF&G area biologist in Cordova, my

1 understanding is now that even for the season after October 1st  
2 the bag limit has been reduced from 10 to 2 a day, in recognition  
3 of the continued non-recovery of harlequins. Again, the primary  
4 concern is the residents, and then after October 1st the  
5 population of harlequins in the Sound increases by at least an  
6 order of magnitude as migrants from -- well, locations unknown,  
7 but migrants come into the area and significantly expand the  
8 population.

9 MS. BROWN: Thank you. Any further questions?

10 MR. HINES: Madam Chair, I just have a question of  
11 Dr. Bob Spies on the apex -- earlier that there's inherent risks.  
12 I understand that there are inherent risks in all scientific  
13 endeavors; however, I understand there was a workshop in Cordova  
14 which dealt with hydroacoustics. Dr. Spies, essentially, has  
15 that workshop basically assuaged some of your concerns, some of  
16 your trepidations about utilizing emerging technologies, and can  
17 you comment on that?

18 DR. SPIES: Yeah, I think it was a very useful  
19 workshop in that we've got three different projects using  
20 hydroacoustics, and it's important for those -- especially the  
21 biologists involved to understand some of the limitations of the  
22 physical systems. The -- I think that the -- looking at the  
23 kinds of hydroacoustic technologies that are being used that  
24 everybody realizes that they are not absolute in their  
25 determination of the biomass of the foraging fish, for instance.  
26 We can't go out there and be absolutely sure that we're going to  
27 get kilograms per cubic meter of each of the six species. We

1 will get relative measures, and with the combination of  
2 biological sampling and hydroacoustic sampling going hand-in-  
3 hand, we're going to get some good information on what the  
4 species' compositions in those area are if those two things are  
5 carried out together, and I think it was very useful from the  
6 standpoint of those in the apex project to be involved in the  
7 workshops. They were very experienced people involved, and there  
8 were also some biologists that gathered more information that  
9 will be very useful on the design of their studies. So, it's  
10 definitely a cutting edge project, and it is marrying this  
11 hydroacoustics with the sea bird observations, which is something  
12 on a scale -- we're doing it on a scale here I think that no one  
13 has attempted before. And essentially, if you look at  
14 hydroacoustics, there's no alternative method for censusing fish  
15 populations, and that's been -- on the kind of scales that give  
16 us biologically and useful and relevant information about the  
17 foraging of sea birds. So, yes, there is some risk, Bill, but I  
18 think it's worth going ahead, and we're definitely on the cutting  
19 edge. We're looking at a really important -- and I have  
20 confidence that we will get very useful information from this  
21 project relative to sea bird foraging.

22 MR. HINES: Thank you, Madam Chair.

23 MS. BROWN: Thank you. Any other questions?

24 MS. WILLIAMS: Madam Chair, if I could just make one  
25 comment before we vote.

26 MS. BROWN: Yes.

27 MS. WILLIAMS: The federal Trustees no this very well,



1 and perhaps the state Trustees, with the exception of Alex, are  
2 less familiar with the process of Department of Justice review.  
3 We do require a Department of Justice review before we submit a  
4 request to the court, since the Department of Justice is  
5 responsible for abrogating that whatever we request as a council  
6 is consistent with the Settlement Agreement. We historically had  
7 some challenges with respect to having this done before our  
8 votes, but we resolved those challenges by having staff -- EVOS  
9 staff -- give to Justice the proposals in a timely manner. With  
10 the press of other business, unfortunately the Department of  
11 Justice didn't get their package until yesterday, and so I am  
12 going to vote for this, but I do vote with the caveat that if the  
13 Department of Justice finds any problems -- I don't think they're  
14 going to find any problems, these are both very core research  
15 projects, but if they do find any problems that we will have to  
16 revisit the problems that are identified. I don't think this  
17 will happen in the future, and we hope it won't happen in the  
18 future, and we all just have to remember that the Department of  
19 Justice needs to receive these proposals in a timely manner so  
20 that we can benefit from their opinion before we take our votes  
21 in the future.

