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# EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

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TRUSTEE COUNCIL MEETING  
March 3, 1997  
10:00 o'clock a.m.

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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

(Taken telephonically at)  
Fourth Floor Conference Room  
645 G Street  
Anchorage, Alaska

## TRUSTEE COUNCIL MEMBERS PRESENT IN JUNEAU:

STATE OF ALASKA - DEPARTMENT OF LAW:	MR. CRAIG TILLERY Trustee Representative for the Attorney General
STATE OF ALASKA - DEPARTMENT OF FISH AND GAME:	MR. FRANK RUE Commissioner
U.S. DEPARTMENT OF INTERIOR:	MS. DEBORAH WILLIAMS Special Assistant to the Assistant Secretary
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:	MS. MICHELE BROWN Commissioner

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1 TRUSTEE COUNCIL STAFF PRESENT:

2 MS. MOLLY McCAMMON  
(In Juneau)

Executive Director  
EVOS Trustee Council

3 MR. ERIC MYERS  
4 (In Juneau)

Director of Operations  
EVOS Trustee Council

5 MS. REBECCA WILLIAMS  
(In Anchorage)

Executive Secretary  
EVOS Trustee Council

6 MR. JOE HUNT  
7 (In Anchorage)

Communications Coordinator  
EVOS Trustee Council

8 MS. VERONICA CHRISTMAN  
(In Anchorage)

EVOS Staff

9 MR. ALEX SWIDERSKI  
10 (In Juneau)

State of Alaska  
Department of Law

11 MS. MARTY RUTHERFORD

Deputy Commissioner,  
Alaska Department of Natural  
Resources

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P R O C E E D I N G S

(On record - 10:12 a.m)

CHAIRMAN TILLERY: This is the continuation meeting of Exxon Valdez Oil Spill Trustee Council. Present are Steve Pennoyer representing NOAA, Phil Janik representing the Unites States Forest Service, Frank Rue representing the Alaska Department of Fish and Game, Deborah Williams representing the Department of Interior, Michele Brown representing the Department of Environmental Conservation and Craig Tillery with the Department of Law.

Before we move into approval of the agenda I'd first like to note because I'm not sure that we did this last time, to report back from the executive session at the end of the last meeting we had, during that executive session we discussed habitat protection and the Executive Director's evaluation as was described prior to going into the session.

I believe we have an agenda prepared, is there a motion on the agenda?

MR. JANIK: So moved. Move we adopt.

MS. D. WILLIAMS: Second.

CHAIRMAN TILLERY: Is there any opposition?

(No audible response)

CHAIRMAN TILLERY: Hearing none, the agenda is adopted. I'd like to move to approval of the February 14th meeting notes which are in the package.

1 MS. D. WILLIAMS: So moved.

2 UNIDENTIFIED SECOND: Second.

3 CHAIRMAN TILLERY: Is there any opposition?

4 (No audible response)

5 CHAIRMAN TILLERY: Those meeting notes are  
6 adopted. Looks like we do not have an executive director's  
7 report. I take it the first item of business would be a report  
8 on the 1996 audit from Max Mertz.

9 MR. MERTZ: Thank you, Mr. Chairman. I will be  
10 brief today, but feel free to jump in and interrupt any time  
11 you'd like. You have three documents relative to the audit in  
12 front of you. One is a two page letter that is a required  
13 communication. It's from the auditor to the Trustees covering  
14 some significant issues that we're required to communicate to  
15 you. It's a standard letter that we give to all of our  
16 clients. Basically the most important thing in the letter is  
17 the fact that the financial statements are, of course, the  
18 responsibility of the Trustee Council. While we do prepare the  
19 financial statements as part of our audit contract, the  
20 financial statements are, in fact, yours.

21 The other thing that would be important to point out is  
22 that there are no disagreements with management doing the  
23 audit. Frequently when we do an audit there will be a  
24 difference of opinion relative to some sort of disclosure or  
25 treatment of a transaction or something. There were none

1 relative to this audit so I feel in general we have concurrence  
2 between ourselves, the executive director and ourselves and the  
3 agencies as well that were audited.

4         The next document you have is the thick document,  
5 that's the actual financial statements themselves and there's  
6 two parts to that essentially. The first section is the trust  
7 fund financial statement covering the CRIS Trust Fund, the  
8 NRDA-R and the State Trust Fund and those, there are two, and  
9 the second part of that financial statement are the restoration  
10 projects. As you're aware, we go in and make a selection of  
11 projects that were conducted in FY96 and perform certain  
12 procedures on those (indiscernible - cough).

13         The third document that you have is the internal  
14 control and operating comments letter. This is the detail by  
15 agency, and we also have a couple this year is all general  
16 comments relative to the results of our audit. This was the  
17 second year that EVOS was audited. We performed the audit last  
18 year, as you're aware of, we incurred a little over 1,000 staff  
19 hours in doing the audit. When you do that we are very  
20 disruptive to your staff schedules when we're out there,  
21 particularly your finance staff. And every agency really went  
22 out of their way. I'd like to particularly point out that Fish  
23 and Game, Kim Garner, who is the finance officer really kind  
24 of goes above and beyond and helps us pull together a bunch of  
25 information relative to the State Trust Fund that really -- it

1 probably wouldn't be included in her job description, but she  
2 does it anyway and we're very appreciative of that. But all  
3 the finance staff are very helpful during the audit.

4         The restoration projects that were audited this year  
5 were ranked by dollar amount for each agency. And what we do  
6 is we move down the list starting with the highest dollar  
7 project until we get 50 percent coverage of the projects that  
8 were accepted by the agencies. So we essentially directly  
9 audited 50 percent of the projects. Now, there are  
10 approximately another eight-10 projects that were selected, you  
11 know, kind of at random for testing, so overall I believe our  
12 coverage over the actual disbursements that were incurred last  
13 year was about 62 or 63 percent of the actual project dollars  
14 that were actually tested. Clearly we can't test them all but  
15 we feel that the controls and the way we do our testing is such  
16 that the results that we get on those that are tested are  
17 applicable to those projects that we don't test.

18         We, of course, audited each of the three trust funds as  
19 well and we have to do some interesting accruals and year-end  
20 close out stuff for the State Trust Fund because of the fact  
21 that the Federal fiscal year ends aren't coincident, and so we  
22 kind of have to do, you know, an interim close on that. But we  
23 do a lot of accrual work that is standard, that we would have  
24 to do in order to get it on to a general accepted accounting  
25 principle basis and that went on fine and we feel that the



1 numbers that are presented for each of the trust funds are  
2 fair.

3           The report is unqualified. An unqualified report,  
4 which I believe is on Page 1, is simply our communication to  
5 you that the amount that is presented are in accordance with  
6 the accounting principles that are used for each of the trust  
7 funds. We use a cash basis for CRIS and NRDA-R because they  
8 are on a cash basis. We use what we called a modified accrual  
9 basis for the State Trust Fund because it's a slightly  
10 different type of entity and the accounting principle used by  
11 the State of Alaska are different than the Federal government.

