

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RECEIVED
JUL 02 1996

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL MEETING TRUSTEE COUNCIL
Friday May 31, 1996 ADMINISTRATIVE RECORD
1:00 o'clock p.m.

645 G Street, Suite 401
Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

STATE OF ALASKA - DEPARTMENT
OF FISH AND GAME:

MR. FRANK RUE (Chair)
Commissioner

U.S. DEPARTMENT OF THE INTERIOR:

MS. DEBORAH WILLIAMS
Special Assistant to the
Assistant Secretary

STATE OF ALASKA -
DEPARTMENT OF LAW:

MR. CRAIG TILLERY
Trustee Representative
for the Attorney General

U.S. DEPARTMENT OF AGRICULTURE -
U.S. FOREST SERVICE:

MR. PHIL JANIK
Regional Forester

U.S. DEPARTMENT OF
COMMERCE - NMFS:

MR. STEVE PENNOYER
Director, Alaska Region

STATE OF ALASKA - DEPARTMENT
OF ENVIRONMENTAL CONSERVATION:

MR. ERNIE PIPER,
for MICHELE BROWN,
Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRUSTEE COUNCIL STAFF PRESENT:

MS. MOLLY McCAMMON	Executive Director EVOS Trustee Council
MR. ERIC MYERS	Director of Operations EVOS Trustee Council
MS. REBECCA WILLIAMS	Executive Secretary EVOS Trustee Council
MS. GINA BELT	U.S. Department of Justice
MR. JOHN HARMENING	U.S. Forest Service
MR. DAVE GIBBONS	U.S. Forest Service
MR. RAY THOMPSON	U.S. Forest Service
MR. BUD RICH RICE	National Park Service
MR. ALEX SWIDERSKI	State of Alaska, Department of Law
MR. JOE SULLIVAN	State of Alaska, Department of Fish and Game
MR. ROY JONES	Washington, D.C.

PUBLIC TESTIMONY	PAGE
MS. ELEANOR HUFFINES	14
MS. NICOLE WHITTINGTON-EVANS	17
MR. PAUL ROETMAN	19
MR. JACK HESSION	20
MR. GARY PATTON	37

Proceedings recorded by electronic sound recording. Transcript produced by transcription service.

1 ANCHORAGE, ALASKA - FRIDAY, MAY 31, 1996

2
3 (Tape No. 1 of 1)

4 (On record at 1:10 p.m.)

5 MR. PENNOYER: Kodiak and Seward are on the line.

6 CHAIRMAN RUE: Okay.

7 MS. McCAMMON: We have here in Anchorage, we have
8 Craig Tillery and Deborah Williams representing the Department
9 of Law and Department of Interior. And Ernie Piper
10 representing Department of Environmental Conservation.

11 CHAIRMAN RUE: Okay. Molly, would you like to begin
12 taking us through the agenda then?

13 MR. PENNOYER: Yeah, formally for the record, Molly,
14 we said that before, if you need that, if we're formally
15 starting the meeting, we have three of the Trustee Council
16 members, Phil Janik, Frank Rue, and Steve Pennoyer here in
17 Juneau.

18 MS. McCAMMON: Thank you, Steve. The first item, I
19 think everyone has an agenda before them, and the first item is
20 approval of that agenda, Mr. Chairman.

21 MS. WILLIAMS: I move to approve.

22 MR. PENNOYER: Second.

23 CHAIRMAN RUE: Okay. It's been moved and seconded
24 that the agenda be approved. Any discussion?

25 (No audible response)

1 CHAIRMAN RUE: Any objection?

2 (No audible response)

3 CHAIRMAN RUE: The agenda is approved.

4 MS. McCAMMON: Mr. Chairman, the second item on the
5 agenda is the report from the Chenega negotiators. And at this
6 point, I would turn it over to John Harmening and Dave Gibbons
7 in the Juneau -- at the Juneau site.

8 MR. JANIK: Mr. Chairman, this is Phil Janik. Just
9 as an introduction to this, what we would like the negotiators
10 to do is first describe the restoration values of the Chenega
11 parcel, and then talk about the features of the agreement at
12 hand, the recommendation that may be coming to the Council with
13 regard to a possible purchase this afternoon.

14 So if we could have the restoration values first and
15 then the description of the features of what has been
16 negotiated.

17 MR. HARMENING: Thank you, Mr. Chairman and Trustee
18 Board members. Well, we embarked on this journey over three
19 years -- almost three years ago now, in August. The road's
20 been long and bumpy and often intense. The proposed package
21 that we're bringing before you today we feel has a good
22 probability of being acceptable to the Chenega Corporation.

23 The lands and interest in lands to be acquired
24 generally sustained the highest level of injury, with residual
25 oil still persisting on many of the beaches. Now, Chenega has

1 often been referred to as ground zero, and the national -- or
2 the natural resources which have been used by the residents
3 over (cut out) purposes have yet to still fully recover.

4 The area is characterized by mountains, with the
5 lower slopes adjacent to the lakes and rivers forested with
6 old-growth Sitka spruce and hemlock. There are two parcels in
7 particular that have been identified as having some of the
8 highest restoration values in Prince William Sound, and these
9 are Jackpot and Eshamy Bays. Jackpot and Eshamy hold important
10 sockeye salmon spawning and rearing habitat. They are key
11 lands for sport fishing, commercial fishing, subsistence, and
12 recreation in Prince William Sound and are of high value for a
13 number of the injured resources.

14 Eshamy Bay has the highest population of cutthroat in
15 Prince William Sound and is the northern and westernmost extent
16 of the species range. Jackpot Bay has a large colony of pigeon
17 guillemots immediately adjacent to the parcel. In the Eshamy
18 and Jackpot areas are 22 anadromous streams, of which 2, the
19 Jackpot and Eshamy, are major producers of sockeye salmon. The
20 area has two major lake systems, which are also important to
21 the anadromous fisheries of the area.

22 The Alaska National -- or the National Interest (sic)
23 Conservation Act, or as we know it by ANILCA, §74 -- 704,
24 required within three years after the passing of the bill,
25 which was December of '83, a study with recommendations to the

1 suitability or non-suitability of wilderness within Prince
2 William Sound. The report was completed and was submitted to
3 Congress and has not been acted on as of yet. However, the
4 preferred alternative is contiguous to and surrounds most of
5 the Eshamy and Jackpot areas.