22 MR. SWIDERSKI: Madam Chairman, this is Alex Swiderski.  
23 I, too, am going to vote for the projects . . .

24 MS. BROWN: Alex, go ahead.

25 MR. SWIDERSKI: Thank you. I would like to second the  
26 earlier comments of Deborah Williams that, to the extent  
27 possible, birds could be collected by working cooperatively with

1 hunters. That would be very much preferable. And, secondly, and  
2 I think this was implicit, but I'd like it to be clear, that I  
3 would ask that the Executive Director, before agreeing to any  
4 taking in any of the studies, bring the issue to the Trustee  
5 Council, even though we have adopted a policy with respect to  
6 that. Thank you. That's all.

7 MS. BROWN: Ms. McCammon.

8 MS. MCCAMMON: Madam Chair, I think that -- the policy  
9 that the Council -- that we're operating under now is in this  
10 case to have to the proposed collection reviewed by the Chief  
11 Scientist, and then for myself to bring that recommendation to  
12 the Trustee Council. I would feel it probably as one of those  
13 things of informing you and getting your informed consent of  
14 whether to proceed. If any of the Council members had a question  
15 or a concern about the proposed recommendation, then we would  
16 arrange for a meeting to take that up.

17 MS. BROWN: Does that answer your question, Alex?

18 MR. SWIDERSKI: Yes.

19 MS. BROWN: Do we have a motion?

20 MS. WILLIAMS: So moved.

21 MR. SWIDERSKI: Second.

22 MS. BROWN: Would you like to restate the motion for  
23 us? Are you looking to adopt both projects with the caveats we  
24 have on the table?

25 MS. WILLIAMS: Why don't we start with the first  
26 project, because there might be a slightly different motion on  
27 the second project. I'm not sure, but it makes sense given the

1 magnitude of these projects that we do it on a project-by-project  
2 basis. I would move to have the Trustee Council approve funding  
3 for the nearshore vertebrate predator package project for the  
4 duration of the project and that we make that motion with the two  
5 provisos that we discussed earlier: one, that there be no  
6 collections unless and until Dr. Spies approves a methodology and  
7 the Trustee Council has the opportunity to review the  
8 methodology; and, two, to the maximum extent possible, if there  
9 is collections that they be done in conjunction with the hunting  
10 community.

11 MS. BROWN: Do you want to add also a caveat about  
12 the Department of Justice review?

13 MS. WILLIAMS: Yes -- yes -- and that the Department of  
14 Justice approve the proposals.

15 UNIDENTIFIED VOICE: Madam Chair -- point of  
16 clarification. When she said funding for duration of the  
17 project, through '99 or is that just through '95, or are we going  
18 to have a reevaluation in the fall?

19 MS. MCCAMMON: Madam Chairman, the nearshore vertebrate  
20 predator -- this project is now contingent on a fall review. The  
21 recommendation of the peer reviewers was for the entire project  
22 to go forward. The forage fish project, a separate session prior  
23 to a final recommendation on the entire project.

24 MS. WILLIAMS: And my motion was reflective of that,  
25 that it would be for the entire project.

26 MS. BROWN: Yes. Just so we understand the motion.  
27 Is it clear? Do we have a second?

1 MS. WILLIAMS: Alex seconded.

2 MS. BROWN: Seconded. In favor of the motion?

3 ALL TRUSTEES: Aye -- aye.

4 MS. BROWN: All opposed? (No opposition) The

5 motion carries. Do we have a motion on the second project?

6 MR. HINES: Madam Chair, I guess I present a motion

7 that that be approved -- as proposed.

8 MS. BROWN: As proposed -- point of clarification?

9 MR. HINES: Subject to some of the other caveats

10 that the first one was subject to.

11 MS. BROWN: Okay. And the point of clarification on

12 the (indiscernible -- simultaneous talking at Juneau end) as Ms.

13 McCammon stated -- subsequent review.

14 MS. McCAMMON: Yes. The recommendation on this

15 proposal is only for the next -- this coming -- for one report

16 writing and data analysis for that field season. Any further

17 recommendations on this project would come following the fall

18 review session.

19 MS. BROWN: Thank you for that clarification. The

20 second on this was (indiscernible -- coughing). All in favor -

21 aye?