12           But having said that, each of the trust funds are  
13 fairly present and so our report is unqualified. In addition,  
14 we present three -- I'm sorry, two reports for each trust fund,  
15 one relative to the internal control structure and one relative  
16 to the compliance, the laws and regulations for each of the  
17 trust funds. And those reports are unqualified as well. In  
18 other words, overall what we're saying is that compliance with  
19 laws and regulations was maintained during the year by each of  
20 the trust funds. And we're also saying that the internal  
21 control structure, based on the work that we performed, appear  
22 to be sufficient to carry out the duty or to the task at hand  
23 of each of those.

24           Nothing -- well, we do have a management letter that  
25 makes suggestion on improvements, none of those suggestions are

1 critical or serious enough to say that the internal control  
2 structure isn't sufficient, in fact, it is. Same results that  
3 we had in prior years.

4 Again, the audit went very smoothly. Last year, you  
5 recall, we had the Federal furlough that we dealt with, it was  
6 the first time (indiscernible - phone cut out) last year, so we  
7 had, you know, some areas that we needed to work on this year  
8 and I would say that, again, staff was very helpful and overall  
9 the audit went very smoothly, given the size and the breadth of  
10 the audit.

11 We made no significant adjustments to the numbers that  
12 the staff gave us originally to audit, with the exception of  
13 some minor adjustments that we had to make at DEC relative some  
14 costs that were improperly charged, but those were less than  
15 \$2,000.00 was non-EVOS cost was sitting in EVOS project. We  
16 also had to move some costs between fiscal years around at Fish  
17 and Wildlife Service and that gets into kind of some  
18 administrative issues that there were dealing with there that,  
19 you know, we feel will be easily correctable, it's not a  
20 significant issue, it just has to do with the way the timing  
21 between when you approved the money for them to spend and when  
22 they actually get it in the system, the time lag that's  
23 involved in terms of where do you charge the money until you  
24 get authorization in your system. And so they charged it to  
25 the remaining authorization for the prior year and those

1 dollars never got what is called redistributed to the '96  
2 project. We've done that, the numbers in the financial  
3 statement include those.

4 I know you're just getting the financial statement now,  
5 so I anticipate there won't be a lot of questions there, so  
6 I'll go right into the management letter or the internal  
7 control and operating comments letter. And, again, I'm not  
8 going to go through it in detail, I don't think anybody wants  
9 me to. If there are any specific question, you know, I'll be  
10 happy to answer those when I'm done here.

11 We asked the agencies, however, to respond to each  
12 comment that was presented and we have concurrence on every  
13 comment. In other words, we feel that, based on the agencies  
14 reviews of the comments that we have, that our comments were  
15 reasonable and concurred with. I think there's some areas of  
16 discussion with respect to each comment that you can take up  
17 with your staff, but overall we feel that, you know, the  
18 comments were concurred with the agencies.

19 We also, at the very back of the management letter,  
20 just preceding the agency responses, we summarized last year's  
21 comment and the status of those comments this year. And, by  
22 and large, I would say to a greater degree than we generally  
23 see most of clients when we go in and we do an audit and we  
24 look at last year's comments there is a great deal of  
25 improvement that was made with respect to the issues that we

1 identified in the prior year, and that includes the general  
2 comments that we had last year.

3         Probably the most notable agency to point out with  
4 respect to improvement would have been NOAA, they really made a  
5 concerted effort to kind of put their house in order from our  
6 perspective. We don't -- there weren't huge issues here, but  
7 there were certainly management issues, project management  
8 issues, accounting issues that they needed to address and every  
9 single one of those was addressed this year.

10         The other agency that we saw quite a bit of improvement  
11 overall was the Fish and Wildlife Service. We felt that Fish  
12 and Wildlife Service also made a great deal of strides. There  
13 are still some significant issues at Fish and Wildlife Service  
14 that we feel are going to be addressed this year. Some of  
15 those issues that were brought up last year that weren't  
16 addressed this year, they're kind of in the process of  
17 improving and I think next year there will be a lot of  
18 improvement there.

19         The one exception to the improvement was DEC, we felt  
20 that DEC didn't do some of the project management tasks and  
21 accomplish some of the routine tasks that are necessary in  
22 order to properly carry this project out. They have already at  
23 DEC made changes to the way that they're doing their project  
24 management for FY97, they've confined it to different folks  
25 within the department and based on kind of talking to those

1 people and preliminary looking at what they're doing there, we  
2 feel that in FY97 there will be tremendous improvement there as  
3 well.

4           The one area from last year I think I'd like to bring  
5 up because from the document that you have in front of you  
6 today, additional information has come up and that's with  
7 respect to the CRIS fees. CRIS fees apparently are still going  
8 to be an issue. And it appeared that when we did the  
9 management letter that the court clerk was going to, correct me  
10 if I wrong, but were going to actually waive any future fees  
11 and reimburse or restore prior fees paid. And at some level I  
12 believe the court clerk (indiscernible) has decided that that  
13 would not happen. And so the registry fee issue is still  
14 there, you're still being charged 10 percent based on your  
15 earnings. That, in our view, is greatly exceeds both the  
16 market rate, number 1, and number 2, it exceeds what should be  
17 charged based on the services that you receive. And we would  
18 encourage, and I believe Molly and Traci are continuing to look  
19 at the alternatives there in terms of, you know, is there  
20 another appropriate depository for the money, and is there  
21 other ways that the funds can be assessed that you better  
22 return or is there still some room for negotiations  
23 (indiscernible) themselves. So that would be something that  
24 would certainly be worthwhile right now. You're sitting  
25 through the end of FY96, I believe, at about 1.6 million

1 dollars in total industry fees that have been paid.

2           Anyway, that kind of summarizes what I wanted to go  
3 over. I think overall, again, we saw improvement. The  
4 agencies were very helpful and there were no glaring things out  
5 there that weren't or haven't already been addressed by each  
6 agency.

7           CHAIRMAN TILLERY: Thank you. We have public  
8 comment scheduled for 10:15. If there are just a few questions  
9 I think we can go ahead and deal with that now, but if there's  
10 going to be much lengthy discussion we probably should go to  
11 public comment. Does anybody have a question?

12           (No audible response)

13           CHAIRMAN TILLERY: Okay. Thank you very much.

14           MR. MERTZ: Thank you.

15           MS. McCAMMON: Mr. Chairman, after the public  
16 comment period if Gina Belt from the Department of Justice  
17 could give just a status report on your petition with the  
18 court, so that that's clear.....

19           CHAIRMAN TILLERY: I assume you might be  
20 available at the next meeting after we've had a chance to look  
21 at all these things so that people could ask questions if  
22 there's any or we can get ahold of you.