6 The comprehensive evaluation process that was done by
7 the HPWG folks earlier, there were 11 of the 19 injured
8 resources that were evaluated to come up with the ratings were
9 found on the Chenega lands. These included pink salmon,
10 sockeye, cutthroat, Dolly Varden, bald eagle, black
11 oystercatcher, harbor seal, harlequin duck, marbled murrelet,
12 pigeon guillemot, river otter, recreation, tourism, services,
13 as well as the wilderness and cultural resources.

14 The high-value resources in the Eshamy/Jackpot area
15 are pink salmon, sockeye salmon, cutthroat trout, Dolly Varden,
16 bald eagle, black oystercatcher, harbor seal, harlequin duck,
17 pigeon guillemot, river otter, recreation, tourism, services,
18 wilderness, and subsistence. Eshamy Bay is also one of the
19 highest sockeye salmon-producing rivers in Prince William
20 Sound. Both Jackpot and Eshamy represent the northernmost
21 ranges for cutthroat trout. The Eshamy and Jackpot area has
22 important wintering lakes and support strong populations of
23 Dolly Varden as well as well as 14 documented eagle nests and
24 important feeding areas.

25 The area is an important breeding area and an

1 important over-wintering area for harlequin ducks. There's a
2 large colony of pigeon guillemots adjacent to the parcel.
3 Eshamy has high concentrations of river otters. There are
4 apparently high levels of recreation and increasing potential
5 within the area of being a destination of sport fishing for
6 nearby population areas. As mentioned earlier, the parcel is
7 an inholding within a proposed wilderness area. The areas also
8 have high value for subsistence use for the village of Chenega.

9 One of the things that I think here would be
10 appropriate to go over, what we have done in the past in terms
11 of just general acreages and compare them to where we started
12 out and where we have ended up.

13 Within the original negotiations, about the second
14 year out, we were into acquiring about 19,500 acres of fee
15 title land in the Eshamy/Jackpot area. Under the present deal
16 that we will propose to you today, it will be 37,868 acres of
17 fee title land, that land being all up north of Dangerous
18 Passage.

19 In the older plan, there were 47,828 acres of
20 conservation easement with public access. Under the new
21 proposal that we are presenting, there's 19,437 acres. Under
22 the old proposal, there was 7,300 acres without public access,
23 and under the new proposal, there is around 3,300 acres that
24 will be of -- there will be no public access on it. This area
25 represents areas of south Chenega Island, which has a some

1 significant cultural implications to the people of Chenega.

2 Under the old proposal, there was almost 70,000 acres
3 involved; under the new proposal, there are a total of 60,605
4 acres that will be -- that we will gain interest in.

5 The specific proposal has -- where we're at right now
6 and what we have come up with and present to you today, it
7 includes all the Chenega lands of Dangerous Passage, which are
8 approximately 37,000 acres, will be purchased in fee title.
9 Out of that land, there will be three sites, or three
10 development sites, retained by Chenega. One development site
11 not to exceed 30 acres will be located in Eshamy Bay, one site
12 not to exceed 5 acres in Jackpot, and one site not to exceed 5
13 acres in Paddy Bay. There will also be 775 acres purchased in
14 fee on Knight Island at Hogan Bay. So that the total fee
15 simple interest to be acquired is 37,868 acres.

16 In conservation easements, all the remaining lands of
17 Knight Island, or approximately 4,205 acres, will have a
18 conservation easement with public access. It will exclude one
19 five-acre site for development in Thumb Bay, and there are some
20 specific one-and-a-half-acre shareholder homesites yet to be
21 specifically identified by Chenega.

22 On Chenega Island, everything on the north half in
23 Township 3 North, 8 East; 3 North, 7 East; and 4 North, 8 East,
24 of approximately 12,030 acres, will be in conservation
25 easement. Excluded will be some additional one-and-a-half-acre

1 shareholder homesites to be identified by Chenega. There will
2 be three development sites on the south end of Chenega Island,
3 not to exceed a total of 30 acres. These three sites are in
4 the area where public access has been retained by -- or where
5 access has been retained by the Chenega Corporation and is just
6 on the very south half, or the south third rather.

7 The proposal includes all the lands on Pleaides
8 Islands, Whale Bay, and Fleming Island, which amounts to an
9 additional 3,202 acres. One 5-acre development site has been
10 proposed to be withheld at Whale Bay on Fleming Island. The
11 total Chenega lands encumbered by conservation easements are
12 19,437 acres, with an additional 3,300 acres constituting a
13 timber-only conservation easement.

14 This new deal, one of the things you will note is
15 that -- or LaTouche Island has been dropped off. This island
16 is adjacent to and across from the Chenega village and
17 represents an area that they use and is close to the community
18 of Chenega. In the negotiations, when we came to some
19 difficulties in coming up with the final fees, this was an area
20 that was agreed upon to drop out.

21 Originally, there was an approved appraisal completed
22 for the Trustee Council which determined that the fair market
23 value of the fee and conservation easements in the lands to be
24 acquired was \$8,854,400. This value was based upon the highest
25 and best use of the lands for recreation. Although the

1 appraisal estimated a value for the timber inventory located on
2 the land as \$56,000,000, it was concluded by the appraiser that
3 the total production costs to remove the timber could amount to
4 as much as \$53,000,000.

5 Based on this analysis, it is unlikely that an
6 independent party would have currently bid on this timber.
7 Accordingly, the appraisal did not consider the value of the
8 commercial timber rights to be the highest and best use of the
9 land, and it didn't reflect a commodity value for the timber
10 located on the lands.

11 While it isn't reflected in the appraisal, the timber
12 located on the lands does represent a significant economic
13 value to Chenega. In addition, Chenega is the joint venture
14 partner of Koncor Forest Products Company, a Native-owned
15 timber company in Alaska. Chenega has generally pledged its
16 timber assets located on the lands to the partnership in return
17 for an interest of ownership of Koncor. This ownership
18 interest has and continues to generate a substantial net income
19 and cash flow to Chenega.