22 ALL TRUSTEES: Aye -- aye.

23 MS. WILLIAMS: Aye, and Madam Chair, for the record,

24 could you restate who made the motion and who seconded it; we did

25 not glean that.

26 MS. BROWN: Mr. Hines made the motion, and seconded

27 by Ms. Fritts.

1 MS. WILLIAMS: Thank you.

2 MS. BROWN: Any opposed? (No opposition) The  
3 motion carries. The next . . .

4 MR. JANIK: Madam Chairman?

5 MS. BROWN: Uh-huh.

6 MR. JANIK: Phil Janik here with a comment. Given  
7 the substantial amount of money associated with the nearshore  
8 that we just voted on for the five year, I'd like to get a little  
9 bit reacquainted with the practice we have for monitoring these  
10 projects. Is there a procedure set in motion that should we  
11 discover in year 2 or 3 that, based on monitoring or tracking of  
12 this project, we need to revisit something of this nature with  
13 this much money associated with it, are there procedures in place  
14 to deal with that?

15 MS. BROWN: Excellent question -- thank you.

16 MS. McCAMMON: Madam Chair, Mr. Janik, I believe that  
17 procedures are in place. With your approval of the entire  
18 project, it is in essence a conceptual approval. The only  
19 funding that you've actually authorized is year FY95. All of the  
20 funding for FY96 and FY97 will come before you on an annual  
21 basis. It's going to be at that time to reevaluate the project.  
22 I believe there are also some reviews built into this project for  
23 some go-forward or not-go-forward steps, so (indiscernible) kind  
24 of flexibility.

25 MS. BROWN: Thank you.

26 MR. JANIK: Thank you.

27 MS. BROWN: The next item on the agenda is the four



1 amendments to the AKI and Old Harbor resolutions. I'd ask Ms.  
2 McCammon to introduce this for us, please.

3 MS. McCAMMON: Madam Chair, when the Council took  
4 action on the Akhiok-Kaguyak and Old Harbor resolutions on  
5 November 2nd, there was some language included in that that has  
6 been the subject of final negotiation between the federal and  
7 state governments. There is a proposal before you that  
8 accommodates the change in language that both parties have agreed  
9 to, and I would like to ask Barry Roth with the Department of  
10 Interior to go through this.

11 MS. BROWN: Mr. Roth.

12 MR. ROTH: Yes, I'm here in Washington, and would  
13 be happy to. Madam Chairman, the specific provisions of the  
14 November 2nd resolutions with respect to AKI and Old Harbor  
15 provided for language speaking of reverter or a transfer to the  
16 other government if one government attempted to sell the  
17 property. That raised a number of legal issues, particularly in  
18 the view of the Department of Justice. As a result, the  
19 Department of Justice, Interior, Agriculture General Counsel's  
20 Office, and the Solicitor's Office and the Alaska Department of  
21 Law have all been trying to refine the thinking as to what's the  
22 best way to implement the Council's goal of achieving permanent  
23 protection and giving the non-acquiring government an oversight  
24 role, just to make the acquisitions do achieve the restoration  
25 purposes. At our December 2nd meeting, with respect to the  
26 Koniag resolution, we refer to an easement-type concept of  
27 enforcement right by the other government. We are now finalizing

1 language with respect to the AKI and Old Harbor transactions that  
2 would accomplish this, again, with the concurrence of the  
3 Departments of Justice and the Department of Law. We expect  
4 probably by next week we will have the language finalized. The  
5 meantime, the shareholders of AKI and Old Harbor have approved  
6 these transactions and are most anxious to get the initial  
7 closings to take place, as are we in terms of the interest of  
8 assuring the protection of those resources. In order that we can  
9 move ahead expeditiously, we need to, one, correct the language  
10 and eliminate the references to restrictions on alienation of  
11 title, and to update this enforcement right, which is consistent  
12 with the way things are now developing and, secondly, to make  
13 clear that it's -- that the departments of Law and Justice may go  
14 ahead now and file with the court; two, withdraw the money for  
15 the initial payments to the two corporations, but that closing  
16 cannot actually take place, and the expenditure of those funds  
17 lie at the Fish & Wildlife Service until we have the finalize  
18 language in the purchase agreement which has been held up while  
19 we resolve this language, as well as the approval by the  
20 Executive Director that the conveyance instruments achieve the  
21 various purposes the Council voted in this particular aspect and  
22 as to public access in the conservation easements desired at the  
23 -- surrounding the discussions at the November 2 meeting. We  
24 think this is very narrow. We think it allows to proceed  
25 quickly, and we hope to see a court request very soon because we  
26 anticipate closings on both -- at least on the AKI transaction in  
27 the month of April, and not very long thereafter the initial