23           MR. MERTZ: You bet.

24           MS. D. WILLIAMS: Mr. Chairman.

25           CHAIRMAN TILLERY: Go.

1 MS. D. WILLIAMS: This is the final report then  
2 (indiscernible).....

3 MR. MERTZ: This is the final report.

4 MS. D. WILLIAMS: I just want to thank you for  
5 really doing a terrific job.

6 MR. MERTZ: Appreciate that, thank you.

7 CHAIRMAN TILLERY: Let's do go to public  
8 comment then. As I understand it we have Kenai, Homer and  
9 Anchorage on line. Is there anyone in Kenai, first of all, who  
10 can hear me and second of all who wishes to make a comment?

11 KENAI LIO OPERATOR: Yes, Kenai is here.

12 CHAIRMAN TILLERY: Is there a way to volume?

13 MR. JANIK: There's a volume.....

14 MS. D. WILLIAMS: I'll get it.

15 CHAIRMAN TILLERY: Hello, is there anyone in  
16 Kenai?

17 KENAI LIO OPERATOR: We have three participants  
18 here in Kenai.

19 CHAIRMAN TILLERY: Okay. Is there someone in  
20 Kenai who wishes to make a comment?

21 MR. OBERTS: Yes.

22 CHAIRMAN TILLERY: Please, go ahead. If you  
23 could state your name and spell your last name so that we can  
24 get a written record of that it would be helpful.

25 MR. OBERTS: This is Leo T. Oberts of Kenai.

1 Last name is O-b-e-r-t-s. And what (sic) I'm here is because I  
2 have parcels that have been in the appraisal status and quite a  
3 few things are happening here of late, particularly seeing some  
4 of the results that are showing up in other parcels in this  
5 area.

6 Now, the parcel I'm going to be talking about is just  
7 -- I actually have three parcel but I'm only going to talk  
8 about the Big Eddy parcel because the others are really not in  
9 the -- they're great but this is really the greatest of the  
10 other (sic). The Big Eddy parcel is KEN 1039 and it was the  
11 parcel -- the parcel was appraised as rural residential and as  
12 a highest and best use. And then I went ahead and I set up a  
13 parcel (sic) to send on to the Anchorage office to tell them  
14 that I knew that through the years here, dating all the way  
15 back into the '80s, that it always had been appeared as  
16 commercial property on anything that I was involved with. And  
17 so I sent it and then -- now, I guess what's left for one of  
18 the State review appraisal people, Judy Robinson, and I haven't  
19 heard anything on it up to this point.

20 The material I sent in at that time pretty well showed  
21 the value -- actually showed the value as of February, February  
22 8th, 1984, and I had value there as being \$3.50 a square foot  
23 and that gets well over a million dollars, almost  
24 \$5,000,000.00. Now the property that I'm talking about I would  
25 like to really address it primarily to Mr. Frank Rue from the



1 Alaska Department of Fish and Game because he knows the  
2 property very well, he knows it just as well as I know it. And  
3 we've been over it through the years and I have constantly  
4 tried to get the property set up for the habitat, and this is  
5 really what I'm talking about today, is the habitat itself.  
6 The destruction that's been taking place in the river is still  
7 continuing to happen and it happens over and over again.

8           The area we're talking about is for the -- where the  
9 tides come in and actually completely stop the river and then,  
10 of course, increase the amount of water that the Kenai River  
11 shows. And, of course, the Kenai River is out of -- in the  
12 entire area here that's the number 3 area for tidal -- the  
13 heights of tidal it rates second in the world.

14           So I have Big Eddy that I would like Mr. Rue to pay  
15 attention to that I show Big Eddy here as in the appraisal that  
16 I -- that was made up for me and the Page number 24 and 25 show  
17 some horrible looking -- horrible piece of property, which is  
18 true, because the date that was taken -- where the pictures  
19 were taken were on the 23rd of May of last year, and that was  
20 the lowest in the 45 years that I've lived here, the only place  
21 I've seen -- it was the lowest the river has ever been at  
22 anytime that I know of.

23           And then another parcel, although we're not really  
24 going to be directing, other than to show how bad the river is  
25 -- was on the 23rd of May last year, Page number 47. Excuse me

1 49 and 50. And the reason I'm making special issue of it when  
2 you see it, it's in horrible condition, like Honeymoon Cove,  
3 for instance, I've lost about at least 40 feet, if not more, of  
4 the (indiscernible) of.....

5 CHAIRMAN TILLERY: Mr. Oberts.

6 MR. OBERTS: Yes.

7 CHAIRMAN TILLERY: We have a fairly tight  
8 agenda today and I would appreciate it if you could -- we like  
9 to have people keep their comments to about three minutes or  
10 so.

11 MR. OBERTS: I see.

12 CHAIRMAN TILLERY: If you could just go ahead  
13 and summarize your comments that would be helpful.

14 MR. OBERTS: No, we had asked about it and they  
15 said that -- at least we didn't hear that there was a limit.

16 Well, anyway, what I'm saying is that these areas that  
17 I'm speaking of here is -- the river is in bad condition and  
18 it's not what you see in the newspapers and it is very bad.

19 Now, if you look at another one of the appraisals, one  
20 of Kobylarz, I'm speaking again to Mr. Rue, if you speak to the  
21 Kobylarz property on Page four and six that you see how the  
22 river looks like in the summertime and really this is what I'm  
23 trying to tell you is that it is -- the damage is so serious  
24 that I would say that -- any pricing, I don't think would  
25 really make much difference because this is horrible and it

1 should be corrected. And I feel that from my viewpoint that I  
2 have spent so much time over the long period of time here that  
3 I feel so sad about the river being destroyed that anything  
4 that's to me is -- I think would be well -- would be -- I owe  
5 it, I would owe it to you. So anything else about it?

6 The only other thing real quick here is that Carl  
7 Durger (ph) from the Fish and Game, I mean the Federal Fish and  
8 Game, he made the -- he had a study that he made up that is  
9 really great and I would like to have Mr. Rue take, probably, a  
10 quick look at it and really bring it up to date on where we are  
11 today because they show what the habitat is like and what we  
12 should be doing to protect the fish that we have in the Kenai  
13 River today.

14 I'll let the other gentleman go ahead here.

15 CHAIRMAN TILLERY: Thank you very much,  
16 Mr. Oberts. Are there any questions from Council members or  
17 comments?

18 (No audible response)

19 CHAIRMAN TILLERY: Okay. Thank you. Who is  
20 next in Kenai?

21 MR. DOLCHAK: My name is Emil Dolchak,  
22 D-o-l-c-h-a-k.

23 CHAIRMAN TILLERY: Okay. Go ahead,  
24 Mr. Dolchak.

25 MR. DOLCHAK: Yes. My concern is Kenai Native

1 land at Stephanka that they selling for roughly \$1,851.00 an  
2 acre and my concern is that right next to KNA lands, Stephanka  
3 is Kenai Keys and I notice in their -- the paper I got from the  
4 borough their land is selling from anywhere 25,000 to 72,500,  
5 that's a lot, that's not an acre. And I can't see why that  
6 property should be so high and our property up river from Kenai  
7 Keys is high ground and such a low price. And as long as it's  
8 in KNA's hands there has been no damage or erosion or stuff on  
9 that land because it's private. And the Fish and Wildlife  
10 already stated in the paper that they were going to open it up  
11 for hunting and fishing if they acquired it. And I can't see  
12 Exxon Valdez Oil Spill money going towards that purchase if  
13 they are going to open it up to fishing and hunting which would  
14 then damage the land as I see it.