20 In order to sell the land with the timber locate on
21 the lands as part of the Trustee Council Habitat Protection
22 Program, the Koncor partnership agreement requires Chenega
23 withdraw from the partnership, thus requiring Chenega to forego
24 the stream of income from the potential value increase in
25 Koncor. Chenega has indicated that it can only justify a sale

1 through its shareholders if they're fully compensated for all
2 their economic values associated with these timber assets, and
3 which they would have to forego as a result of the sale.

4 Chenega has also asserted that the appraised market
5 value does not fairly compensate it for the lands, which
6 represent the majority of the land selections received pursuant
7 to ANCSA. Because the purpose of ANCSA include providing local
8 residents both the opportunity to maintain their traditional
9 way of life and their economic viability and self-sufficiency
10 from these lands conveyed, Chenega has indicated it will only
11 sell the lands if these objectives are maintained and achieved.

12 Generally, it is the federal and state government
13 practice to acquire lands and interests at appraised fair
14 market value. However, Chenega has firmly rejected the Trustee
15 Council to acquire lands at the appraised value. Lacking a
16 means to otherwise acquire the lands in the absence of the
17 usually agreed-to price, the Trustee Council and the
18 negotiators have been faced with the choice of foregoing the
19 acquisition or negotiating an acquisition price in excess of
20 the appraised value.

21 Recognizing the above-discussed benefits for
22 restoration as well as substantial public support for the
23 acquisition, it is concluded that the latter option is
24 preferable. The negotiators have been working with Chenega in
25 an attempt to reach a mutually agreed-upon price in excess of

1 the appraised value that is reasonable.

2 Based on these negotiators (sic), the negotiators
3 recommend to offer to purchase lands from Chenega for a total
4 price of \$34,000,000 in one lump sum payment or, alternatively,
5 a total sum of \$36,000,000 paid as follows: \$20 million at
6 closing, \$3 million in one year later, and \$13 million in two
7 years later.

8 The negotiators believe this offer represents a
9 reasonable price given the substantial benefits for the
10 restoration of the injured natural resources and related
11 services in one of the most heavily damaged areas. And the
12 fact that there is some incremental value from the land due
13 Chenega Corporation in the future out years, depending on the
14 timber market and the present cash flow enjoyed by the
15 Corporation from their joint venture, which they will have to
16 forego.

17 It was our perception in negotiating this proposal
18 that Chenega will have to be adequately compensated if we are
19 to consummate a deal. Consequently, the proposal as stated
20 above is -- we recommend be accepted by the Trustee Council.

21 MR. PENNOYER: Mr. Chairman?

22 CHAIRMAN RUE: Yes.

23 MR. PENNOYER: Just a point of clarification before
24 we go on here. Mr. Harmening did use the word "offer" in his
25 presentation when he referred to the numbers. That, at this

1 point, represents, as I know was intended, a recommendation to
2 the Trustee Council, not a formal offer. It's the Trustee
3 Council that will decide to do that or not.

4 Thank you, John.

5 CHAIRMAN RUE: Thank you, John. At this point, we've
6 heard the presentation. Are there questions from Council
7 members?

8 (No audible response)

9 MS. McCAMMON: None here in Anchorage.

10 CHAIRMAN RUE: Okay. Molly, are we going to ask for
11 public comments, then, on this?

12 MS. McCAMMON: I think this is an appropriate time to
13 hear public comment.

14 CHAIRMAN RUE: Okay. That'd be great if there are no
15 questions then. How many -- Molly, how many sites do we have
16 on line for public comment?

17 MS. McCAMMON: We have Seward and Kodiak, I believe,
18 on line at this point. I'm not sure if anyone there is --
19 wants to testify. And we have a number of people here in
20 Anchorage who would like to testify.

21 CHAIRMAN RUE: Okay. Why don't we -- I'll ask
22 around. Seward and Kodiak need to let us know if there --
23 could you let us know if there are people in Seward and Kodiak
24 who would like to testify?

25 KODIAK MODERATOR: Kodiak has no one to testify.

1 Thank you.

2 CHAIRMAN RUE: How about Seward?

3 SEWARD MODERATOR: Seward has observers only.

4 CHAIRMAN RUE: Okay. So is there anyone here in
5 Juneau?

6 (No audible response)

7 CHAIRMAN RUE: No, I don't think so. So really, the
8 public is in Anchorage. Molly, would you like to ask them, the
9 people there, to come up and testify?

10 MS. McCAMMON: Yeah. Mr. Chairman, with your
11 permission, I'll just go through the list here. We have
12 Eleanor Huffines, representing the National Outdoor Leadership
13 School.

14 CHAIRMAN RUE: Okay. That'd be great. Eleanor?

15 MS. HUFFINES: Is it better to come near the
16 microphone?

17 MS. McCAMMON: Yes, right here.

18 CHAIRMAN RUE: Eleanor, could you spell your last
19 name for the record, please?

20 MS. HUFFINES: Sure. It's H-u-f-f-, as in Frank, -i-
21 n-e-s, as in Sam.

22 PUBLIC TESTIMONY OF MS. ELEANOR HUFFINES

23 And as Molly said, I work for the National Outdoor
24 Leadership School, which is a wilderness education program
25 that's been operating kayaking courses on Prince William Sound

1 since 1972. And I'm also speaking on behalf of AWRTA, the
2 Alaska Wilderness, Recreation, and Tourism Association, and I'm
3 a Board member for that organization.

4 And originally, I'll say this is a very chaotic time
5 of year for most outfitters and guides, but so I'm not -- no,
6 there are not many of us here, but it's important to recognize
7 that there are over 30 businesses in our organization that
8 operate in Prince William Sound that have expressed, through
9 me, some concerns and some excitement for this acquisition.

10 And I'm not -- you know, I will say that, one, we'd
11 like to -- I'm here to support the habitat acquisition and to
12 further emphasize what an important tool we think it is in all
13 of Prince William Sound in an oil spill area. And I think our
14 one concern over the years has been Prince William Sound and
15 actual extensive damage. And the presentation a few minutes
16 ago outlined all the injured resources, and the value of those
17 resources, and so I won't reiterate that, and just give you my
18 perspective, as a recreationalist and an outfitter and guide,
19 what the value of the Chenega land has to offer.