1 closing in Old Harbor. And I'd be happy to answer any questions.

2 MS. BROWN: Thank you, Mr. Roth. Are there any  
3 questions? Anchorage, any questions? Any discussion? Do we  
4 have a motion?

5 MS. WILLIAMS: I move that the Trustee Council adopt  
6 the resolution that is, I believe, before all of us, dated March  
7 31, 1995.

8 MR. SWIDERSKI: Second that motion.

9 MS. BROWN: Moved by Ms. Williams, seconded by Mr.  
10 Swiderski. Do we have any discussion? All in favor?

11 ALL TRUSTEES: Aye.

12 MS. BROWN: Any opposed? (No response.) The motion  
13 carries. What -- are you going to circulate for signature?

14 MS. MCCAMMON: Yes. (Indiscernible) originally for  
15 signature.

16 MS. BROWN: Okay. Thank you. The last item on our  
17 agenda are technical amendments to the '95 budget. Again, Ms.  
18 McCammon, for introduction.

19 MS. MCCAMMON: Thank you, Madam Chair. Since the last  
20 time the Trustee Council met, there are a couple of very minor,  
21 technical budget amendments that the Council needs to authorize.  
22 These do not involve any additional new funds. In two cases,  
23 they request a transfer of previously authorized funds between  
24 two Trustee agencies, and in the third case the transfer is  
25 actually between two sub-project within an already authorized  
26 project, and I would recommend that the Council approve a motion  
27 to adopt these amendments as described in the memos from Ms.

1 Tracy Kramer.

2 MS. BROWN: The memos dated March 29th?

3 MS. McCAMMON: That's correct.

4 MS. BROWN: Is there any discussion? Do we have a  
5 motion?

6 MS. FRITTS: I'll move that the budget amendment  
7 dated March 29 be approved by the Council.

8 MS. BROWN: All three?

9 MS. FRITTS: All three of them.

10 MR. HINES: Second.

11 MS. BROWN: Seconded by Mr. Hines. Any other  
12 discussion? All in favor?

13 ALL TRUSTEES: Aye - aye.

14 MS. BROWN: Opposed? (No opposition). Hearing  
15 none, this motion also carries. We have reached the end of our  
16 agenda, is there any items anybody would like to bring up?  
17 Hearing none, we can adjourn this motion. We have a motion?

18 MR. JANIK: This is Phil Janik. I move we adjourn  
19 this meeting.

20 MS. BROWN: Is there a second?

21 MR. HINES: Second.

22 MS. BROWN: All in favor?

23 ALL TRUSTEES: Aye.

24 MS. BROWN: All opposed? (No opposition) Hearing  
25 none, the meeting is adjourned. Thank you very much for  
26 participating everyone.

27 (Off Record at 3:15 p.m.)

END OF PROCEEDINGS

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CERTIFICATE

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

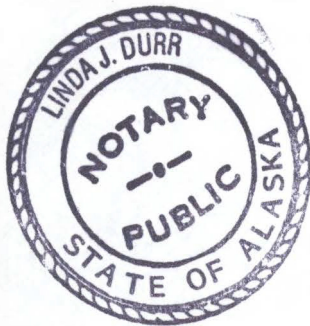
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 43 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by LTD Court Reporters on March 31, 1995, commencing at approximately 2:00 p.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 3rd day of April, 1995.



*Linda J Durr*

\_\_\_\_\_  
Linda J. Durr, Certified PLS  
Notary Public for Alaska  
My commission expires: 10/19/97