15 And another thing is down river from Stephanka, at  
16 Soldotna bridge, I see in the paper where the party sold 3.3  
17 acres for \$698,000.00, that's roughly \$211,000.00 an acre, so  
18 -- and the letter I got from -- the word I got from Exxon  
19 Valdez is that it's location. Well, the location up there at  
20 Stephanka is very, very good, it's less than a mile from the  
21 road and it's all high ground. And Cook Inlet Region and the  
22 natural resources land on both side of the river adjoining KNA  
23 lands are subdivided into parcels of 24,000 to \$90,000.00 a  
24 lot.

25 Now, I would like to know who made the appraisal. One

1 of the board members, past president, told me that they had  
2 three appraisals done but he couldn't tell me who they were, so  
3 I would like you to write me a letter and let me know who the  
4 appraisers were that made these appraisals on that particular  
5 parcel, that's not counting Moose River that is also in that  
6 \$4.4 million deal. So that's what I would like to know.

7 Thank you.

8 CHAIRMAN TILLERY: Okay. Mr. Dolchak, do you  
9 have an address that we could -- oh, I'm sorry, Ms. McCammon  
10 indicates she has your address so we will send you a letter  
11 that answers that question. Are there any questions.....

12 MR. DOLCHAK: Post Office Box 3, Kenai, Alaska,  
13 99611.

14 CHAIRMAN TILLERY: Thank you very much. Are  
15 there any questions or comment from Council members?  
16 Ms. Williams.

17 MS. D. WILLIAMS: Mr. Dolchak, thank you for  
18 your testimony. I just want to clarify the record in the  
19 following respect, I know Ms. McCammon will be addressing some  
20 of your specific questions. But it is important to remember in  
21 terms of the Kenai Native Association package that the entire  
22 consideration for the purchase of this land is not reflected in  
23 the dollar and cents figure that you have mentioned. There are  
24 several other critical components to that package which are of  
25 great benefit to KNA, and that includes the conveyance of the

1 headquarter site, which is prime real estate property to KNA,  
2 (indiscernible) it includes thousands of acres of subsurface,  
3 sand and gravel and other subsurface rights. It includes the  
4 elimination of the conservation easement know as 22G on KNA  
5 land. And so in reflecting upon the fairness of this  
6 acquisition to KNA it's very important to keep those other  
7 highly valuable aspects of the package in mind.

8 CHAIRMAN TILLERY: Thank you. Are there other  
9 comments or questions from Council members?

10 (No audible response)

11 CHAIRMAN TILLERY: Okay. Thank you,  
12 Mr. Dolchak. Is there anyone else in Kenai who wishes to  
13 comment at this time?

14 MR. SHOWALTER: Yes, my name is James  
15 Showalter, that's S-h-o-w-a-l-t-e-r. It's also concerning  
16 Kenai Native Association land -- I just lost my train of  
17 thought. Anyway, due to the sale was, you know, 4.43 million  
18 for this total acreage and within the sale in that there's  
19 internal conflict between the corporation and the stockholders.  
20 And as a rule everything I've ever seen the stockholders are in  
21 command of the company, whereas in this situation the president  
22 is dictating for the sale of this land and pushing for it. And  
23 for under Alaska Statutes, I can't name the statute, but I  
24 think with a large percentage of the corporation assets there's  
25 an Alaska Statue requiring I believe it 90 percent of the

1 stockholders to vote on the sale of the asset.

2           Whereas the President of KNA, she is sending out an  
3 advisory vote, not a vote, it says advisory, which she has done  
4 in the past and she just -- you know, it's being ignored. So I  
5 would ask if you could pull the funding on this (sic)  
6 properties until this internal dispute is settled between the  
7 shareholder and the Board of Directors of KNA.

8           That's about all I have, thank you.

9           CHAIRMAN TILLERY: Okay. Thank you,  
10 Mr. Showalter. Are there comments or questions from Council  
11 members?

12           (No audible response)

13           CHAIRMAN TILLERY: Okay. Thank you. How many  
14 other people are there in Kenai that would like to testify? Is  
15 there a head count?

16           KENAI LIO OPERATOR: That was it.

17           CHAIRMAN TILLERY: Okay. Thank you very much.  
18 Then let's go to Homer. How many people do you have in Homer  
19 that would like to testify?

20           HOMER LIO OPERATOR: About eight.

21           CHAIRMAN TILLERY: Okay. Why don't you send up  
22 the first four.

23           HOMER LIO OPERATOR: Okay. We'll start with  
24 Mike.

25           CHAIRMAN TILLERY: We would again -- we do have

1 a fairly tight agenda and a lot of people who want to testify,  
2 so if you can keep your comments to (indiscernible) that would  
3 be helpful.

4 MR. KLIEMANN: Okay. My name is Mike Kliemann,  
5 that's K-l-i-e-m-a-n-n. I'm a resident of Fritz Creek located  
6 near Homer and I'm speaking for myself. I'm also speaking from  
7 a short written statement.

8 Thank you very much for pursuing purchase of the Homer  
9 Overlook Park small parcel. Please open the purse to meet the  
10 desires and needs of the Overlook Park parcel owners, keeping  
11 in mind the open space and park needs and all stated desires of  
12 the interested residents here to see this purchase completed.

13 Thank you.

14 CHAIRMAN TILLERY: Thank you, Mr. Kliemann.  
15 Are there any questions or comment from Council members?

16 (No audible response)

17 CHAIRMAN TILLERY: Okay. Could the next person  
18 in Homer.....

19 MR. TYLER: Okay, I'm right here. I'm having  
20 trouble with my voice this morning but I'll make it. My name  
21 is Toby Tyler, that's T-y-l-e-r, and I'm a board member for the  
22 Katchemak Heritage Land Trust and I'm wearing two hats today.  
23 I also want to make a comment for the Center for Alaska Coastal  
24 Studies at the end, if I don't get lost.

25 As a member, and as you know, we've been working long



1 and hard with a lot of other people in town to see that this  
2 preservation of the Overlook Park, as it's called, takes place.  
3 And we're hopeful that it's coming finally to a conclusion. I  
4 wanted to say in passing that you should realize that there are  
5 -- is not only this land trustee on the Kenai Peninsula,  
6 Katchemak Heritage Land Trust, but there are three other land  
7 trusts in Alaska and I'm sure they'd be happy if you would use  
8 them in any way that you can find them to be valuable to you.  
9 There's one in Juneau, one in Anchorage, in the greater  
10 Anchorage area, and one in Fairbanks as well as ours here on  
11 the Kenai Peninsula.