20 We are -- at NOLS are fortunate enough to have a
21 permit with Chenega currently, and have had the opportunity to
22 go down and -- and just spend some time on that land. And I
23 could point out where we go, 'cause that will illustrate -- and
24 let me know if I'm too far away for them to hear me -- the
25 importance of the land. By recovering the injured resources,

1 you also allow the outfitters and guides that have been
2 displaced by the oil spill to travel south and west in Prince
3 William Sound.

4 And this area traditionally has offered the most
5 remote, most positive wilderness experience for 25 years of
6 students, and for a number of reasons. One, because of the
7 mountain resources that have been listed, and two, because of
8 the distance from Whittier and Valdez and Cordova. But what
9 you encounter when you're an outfitter and guide, if you don't
10 have a permit, is you come around perhaps an island, you have
11 to go, and there's nowhere to stop. And that creates a pretty
12 significant safety problem. And you can't come out to Knight
13 Island, traditionally, because of Knight Island Passage and
14 some of the tour boats and cruise operators, and the length of
15 the crossing.

16 And so from a recreational perspective, the Chenega
17 lands offer a really significant piece of the puzzle in order
18 to sustain that area for guiding and outfitting. So it's --
19 but I don't want to emphasize the value of the land just from
20 an economic business perspective, but also just the quality of
21 the resources that we experience and our students experience
22 when we're down there. And while we are permitted, I still
23 feel like, as an AWRTA business member, that the value of the
24 land is important for all Alaskans and not just those who are
25 fortunate enough to have an individual relationship with

1 Chenega.

2 So I reiterate our support from AWRTA and from NOLS
3 for the acquisition. And any information people are interested
4 in knowing about specific parcels from my camping experience
5 over 25 years down there, I'm happy to offer that at another
6 time. So thank you.

7 CHAIRMAN RUE: Thank you. Were there any questions
8 from Council members of Ms. Huffines?

9 (No audible response)

10 CHAIRMAN RUE: No. Any in Anchorage?

11 MS. McCAMMON: No.

12 CHAIRMAN RUE: Okay. Thank you very much.

13 MS. McCAMMON: Next we have Nicole Evans.

14 PUBLIC TESTIMONY OF MS. NICOLE EVANS

15 Hello. My name is Nicole Evans, and I'm here to
16 testify on behalf of the Alaska Center for the Environment and
17 also the Alaska Rain Forest Campaign. And I am glad to be here
18 on this day and hope that a positive deal will be able to go
19 through.

20 I want to state that both the Alaska Center for the
21 Environment and the Rain Forest Campaign strongly support the
22 efforts of the Trustee Council to acquire Chenega lands. These
23 are some of the highest ranked parcels, as has already been
24 said today, in the spill region, and we feel very strongly that
25 this would be a good-faith effort in trying to mitigate some of

1 the injuries that many people that we are in contact with on a
2 regular basis have felt since the spill.

3 I think the public has demonstrated very strong
4 support for acquisition of these lands in past comments and
5 also in recent comments that have been made and phone calls,
6 certainly, that I've received. Many people are waiting for a
7 deal of a large-parcel acquisition to occur within the spill
8 region.

9 The Rain Forest Campaign and the Alaska Center for
10 the Environment view this as a win/win scenario. It's a win
11 for the Native corporation, who is a willing seller in this
12 case, it's a win for the environment, and it's a win for the
13 general public, particularly recreationists, subsistence users,
14 sport fishers and hunters, and commercial fishers, among many
15 others. The fish and wildlife habitat that will be protected
16 as a result of this potential transaction will serve to
17 maintain some of Prince William Sound's most important
18 resources.

19 Lastly, I would like to say that Chenega lands
20 represent a unique and priceless treasure which reach much
21 beyond the monetary valuation of the land. And I want to make
22 that point very strongly. There's a lot involved in these
23 deals, and we recognize that. And for those of us in the
24 conservation community, we feel strongly that some of the
25 intrinsic values which cannot be reflected within, say, the

1 appraisals of the land need to be recognized. And it's fair
2 to, I believe, go ahead and pay a price above the appraised
3 value. And I just want that to be on the record. Thank you.

4 CHAIRMAN RUE: Thank you, Ms. Evans. Any questions
5 for Nicole?

6 (No audible response)

7 CHAIRMAN RUE: None in Juneau.

8 MS. McCAMMON: Next we have Paul Roetman.

9 CHAIRMAN RUE: Paul, could you spell your last name
10 for us?

11 MR. ROETMAN: Sure. It's R-, like in Roger, -o-e-t-
12 m-a-n.

13 PUBLIC TESTIMONY OF MR. PAUL ROETMAN

14 And I'm with the Prince William Sound Economic
15 Development Council based in Valdez. And we're a regional
16 development corporation that is involved in many levels, from
17 small business to working on municipal projects to working on
18 Sound waste management plans, like an EVOS-funded project that
19 that is.

20 But we are here today to support the proposal on the
21 table. A few weeks ago, we sent a letter of support
22 encouraging both EVOS and Chenega Corporation to reach an
23 agreement, and we do support the proposal that is currently on
24 the table. We see this as a good value. We see it as a good
25 economic benefit for Chenega, and I think it's also mutually

1 beneficial.

2 We've heard some quality-of-life issues and also the
3 economic benefit to existing tour operators in the area, but
4 then also the Chenega Corporation to move forward with their
5 own subsistence use and also projects that they may have
6 underway. So we encourage the follow-through with this
7 proposal. And I'd be happy to answer any questions.

8 CHAIRMAN RUE: Are there any questions for Paul?

9 (No audible response)

10 CHAIRMAN RUE: There are none from Juneau.

11 MS. McCAMMON: Okay. Our -- the next person to
12 testify is Jack Hession.

13 PUBLIC TESTIMONY OF MR. JACK HESSION

14 Thank you. My name is Jack Hession. I'm with the
15 Sierra Club in Alaska. I'm here pinch-hitting.....

16 (Interruption at the door)

17 BY MR. HESSION (Resuming):

18 pinch-hitting for Pam Brody, who is on vacation, but we
19 have consulted on this matter.

20 We're very pleased to see the Council begin
21 acquisition in Prince William Sound. We're delighted to see
22 you back over in that region finally. I'll be brief.

23 Chenega is an area well known to many of our members.
24 I'm personally familiar with it. I believe it's outstanding
25 for a number of reasons. And as we've heard here today, it has

1 high restoration value, superb fish and wildlife values, and it
2 complements the College Fiord/Nellie Juan Wilderness Study
3 area.

4 Overall, it's an excellent acquisition proposal, and
5 we urge you to proceed full speed ahead. Thank you very much.

6 CHAIRMAN RUE: Okay. Thank you, Jack. Are there
7 questions of.....

8 (No audible response)

9 CHAIRMAN RUE: There are none from Juneau.

10 MS. McCAMMON: Is there anyone else here in Anchorage
11 who would like to testify at this time? That's all who signed
12 up.

13 (No audible response)

14 MS. McCAMMON: I believe that's all, Mr. Chairman.

15 CHAIRMAN RUE: Okay. Thank you very much. We've
16 heard public testimony. What's the will of the Council?

17 MS. McCAMMON: Mr. Chairman, could I just interrupt
18 for one quick second here? I would like to note that in the
19 packet that the Council had on May 2nd, there were a number of
20 letters also included in -- commenting on this proposal. One,
21 a letter in support from Representative Finkelstein, letters
22 from the Prince William Sound Economic Development Council, a
23 letter of support from Cordova District Fishermen United, from
24 the Alaskan Wilderness Sailing Safaris, and also from the
25 Prince William Sound Seiners Association.

1 I also would like to make note that we have received
2 a resolution and, most recently today, a letter from the
3 Chenega Bay IRA Council in opposition to this acquisition. And
4 in -- kind of in response to their views on it, I would like to
5 note for the record that what the Council is considering today
6 is an offer to Chenega Corporation. As part of Chenega's
7 follow-up, they will be going to a shareholder vote on this
8 proposal. It's my understanding it would take a two-thirds
9 vote to support this proposal for it to go forward. So there
10 will be a vote on it by the membership of Chenega Corporation.

11 CHAIRMAN RUE: Okay. Thank you, Molly. I think
12 that's important to know.

13 MS. WILLIAMS: Mr. Chairman, I would move to have the
14 Trustee Council adopt the resolution of the Exxon Valdez Oil
15 Spill Trustee Council regarding the Chenega acquisition.

16 MR. JANIK: Second.

17 CHAIRMAN RUE: Okay. It's been moved by Ms. Williams
18 and seconded by Mr. Janik that we move to accept the
19 recommendation. Is there discussion? Yes. Mr. Janik.

20 MR. JANIK: Yes. I would like to (cut out) in
21 support of the (cut out).

22 COURT REPORTER: Mr. Janik, you're cutting out.
23 Could you please get closer to the telephone?

24 MR. JANIK: Thank you. I'll speak up. How's that?

25 COURT REPORTER: Better. Thank you.

1 MR. JANIK: Since completion of the Oil Spill
2 Restoration Plan in September of '94, the Trustees have put
3 significant emphasis on habitat protection and acquisition
4 within the oil-spill-impacted area, with one of the key areas
5 being private lands in Prince William Sound. Chenega lands in
6 Prince William Sound were among the lands sustaining the
7 highest level of injury. We've heard that mentioned several
8 times. And Chenega certainly deserves that kind of emphasis.

9 And as we've also heard already today, many have
10 called these lands "ground zero" for the oil spill. The
11 majority of these lands are located next to the Port Nellie
12 Juan Wilderness Study area, and in terms of compatibility,
13 those lands being managed by the Forest Service, the
14 acquisition of the Chenega Lands as proposed would fit very
15 nicely into that management scenario.

16 Two areas of exceptional value are the Eshamy and
17 Jackpot Bays, again, this has been echoed earlier, containing
18 22 anadromous streams, one of which is the highest-producing
19 sockeye salmon system in Prince William Sound, importing --
20 important -- excuse me -- wintering habitat for Dolly Varden,
21 harlequin ducks, and pigeon guillemots, and other habitat
22 important to the full recovery of injured resources.

23 The Council has been negotiating with Chenega
24 Corporation for nearly three years now, and very -- I am
25 personally very pleased to see a mutually agreeable negotiation

1 coming to bear here. And I believe that this offer represents
2 a reasonable and fair price for the Chenega Corporation, as
3 well as the public for which the Trustee Council is acting on
4 in behalf with regard to restoration of injured natural
5 resources and related services.

6 So I would just like to really encourage the Council
7 members to look at this motion that's on the floor in a
8 favorable fashion.

9 CHAIRMAN RUE: Okay. Are there any other questions
10 or discussion from Council members?

11 MR. TILLERY: Mr. Chairman?

12 CHAIRMAN RUE: Yeah. Mr. Tillery.

13 MR. TILLERY: Just a couple of things on this
14 resolution that I -- at least I want to have in front of me,
15 which is different from this one that's with the agenda.

16 MS. McCAMMON: The May 31st is the most recent one.

17 MR. TILLERY: Well, this is the one that was faxed to
18 me just before we came over here; it had some changes. I'm
19 assuming we're working off of this one?

20 CHAIRMAN RUE: Does it have May 30th on the top?

21 MR. TILLERY: Well, it's got May 31st, but it's
22 different than the May 30th one, right. This is May 31st.
23 What is it? Okay. Then you've.....

24 (Pause - Side comments)

25 MR. TILLERY: Well, anyway, the May 31st draft, I'd

1 just like to clarify something that's -- to make sure that the
2 negotiators can tell me if I misunderstand this.

3 In Exhibit A to that, where it describes the
4 interest, it talks about the fee simple, and it describes
5 those, then it describes conservation easements lands, which
6 are sort of the other lands. As I understand it, on the fee
7 simple lands, there will also be a conservation easement to the
8 non-acquiring government. And I just wanted to make sure that
9 that is correct and clarify that.

10 I'd also note that up in the top of that it talks
11 about the exact description and locations and so forth will be
12 determined by the United States and Chenega prior to the
13 execution of any purchase agreement, that the State should --
14 would certainly be included in that. And with those two
15 understandings, somebody should tell me if those are incorrect.