12           This idea of preserving the Overlook Park is nothing at  
13 all new, it's been going on -- it was going on long before the  
14 Exxon Valdez Oil Spill even happened. And unfortunately some  
15 very strong efforts just never quite made it in the past years.  
16 And finally when one of the major ones that was done by George  
17 Ripley sort of collapsed the present owners purchased the  
18 property. And at the time I had no idea, I don't know most of  
19 these people personally or very well, I had no idea what their  
20 intention was at the time and how much of that was influenced  
21 by their desire to preserve that land. It doesn't really  
22 matter, the main thing is that they've held it all these years  
23 and it has been preserved and it's now available for you to  
24 finally complete this much desired sale of this property and  
25 make it available to the public.

1 I would hope that you can go through with it. I know  
2 there's some question as to how much the value of it is at  
3 present and that there will be some other people addressing  
4 that, I'm sure, today. The main thing is no matter what  
5 happens, if this goes through these people are going to be  
6 heros in the eyes of many people in this area and it's  
7 important, I think, and I'm sure that the land trust and other  
8 groups in town will somehow try to make that apparent, perhaps  
9 with a plaque up in the Overlook place where everybody can see  
10 it, we don't know, but that's important.

11 Now, switching hats. As a member for the Center for  
12 Alaska Costal Studies it was somewhat of a surprise to me to  
13 hear Molly McCammon this morning on the news saying about the  
14 fact that so many student groups go down and collect samples to  
15 take back to their schools down in that wonderful area that's  
16 offshore of the Overlook Park. And that's fine, except that  
17 the Center for Coastal Studies for years has been trying to  
18 educate people to the fact that you go down and you look at the  
19 critters, you pick them up, you study them and then you put  
20 them right back down where they were. It actually takes a  
21 permit to collect things like that and take them back with you  
22 and a lot of people don't realize that.

23 Hopefully if this Overlook Park goes through we can  
24 work with the land trust and the Center for Coastal Studies and  
25 the State Parks or whoever is involved and perhaps get some

1 signs and indicate to the public that that's certainly what has  
2 been degrading those tide pools. Not only the Exxon Valdez Oil  
3 Spill (indiscernible) but also the fact that people do go down  
4 there and collect, which is really illegally done. There are  
5 organism living out in the Homer small boat harbor which are  
6 not the same ones, but they would be just as exciting to study.  
7 And they tell me if they would go out there and collect them  
8 they're coming from a less -- an already somewhat injured area  
9 and there would be less stress on these tide pools out there in  
10 Overlook Park.

11 Thank you.

12 CHAIRMAN TILLERY: Thank you very much.

13 (Indiscernible - laughter)

14 MS. McCAMMON: Mr. Chairman.....

15 MR. CUSHING: Guys ready for the next  
16 testifier.

17 MS. McCAMMON: This is Molly McCammon.  
18 Mr. Tyler, I would like to apologize if there was any  
19 mis-impression that I left the radio audience this morning. I  
20 did not, I believe, say that it was used for sample collection  
21 and I apologize if that was the impression that was left. This  
22 is an area that's very popular with students and kids from all  
23 over the school district for studying the intertidal and  
24 subtidal area, and I think that's of value there. And I did  
25 not want to give the impression that I was giving license to go

1 collecting there.

2 MR. TYLER: Thank you.

3 CHAIRMAN TILLERY: Any other comments?

4 MR. CUSHING: Yeah, this is the next testifier,  
5 I'm Jack Cushing, the Mayor of Homer. Do you folks have  
6 available to you the map that's submitted with the Overlook  
7 Park in your -- I think it's in your packet, if you can open up  
8 to that page, it's on the back side of the Overlook Park. That  
9 would be helpful in my testimony.

10 CHAIRMAN TILLERY: I believe we all have that  
11 available.

12 MR. CUSHING: Okay. It's a map of Katchemak  
13 Bay. First as a local citizen, since the Overlook Park is  
14 outside the City of Homer's city limits, I just want to thank  
15 the Trustees for their persistence and support of Overlook Park  
16 all along. And the City of Homer has voiced its support for  
17 the park project and the local person that comes to town and  
18 birds and everybody else they don't know it's not a part of the  
19 City of Homer and it's very important that that piece just gets  
20 picked up from just the general sense of the appearance that  
21 Homer has as you first come into town. That's the first thing  
22 you see as you look at Homer is you look down at that as well.

23 Speaking as the Mayor I'd like to just be able to fill  
24 you in on these number of parcels that you're seeing coming in  
25 now on the Homer Spit and just bring you up to speed on the

1 intent of that. If you're looking at the map, even though  
2 they're coming in -- I have several parcels right now -- the  
3 history of that is the city put together some proposals, it was  
4 comprehensive enough and the proposals -- it was one lot, I  
5 believe, at the time and it was rejected because it wasn't  
6 comprehensive enough. We met with you folks and -- or with  
7 your staff and were -- it was indicated that if we could  
8 resubmit with a much more comprehensive proposal, for these  
9 Spit properties now I'm talking about, down on the Homer Spit,  
10 that we'd stand a much greater chance in the review process.

11         What we did in conjunction with the Katchemak Heritage  
12 Land Trust and the Trust for Public Lands, a national  
13 organization, is we attempted to put together a comprehensive  
14 proposal for a majority of the presently undeveloped, privately  
15 owned intertidal lands at the base of the Spit and halfway out  
16 on the Spit. On the map there the parcels that we're targeting  
17 are the white area right under the word Homer and then some of  
18 the white area up past the word Spit.

19         We were also -- the indications were also made to us  
20 that if the City of Homer showed a good faith effort on some of  
21 their own land out there that -- in fact, this is the direction  
22 we'd like to see portions of the Spit maintained in the future,  
23 that it would really help our review in the small parcel  
24 process.

25         What we've done to put our money where our mouth is, so

1 to speak, is the big chunk of land you see right under the end  
2 of the word Homer and the start of the word Spit, that is a  
3 city owned piece of land and what we've done on the majority of  
4 that in the past couple of months is we've given stewardship of  
5 the majority of that piece of land to the Katchemak Heritage  
6 Land Trust, we actually signed over and paid for the assessment  
7 and everything and they're going to be -- it's in perpetuity  
8 and it's -- as I said, the majority of that piece of land is  
9 definitely being put into some sort of thing that we're trying  
10 to maintain at least an equal portion of the Spit in the  
11 future, being maintained for the wildlife, the intertidal  
12 values. We feel that in the long run for the health of  
13 everything in the City of Homer is very important.

14 I think it's important to know that it's a partnership  
15 between the city, the Land Trust, the Trust for Public Lands,  
16 the Outside organization, the Alaska Maritime Refuge and many  
17 citizens. Also in conjunction with conservation easement that  
18 we have with the Land Trust on the city's piece of land there,  
19 we've started, and you'll be seeing the application to the  
20 restoration projects for -- to just make sure that the  
21 intertidal flushing is maintained in a healthy state on other  
22 portions of the Spit.