16 (Pause)

17 CHAIRMAN RUE: It looks like that you are correct,
18 that those would be -- should be included in Exhibit A.

19 MS. WILLIAMS: Mr. Chairman, I have a few comments.

20 CHAIRMAN RUE: Okay. Go ahead.

21 MS. WILLIAMS: First of all, I would like to thank
22 the Chenega Corporation for negotiating in such good faith and
23 for being such good trustees of this land. And it has been a
24 privilege to have been associated with Chenega Corporation
25 during this period. Chenega exhibited creativity, flexibility,

1 patience, and the attributes that I think have resulted in this
2 transaction being as successful as it is.

3 I feel it is, as was represented by some of the
4 comments, a win/win proposition. I believe that Chenega
5 Corporation is not only able under this transaction to retain
6 some important land for itself and important land for
7 recreation on some of the sites that we're acquiring, it will
8 provide Chenega an excellent land base opportunity for the
9 future but also, of course, a substantial amount of money for
10 the lands that they are selling, and interest in lands that
11 they are selling, that will allow Chenega to prosper and its
12 shareholders to prosper.

13 As, of course, the Department of Interior, we
14 certainly acknowledge the letters that we have received from
15 the IRA, but we anticipate that those views will be discussed
16 vigorously as Chenega and its shareholders decides whether to
17 adopt this transaction. Having looked at this transaction as
18 long as we have, of course, we hope that Chenega Corporation
19 adopts this and that the members of the IRA, when they fully
20 understand and review the transaction, will also agree that
21 this transaction is an excellent opportunity and provides an
22 excellent future base for Chenega Corporation and its
23 shareholders.

24 But we will, in most acknowledgement of the IRA, I
25 think, it is the acknowledgement that the shareholders will

1 approve this by two-thirds. And we believe that that is the
2 opportunity to allow the IRA to express their views to the
3 other shareholders, and that the ultimate decision is with the
4 Chenega shareholders.

5 I would like to talk for a moment about the price.
6 All of the Trustee Council members know, but I'd like to share
7 with the public that these were very intense negotiations. And
8 we, of course, started out with the appraised price, but it was
9 evident that this -- we could not achieve a willing seller/
10 willing buyer transaction at the appraised price. And I
11 believe that the price that is reflected in this agreement is a
12 fair price and is the very lowest price that we could achieve
13 with a willing seller/willing buyer.

14 I think it necessarily reflects the timber values on
15 the Chenega land. And as the appraisal reflected, there's over
16 \$50 million of timber on this land. The appraisal, of course,
17 reflected high cost for that, but nonetheless, there is fifty-
18 six, I believe, million dollars of timber on this land. And of
19 course, that timber, I believe, not only helps justify the
20 price that we did reach in the negotiations, but also, of
21 course, contributes to the habitat values of the Chenega land.

22 I am pleased, as I'm sure all the other Trustee
23 Council members are, to approve a land transaction in the
24 Prince William Sound. This is something that we have all been
25 anxious to do. We all recognize the very substantial impacts

1 that the spill had on Prince William Sound. And it really is a
2 very happy day, I believe, for, certainly, the Department of
3 Interior, and if I may be so bold as to speak for the Trustee
4 Council, to be able to approve a major land transaction in
5 Prince William Sound in recognition of the damage that the
6 Sound occurred (sic) and the great desire to achieve
7 restoration benefits in the Sound.

8 So -- and again, I want to close with thanking
9 Chenega for your patience, for your, I think, fair
10 negotiations, and it has been a privilege doing business with
11 you, and we look forward to celebrating the completion of this
12 transaction.

13 CHAIRMAN RUE: Thank you very much, Ms. Williams.
14 Mr. Pennoyer has a comment.

15 MR. PENNOYER: Mr. Chairman, thank you. I'd just
16 like to briefly add my seconding of the approval of this --
17 voting for approval of this nego- -- this deal offer. I know
18 this has been a difficult negotiation; like Ms. Williams, I
19 appreciate all the parties that have participated in getting us
20 to this stage. This is a acquisition in Prince William Sound.
21 It happens to be land that has probably some of the highest
22 restoration values of any land we've looked at so far in this
23 whole process for purchase, and I believe that the values of
24 restoration are quite aside perhaps from the discussion of how
25 much it costs to get timber off the land.

1 So I believe that -- and knowing some of these areas
2 myself personally, I believe that this is a very, very valuable
3 acquisition in the process that we are undertaking, and I
4 support it.

5 CHAIRMAN RUE: Other Council members? Has everyone
6 spoken who wishes to speak on the resolution?

7 (No audible response)

8 CHAIRMAN RUE: I would certainly add my second to all
9 the comments that have gone before. I haven't lived through
10 the difficult negotiations the way some of you have, but
11 certainly I appreciate all the goodwill and hard work that went
12 into it. (Cut out) approving this but sending it on to Chenega
13 for their consideration. So I certainly would support that,
14 too.

15 MS. WILLIAMS: Mr. Chairman, if I may add two more
16 thoughts. One, I would like to thank our negotiating team, the
17 Trustee Council's negotiating team, for their hard and
18 excellent work. Again, I am confident that they reached the
19 most equitable deal that could be reached under the
20 circumstances, and I commend them for their efforts and
21 diligence.

22 And finally, I'd just like to say that to the extent
23 you can be confident of anything in working in jobs such as
24 we're working on, I'm confident that history will look back
25 upon this deal very favorably, and that the Trustee Council and

1 Chenega and the public will be praised for having acquired this
2 extraordinary land and achieved the restoration benefits that
3 will be achieved for this price.

4 CHAIRMAN RUE: Thank you very much. Molly, I think
5 it would be appropriate for us to have a roll call vote.

6 MS. McCAMMON: All right. Mr. Chairman. The motion
7 has been made. I can call the roll here. Craig Tillery for
8 Department of Law?