23 Let's see, I'd like to invite any of you to come down  
24 to the Sea Bird Festival, it's a local thing where we're basing  
25 a large part of our May economy on the actual shore birds that

1 are coming through and using this part of the Spit and it'll be  
2 real obvious what sort of direction we're sort of trying to  
3 hopefully maintain. Right now I think that current change of  
4 direction of the 60 acres of the part of the Spit out there  
5 that everybody's been real cognizant of since it happened in  
6 the last two years, everybody sees what we're up against right  
7 now with the lands in private ownership, there's a real strong  
8 possibility that we could develop in the next 50 years well  
9 over 70-80 percent of the Spit as it stands right now. I think  
10 in everybody's mind, if that were ever allowed to happen, we'd  
11 feel there would be a gigantic loss in this area.

12 Just really briefly here to finish up. The Governor's  
13 office has indicated strong support for this project and  
14 hopefully you'll be hearing more from them directly today. We  
15 feel that at this point now -- while this land is still  
16 intertidal it's probably one of the best buys for the acreage  
17 being this close to a population area. Once that land is  
18 developed and a particular land owner goes through the process  
19 and is able to get Corps permits and everything else, the cost  
20 of the land just skyrockets, but when I think -- you know, some  
21 of the acreage you've been looking at hundred of thousands for  
22 just a few acres, you'll find that once the appraisals come in  
23 on this that hundred of thousands will buy literally just a  
24 whole lot of acreage on the Spit right now in the current  
25 intertidal state that it is.

1           It's just typical things that we're getting. The  
2 citizens of the area, the visitors to the area are telling us  
3 they feel the Spit is getting more and more cluttered, where  
4 we're trying to hopefully change the direction on that.

5           And to finish up here, this might be an opportunity,  
6 most of your parcel acquisitions are being administered either  
7 by a State -- sponsored by either a State or Federal agency.  
8 The City of Homer doesn't particularly care if this would be  
9 purchased for administration by State or Federal agency, that  
10 doesn't matter to us at all, but we would -- if it makes a  
11 difference to you, we would be willing to be the sponsoring  
12 agency, the Municipality of Homer would be and, of course, with  
13 easement being place to either a State or Federal agency.

14           And with that I'll end unless any of you have  
15 questions.

16                   CHAIRMAN TILLERY: Thank you, Mr. Cushing, it's  
17 very much appreciated, that was very helpful information. Are  
18 there questions or comments from Council members? Commissioner  
19 Rue.

20                   MR. RUE: Yeah, I would just quickly add to  
21 Mayor Cushing. I was at the Shore Bird Festival last year,  
22 it's really a very interesting time and I would recommend it to  
23 anyone who is interested in shore birds.

24                   MR. CUSHING: That was a little bit broken up,  
25 but I think I got the gist of it and thanks a lot for coming.



1 CHAIRMAN TILLERY: Okay. Mayor, I have one  
2 question which is the land to the -- I guess it's the northwest  
3 of the area that you're talking about, that seems to jut out  
4 into a little spit, is that currently preserved; is that city  
5 land and is that in a preserved status?

6 MR. CUSHING: That is. Everything that's grey  
7 on the map is in preserved status and actually the whole lagoon  
8 right about the large word Homer, that's also -- that's not  
9 shown as grey but that's jointly owned right now, the beach  
10 part is owned by the city and the lagoon part is owned by the  
11 State, so there's actually a lot more grey that is preserved  
12 back toward the base of the Spit, so we're looking specifically  
13 at the properties that on the map here start about half an inch  
14 out.

15 CHAIRMAN TILLERY: Okay. Thank you very much.  
16 Is there anything?

17 (No audible response)

18 CHAIRMAN TILLERY: Okay. Appreciate it. If we  
19 could have the next person from Homer.

20 MR. CUSHING: Thank you.

21 MS. SEAMAN: Hi, my name is Barb Seaman and I'm  
22 the Executive Director for the Katchemak Heritage Land Trust.  
23 I'll probably repeat a little bit of Jack's -- what Jack said,  
24 but I have a written statement and I'll read through it anyway  
25 as quickly as I can.

1 I'm delighted to be here today encouraging you one last  
2 time, I hope, to approve the purchase of Overlook Park in  
3 Homer. I hope that in your discussion concerning the purchase  
4 price you will take into account the appraisal the Overlook  
5 owners obtained per Trustee guidelines. I believe that it more  
6 accurately represents fair market value of this property. I  
7 speak for hundreds of Land Trust members and Overlook  
8 supporters when I thank you for seeing this habitat protection  
9 project to a successful conclusion. You are doing a wonderful  
10 thing for spill injured species and for thousands of peninsula  
11 residents and visitors.

12 You may remember hearing my comments at the last  
13 teleconference meeting. In addition to a comment about the  
14 Overlook parcel, I spoke briefly of a limited opportunity that  
15 the Trustee Council has to protect some exceptional intertidal  
16 habitat and valuable recreation property on the Homer Spit and  
17 in Beluga Slough, which was what Jack was just referring to.  
18 Within the growing package of parcels proposed for acquisition  
19 are high visibility lands under intense development pressure.  
20 These intertidal areas sustain many species injured by the oil  
21 spill and are also very popular for public recreation and  
22 subsistence fishing.

23 I'm pleased to report to you, as Jack commented on,  
24 that the City of Homer and the Land Trust are signing a  
25 perpetual conservation easement protecting over 26 acres of

1 publicly owned intertidal land on the Spit. Those properties  
2 are adjacent to some of the proposed lands with the Trust for  
3 Public Land is hoping that you will acquire. I urge you to  
4 join with the City of Homer and the Land Trust in preserving  
5 more important properties by ultimately approving purchase of  
6 private lands nominated by the Trust for Public Land.

7 I'd also like to take this opportunity, as Jack did, to  
8 invite you to come to Homer for the Shore Bird Festival in  
9 early May and I would be very willing to guide you on a tour of  
10 these properties should you be able to come down and see them.

11 Thanks one more time for all the hard work and  
12 perseverance that you had to endure in making the Small Parcel  
13 Habitat Protection Program work, it is a success and we  
14 appreciate the work involved. Thank you.

15 CHAIRMAN TILLERY: Okay. Thank you very much.  
16 Are there questions or comments from the this end?

17 (No audible response)

18 CHAIRMAN TILLERY: Okay. What I'd like to do  
19 is just check in with Anchorage to see if there are people who  
20 wish to make comments there and then we'll get back to Homer.

21 How many people do we have in Anchorage that would like  
22 to make a comment?

23 MS. R. WILLIAMS: None.

24 CHAIRMAN TILLERY: Then let's get back to  
25 Homer.

1 SEWARD LIO OPERATOR: Mr. Chairman, this is  
2 Seward on line.

3 CHAIRMAN TILLERY: Oh, Seward, okay.

4 SEWARD LIO OPERATOR: And we have one person  
5 here to testify.

6 CHAIRMAN TILLERY: Okay. Then why don't we go  
7 ahead with the Seward person. Is there anyone else who has  
8 joined us on the network since we started besides Seward?