9 MR. TILLERY: I vote in favor.

10 MS. McCAMMON: Deborah Williams, Department of
11 Interior?

12 MS. WILLIAMS: I vote in favor.

13 MS. McCAMMON: Steve Pennoyer, National Marine
14 Fishery Service?

15 MR. PENNOYER: Yes.

16 MS. McCAMMON: Ernie Piper, Alaska Department of
17 Environmental Conservation?

18 MR. PIPER: Yes.

19 MS. McCAMMON: Phil Janik, Department of Agriculture,
20 Forest Service?

21 MR. JANIK: Yes.

22 MS. McCAMMON: Frank Rue, Department of Fish and
23 Game.

24 CHAIRMAN RUE: Yes. The motion passes unanimously.
25 And I look forward to that being transmitted to Chenega.....

1 MS. McCAMMON: Did you want to make a comment?

2 CHAIRMAN RUE:(indiscernible). All right.

3 MS. McCAMMON: Mr. Chairman? Chuck Totemoff from
4 Chenega Corporation would like to make a few comments here.

5 CHAIRMAN RUE: That'd be great.

6 MR. TOTEMOFF: Thank you, Molly, Mr. Chairman,
7 Trustees. I would agree with all the comments here that -- and
8 I can also testify that it's been a long, hard three years
9 getting this far. And I asked Molly not to pinch me when I
10 showed up at the morning meeting a while ago for fear that I
11 might wake up.

12 MR. JANIK: Would you mind please speaking up? Some
13 of us can't hear in Juneau here.

14 MR. TOTEMOFF: Okay. But anyway, I would sincerely
15 like to thank members of the Trustee Council negotiating team
16 and the staff. We've had some rough times, but I think
17 everybody stayed at the table, negotiated in good faith, and
18 put their best foot forward as far as being professional, and I
19 think it resulted in a fair deal. It was the best deal
20 possible, I think, that we could have arrived at.

21 And I think we recognized this -- that this week and
22 decided that these terms were probably the best we were going
23 to get -- we were going to get. And now you've just passed the
24 resolution of the offer. I've scheduled a meeting for next
25 week, next Friday, for -- for my Board to consider this. And I

1 think I'm prepared to recommend that this go forward as
2 written. We will, of course, have to review it internally, but
3 I think the parameters of the deal are quite acceptable.

4 I'd also like to thank, on the national level, the
5 Alaska Delegation, especially Don Young, who helped a lot. I
6 think you seen a letter from him at the last meeting.
7 Secretary of Interior Bruce Babbitt was in full support of
8 this. Also from the State level we had Governor Tony Knowles.
9 We had a meeting with him when we went down to Juneau; he was
10 in support of this deal also. We'd like to thank him. We'd
11 also like to thank our Representatives from Prince William
12 Sound area, Senator Georgeanne Lincoln and Representative Gene
13 Kubina.

14 Most importantly here on my side, I'd like to thank
15 my Chenega Corporation and subsidiary Board of Directors who
16 have supported me throughout this entire process. And they
17 still do. There's numerous other groups that have voiced their
18 support of this transaction: the environmental groups, fishing
19 advocates, proponents in the Cities of Valdez and Cordova, and
20 a vast majority of my shareholders support this transaction.

21 Just in closing here, we do look forward to bringing
22 this to closure. There's -- we recognize there's a few more
23 things to clean up, but by far and large, this transaction is
24 going to be complete in our mind. Thank you very much.

25 CHAIRMAN RUE: Thank you very much. I know that,

1 certainly, from the Department of Fish and Game's perspective,
2 it's very important (cut out) with Chenega and the Corporation
3 feels that (cut out) deal in their interest.

4 COURT REPORTER: Chairman Rue?

5 CHAIRMAN RUE: Yes.

6 COURT REPORTER: You're cutting out. We're losing
7 you.

8 CHAIRMAN RUE: All right. It probably doesn't
9 matter. I was just adding my thanks to those of the others.
10 So were there any other comments that anyone would like to make
11 at this point before we move on to the next agenda item?

12 MS. McCAMMON: No, Mr. Chairman.

13 CHAIRMAN RUE: Okay. Thank you.

14 (Pause - Applause)

15 CHAIRMAN RUE: All right. Are we -- Ms. McCammon,
16 are we now at the fifth agenda item?

17 MS. McCAMMON: Yes, Mr. Chairman. This item concerns
18 Prince William Sound shoreline residual oiling reduction. And
19 this is a follow-up to a report that was given to the Council
20 on May 2nd. At that time, if you'll recall, the Department of
21 Environmental Conservation gave a report on a conference that
22 was held last fall concerning oil that was still remaining on a
23 number of beaches in Prince William Sound.

24 At that time -- since that time, we've been looking
25 at the report extensively, and I would like to recommend that

1 the Council consider follow-up on that report and basically ask
2 me to put together a plan and a budget for implementing the
3 recommendations that came from that report of that conference.

4 And I do have Ernie Piper with Department of
5 Environmental Conservation who could speak a little bit further
6 to that subject.

7 MR. PIPER: Mr. Chairman, as you know, this is the
8 result not just of a report that we delivered to the Trustee
9 Council earlier this month, but it's also the product of a
10 longtime request from residents of Chenega Bay. And I know
11 personally, from standing on some of these shorelines, I go
12 back to one in 1990 at a point where the response organization
13 had reached a conclusion that it was no longer cost-effective
14 nor technically possible to continue cleanup at a particular
15 site.

16 And I remember the tears from a friend of mine on
17 that shoreline who's from Chenega Bay, and I can tell you that
18 this is not a request or a feeling that's taken very lightly in
19 the village at all. It's very heartfelt.

20 But at the time of the response, you'll recall that
21 had reached the limit of cleanup under the regulations that
22 existed at the time. The request to continue cleanup from
23 Chenega to remove residual asphalt and tar and other oil --
24 residual oiling has persisted right on through the years.

25 My Department has had two major concerns about those

1 requests. The first was environmental, the more harm than good
2 issue. We were concerned that more work would make -- cause
3 disruption to the shorelines that wasn't necessarily warranted.
4 Second one was the persistence. There was a strong expectation
5 that the oil would weather away and that doing more work at
6 that point would just be a slight acceleration of a process
7 that was already underway.

8 We have since gone back and looked at this very
9 carefully, including the residual oiling conference last
10 November. We've had extensive consultation with the residents
11 of Chenega Bay about what the problems are and what might be
12 done about them. At the residual oiling conference, you will
13 recall that we satisfied the major concerns that my department
14 had. Principally the more harm than good issue was resolved
15 because it was a fairly limited area.

16 And the persistence issue has turned out to be more
17 persistent than we had originally thought. There's -- the
18 oiling has reached a very stable state, and it's not likely to
19 go away due to natural removal, unless it's under a long, long,
20 long term. The other thing the conference did was identify the
21 primary issues, which has allowed us to clearly establish a
22 link to restoration for a cleanup effort.

23 And I would like to move that the Trustee Council ask
24 the Executive Director to work with my department, the Forest
25 Service, and the residents of Chenega Bay to prepare a budget

1 and work plan for the high-priority sites identified in the
2 residual oiling workshop report in southwest Prince William
3 Sound, to report back to the Trustee Council as soon as
4 possible, and to proceed with that plan upon final approval of
5 the Trustee Council.

6 MS. WILLIAMS: Second.

7 CHAIRMAN RUE: Okay. Mr. Piper has made a motion,
8 and Ms. Williams has seconded it. Is there any discussion of
9 the motion by members of the Council?

10 (No audible response)

11 CHAIRMAN RUE: Okay. I certainly think it sounds
12 like a very good idea. Mr. Pennoyer.

13 MR. PENNOYER: Just a question. Is this -- what's
14 the timing on this? Date-certain, when would it be.....

15 MR. PIPER: What we would propose is the work would
16 be done next summer.

17 CHAIRMAN RUE: Budget and the work plan done as soon
18 as possible.

19 MS. McCAMMON: And the initial planning.

20 CHAIRMAN RUE: Right.

21 MR. PENNOYER: Thank you.

22 CHAIRMAN RUE: Okay. Any other questions?

23 (No audible response)

24 CHAIRMAN RUE: Okay. Hearing none, why don't -- is
25 there any objection?

1 (No audible response)

2 CHAIRMAN RUE: Hearing no objection, the motion
3 passes. Good. All right. The final agenda item is Executive
4 Session on habitat protection and budget. Is there any
5 other -- any other discussion the Council would like to have on
6 any item before we go into Executive Session?

7 MR. PATTON: I would like to make a comment, if
8 possible.

9 CHAIRMAN RUE: Yeah. Is that.....

10 MS. MCCAMMON: Mr. Chairman, we have a public person
11 who would like to make a comment.

12 PUBLIC TESTIMONY OF MR. GARY PATTON

13 Yes, this is Gary Patton from the Government of the
14 Katalla Chilkat Tlingit. And I believe it was the last
15 teleconference meeting you had here -- in March, was it? When
16 the Council.....

17 MS. MCCAMMON: The last one was in May.

18 MR. PATTON: Or in May.

19 BY MR. PATTON (Resuming):

20 And I had brought up the fact of the SARA amendments
21 of the Clean Water Act, and I'm just wondering what has been
22 determined from that after I had brought that up, what the
23 Interior has found on that -- on those SARA amendments.

24 And I believe I'd also given a copy of The United
25 States v. Alaska at that time, too, where the State, all it

1 possesses is a quitclaim deed based on the treaty accession,
2 and that the jurisdiction would lie at the tribal level. And
3 under the SARA amendments, the tribes would be sitting on the
4 Exxon Valdez Oil Spill Council instead of the way it is. I
5 don't think there's really any representation of the tribes
6 sitting here.

7 I'm just wondering what the Interior -- I mean, if
8 there's -- if there seems to be a -- some problem here, an
9 oversight, because the Genocide Treaty and the Genocide Act are
10 in place, and all oversight will have to fall into compliance
11 with the Genocide Treaty. And I think that's got to come to
12 light here.

13 I wonder if Deborah Williams can respond to the SARA
14 amendments, what she's found on those for me.

15 MS. WILLIAMS: No, I'm not prepared to do that at
16 this time.

17 CHAIRMAN RUE: Thank you very much for your comments.
18 All right. Well, without any other items by Council members?

19 (No audible response)

20 CHAIRMAN RUE: Okay. Then we will now go into.....

21 MR. PATTON: Okay. When.....

22 MS. McCAMMON: We need a motion.

23 MR. PATTON: When can I -- can I get a response back
24 sometime, or another, over what I've just brought up?

25 CHAIRMAN RUE: I would ask Ms. Williams to address

1 that issue.

2 MS. WILLIAMS: I -- we'll work with the Department of
3 Justice on it further.

4 CHAIRMAN RUE: Thank you. Do I hear a motion that we
5 go into Executive Session?

6 MR. JANIK: For the purpose of discussing habitat
7 protection and budget.

8 MR. PENNOYER: Second.

9 CHAIRMAN RUE: Moved by Mr. Janik, seconded by Mr.
10 Pennoyer that we go into Executive Session. Any discussion?

11 (No audible response)

12 CHAIRMAN RUE: No, hearing -- any objection?

13 (No audible response)

14 CHAIRMAN RUE: Hearing none, we'll go into Executive
15 Session. Why don't we take a five-minute break and then we'll
16 come back in about (cut out).

17 (Side conversations)

18 MS. McCAMMON: We do have to disconnect also, and we
19 will.....

20 MS. WILLIAMS: The conference operator will call
21 them.

22 MS. McCAMMON:and the conference operator will
23 call you back.

24 CHAIRMAN RUE: Thank you.

25 COURT REPORTER: Off record.

1 (In recess at 2:10 p.m.)

2

3 (Whereupon, the proceedings in the above-entitled
4 matter were recessed at 2:10 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)
_____)

I, **CINDY S. CARL**, do hereby certify:

(1) That the foregoing pages contain a full, true, and correct transcript of proceedings in the above-entitled matter, transcribed by me, or at my direction and supervision, to the best of my knowledge and ability.

(2) That I have been certified for transcript services by the United States Courts.

(3) That I was certified for transcript services by the Alaska Court System prior to January 1, 1993.

SIGNED AND CERTIFIED:

BY: *Cindy S. Carl*
Cindy S. Carl
Certified Court Reporter

DATE: 6/10/96