9 (No audible response)

10 CHAIRMAN TILLERY: Okay. Why don't you go  
11 ahead with Seward.

12 MR. LUTTRELL: Hi, my name is Mark Luttrell,  
13 I'm the Director of the Eastern Kenai Peninsula Environmental  
14 Action Association in Seward and I just wanted to thank you for  
15 the opportunity to provide some testimony. I also want to  
16 thank you very much for the effort that you put forth in  
17 protection of Kenai Fjords National Park, the purchase of  
18 English Bay Corporation land and also purchase of 20 acres at  
19 Lowell Point here in Seward. Your efforts have ensured  
20 protection of these parcel in perpetuity.

21 I'd like to speak to you briefly about the Homer Spit  
22 and Beluga Slough. It seems to me from the perspective of the  
23 goals of the Trustee Council that these two parcels provide a  
24 unique opportunity to restore lots of recreational services and  
25 lots of habitat values. Beluga Slough and the Spit are

1 critical habitat for migrating shore birds, as you probably  
2 know, and the Katchemak Shore Bird Festival celebrates that. I  
3 think it's second only to the Copper River Flats as a layover  
4 for migratory waterfowl.

5         The purchase of the small acquisition package would  
6 restore lost recreational service, I mean, as you know if you  
7 ever had any visitors up here, Homer Spit is the place to go,  
8 it's a national treasure. It's also the launching spot for  
9 world famous halibut fishing, it's popular for beach walking,  
10 clam digging and, of course, bird watching. The small parcel  
11 package that's before you has been shepherded through the very  
12 prestigious and conservative Trust for Public Land and the  
13 Katchemak Heritage Land Trust, both of which have an extensive  
14 history in conservation protection in Alaska and, in the case  
15 of Trust for Public Land, the rest of the Lower 48.

16         I think it's just a very good opportunity for the  
17 Trustee Council to yet again put on the white hat. So I thank  
18 you, I hope you can support the acquisition of Beluga Slough  
19 and the Spit and I can't leave without also plugging the  
20 Overlook Park, that's also a very worthy project.

21         Thank you very much.

22                 CHAIRMAN TILLERY: Thank you. Are there  
23 questions or comments from Council members to Mr. Luttrell?

24                 (No audible response)

25                 CHAIRMAN TILLERY: Okay. Thank you very much.

1 If we could then go back to Homer, I believe there are about  
2 four more people there.

3 MS. CRONLAND: Yes. This is Sandy Cronland,  
4 C-r-o-n-l-a-n-d and I'm an owner of Overlook Park and I want to  
5 thank you for the opportunity to address the Council. Since  
6 before this land came under our ownership, which was in 1985,  
7 we have fully supported its destiny to become State land.  
8 After an arduous three year process we're excited to see these  
9 negotiations finalized. We feel that all of the information  
10 available should be brought to the Council's attention so that  
11 you can make the final decision on purchase of Overlook Park  
12 and at a fair price.

13 There are two appraisals of Overlook Park that meet  
14 State and Federal guidelines. Both were completed by State  
15 approved appraisers and both have appraised numerous small  
16 parcel subjects that have been purchased by the EVOS Council.  
17 We clearly understood from the guidelines set forth at the  
18 beginning of this process that there could be two appraisals to  
19 negotiate from. The State would purchase one and the  
20 landowners could submit one. We've exercised the privilege and  
21 contracted the local appraiser a year ago now who we feel had  
22 realistic insight to the fair market value in the Homer area.  
23 Unfortunately there is a \$60,000.00 difference between the two  
24 appraisals and the review appraisers have chosen to recommended  
25 the lower appraisal value, which is the one the State

1 purchased. At this point, without wishing to encumber the  
2 process any further we simply ask that the Council consider  
3 both appraisals before making their final offer on this land.

4 Thank you.

5 CHAIRMAN TILLERY: Thank you, Ms. Cronland.  
6 Are there questions or comments from the Council members?  
7 Ms. Williams.

8 MS. D. WILLIAMS: Mr. Chairman, if someone  
9 would like to address this \$60,000.00 issue, I would like to  
10 hear an explanation of it.

11 CHAIRMAN TILLERY: It's on the agenda, it'll be  
12 the next item on the agenda after public comments, is that.....

13 MS. D. WILLIAMS: Okay. Obviously we'll be  
14 talking about the acquisition but also the \$60,000.00 issue  
15 that Ms. Conland brought up?

16 CHAIRMAN TILLERY: Yes.

17 MS. D. WILLIAMS: Okay.

18 CHAIRMAN TILLERY: Okay. Other comments?

19 (No audible response)

20 CHAIRMAN TILLERY: Who else would like to speak  
21 from Homer?

22 MS. BITTER: My name is Daisy Lee Bitter,  
23 B-i-t-t-e-r, and I've been an Alaskan educator for over 42  
24 years, 29 years of those were in Anchorage, and I spend a great  
25 deal of time along the shores of Katchemak Bay with many

1 students in tow sometimes. I would like to approach this from  
2 another angle. I've been also active in the Land Trust and  
3 help set up the educational programs for the Center for Alaskan  
4 Costal Studies when I was on that board.

5 But what I feel that I'm speaking for now are students.  
6 And these areas here around Homer are accessible to well over  
7 50 percent of all Alaskan students. I've gone to other areas  
8 that you can reach by the Alaska road system and none is as  
9 rich as these around here. I've also been in intertidal areas  
10 from Baja, California clear -- well, through Cook Inlet and one  
11 of the very richest intertidal areas I have ever seen anywhere  
12 is that below Overlook Park. It is not quite as accessible as  
13 those on Beluga Slough, Bishop Beach or the Homer Spit, where  
14 we have taken hundreds, even thousands, of students.

15 But we would then to the intertidal areas below  
16 Overlook Park have to hike so far that we felt that it was not  
17 prudent to take younger students there, so mostly we took high  
18 school students and university students. I look on these areas  
19 and I would not find any disagreement from anybody who's ever  
20 been there, they are a highly diverse, they're wonderful  
21 ecosystems and they are extremely valuable, biological,  
22 ecological study laboratories, natural ones, not ones that you  
23 have to go out and spend educational funds to provide.

24 Over the 30 years that I've taken the university  
25 classes and numerous groups of Anchorage, Mat-Su and Kenai



1 Peninsula Borough's, we can provide them with first hand  
2 biological, ecological learning. One of the things that many  
3 people in this state don't realize, and having been a principal  
4 in Anchorage for several years, the Anchorage School District  
5 has some very rigorous insurance rules and we can no longer  
6 take Anchorage school students across Katchemak Bay on charter  
7 boats because of the high limitations I have. So what does  
8 that do? Even though we set up these wonderful educational  
9 programs at the Center for Coastal Studies across the Bay, they  
10 are not accessible to Anchorage students. And you stop to  
11 think what percentage of the school population resides in that  
12 municipality.

13           So what is the result? It means that we work with them  
14 on this side of the Bay and because of the extensive  
15 development on the Homer Spit in the last 10 to 20 years those  
16 areas that we took them are really shrinking. And so we use  
17 Bishop Beach and that is getting very, very high pressure. And  
18 so we feel that if these parcels are not picked up and  
19 protected that irresponsible development, say, in Overlook Park  
20 since it drains directly in some of these riches, intertidal  
21 areas along the Northern Pacific coast, it could have  
22 devastating effect and we can't afford to lose them.

23           So I would ur -- I thank you for your past  
24 considerations and your taking a look at getting these small  
25 parcels together. And it would be a wise, very highest

1 investment for the high habitat and educational values because  
2 we can't afford to lose these irreplaceable biological,  
3 ecological laboratories.

4 Thank you.

5 CHAIRMAN TILLERY: Thank you, Ms. Bitter. Are  
6 there questions or comments from Council members?  
7 Ms. Williams.

8 MS. D. WILLIAMS: Quick question. Since  
9 collecting was brought up earlier, were your students involved  
10 in collecting there or do you have any thoughts about the  
11 collecting issue?

12 HOMER LIO OPERATOR: They're asking about  
13 collecting.

14 MS. BITTER: Twenty to 30 years ago we  
15 collected one of different species, preserved them and then  
16 took those collections back. Because I had to present my plans  
17 to the Anchorage School District administration for these trips  
18 before they'd let us take that many students down here. And  
19 what we did, we made a collection that was distributed about  
20 the school district, so not only the students we took down  
21 here, and I might add that one of the early trips we made in a  
22 DC-3, that tells you how many years ago that we started doing  
23 this. And that collection moved around, all around the school  
24 district so thousands of students learned from this collection.  
25 Because I really don't believe in collecting out there and I

1 often go out on my own where there's a large group with a  
2 camera and say, you know, please don't collect it unless you  
3 are going to -- hundreds will learn, if you have a salt water  
4 aquarium in your school. We really frown on the collecting.

5 And just Friday night I spoke with the director of  
6 curriculum for the Kenai Peninsula School District and related  
7 to her that I had seen and heard about a few students from some  
8 schools that were taking live critters off the intertidal areas  
9 and she said she will follow up on it and I know she will.

10 MS. D. WILLIAMS: Thank you.

11 CHAIRMAN TILLERY: Okay. Thank you. Are there  
12 other questions or comments?

13 (No audible response)

14 CHAIRMAN TILLERY: Okay. Can we have the next  
15 person from Homer?

16 MS. BRODIE: Hi, this is Pam Brodie. I missed  
17 the last Trustee Council meeting, you know how much I hate to  
18 miss them, but I want to take this opportunity to thank you so  
19 very much for successfully completing negotiations with the  
20 English Bay Corporation, you've made a very great many people  
21 in Alaska and throughout the country very happy with that  
22 acquisition which has been a priority to environmentalists for  
23 many years.

24 I also want to speak briefly about the small parcels,  
25 the Overlook Park and Spit potential acquisitions. Because I

1 live in Homer I have been careful about supporting Homer  
2 acquisitions because, of course, you've given me the  
3 opportunity to represent environmentalists statewide and  
4 nationwide on the Public Advisory Group. I do want to say,  
5 though, that these particular properties have a lot of local  
6 support and the potential to be enjoyed in terms of recreation  
7 and education by people from all over Alaska and America who  
8 come to visit Homer. These really are special places as you  
9 know, the Spit properties are a priority for the Trust for  
10 Public Land, which doesn't even have an office in Alaska and  
11 yet they have picked this out as a place of extraordinary  
12 habitat values nationwide. And the Overlook Park is also,  
13 as Daisy Lee Bitter was saying and Toby Tyler, very valuable as  
14 habitat and it is extraordinarily beautiful place. And  
15 although many people come to Homer there is remarkably little  
16 public lands on the Homer side. If you can't afford or don't  
17 have the time to get in a boat to go across the bay there's  
18 actually very few things you can do in Homer. And so getting a  
19 little more public land with opportunities for trails will be a  
20 tremendous asset to everyone who comes to visit.

21 Thank you.

22 CHAIRMAN TILLERY: Thank you, Pam. Do we have  
23 any comments? Ms. Williams.

24 MS. D. WILLIAMS: Ms. Brodie, I'm going to ask  
25 you a very hard question and you don't feel you want to answer

1 it now you don't have to, but here is the question. The  
2 Trustee Council is not facing a finite pot of money between now  
3 and the year 2001 or 2002 and we have to deal with real honest  
4 to goodness tradeoffs. How would you compare spending, let's  
5 just say, a million dollars to add to AJV or Eyak large parcel  
6 acquisition versus a million for small parcel acquisition, be  
7 it in Homer or someplace else? These are the decisions -- as  
8 you know, we're going into executive session today and we'll be  
9 starting to talk about, you know, in a very serious way,  
10 tradeoffs. Tradeoffs between large and small parcels  
11 acquisition and tradeoffs among small parcel acquisition. Can  
12 you give us some guidance on a million or \$5,000,000.00 on AJV  
13 and Eyak versus small parcels? How about that for a.....

14 MS. BRODIE: You're right that's a hard  
15 question. I don't have a clear simple answer for that. Eyak  
16 and Afognak Joint Venture are very high priorities for the  
17 environmental community nationwide and statewide. We have  
18 always supported looking at the -- at money that you're putting  
19 aside for the future -- the word slips my mind right now, but  
20 the \$100,000,000.00 that you're planning to have as sort of a  
21 Permanent Fund because land acquisition is a permanent benefit.  
22 And certainly I would see that as a resource for small parcels,  
23 in particular, but buying the land has the permanent benefit  
24 and it has had enormous support from people in Alaska.

25 CHAIRMAN TILLERY: Are there other questions or

1 comment from the Council members?

2 (No audible response)

3 CHAIRMAN TILLERY: Okay. Thank you. We have,  
4 I believe, one more person in Homer?

5 HOMER LIO OPERATOR: Yes.

6 MS. BOLENBACH: My name is Amy Bolenbach and I  
7 participated with the Katchemak Heritage Land Trust in asking  
8 you to purchase Overlook Park for the last three or four years.  
9 And I don't need to repeat everything that everyone else has  
10 said, so I just wanted to make one comment about the prices of  
11 Overlook Park. The Tulin property, close to Homer was 220  
12 acres and I believe you paid \$1.2 million for that and Overlook  
13 Park is 97 acres and the appraisal that you've done is talking  
14 about 279,000. I'm a little confused about the difference  
15 there in the price per acre. The Tulin property was developed  
16 which make it higher market value but for the goals for the  
17 Council I would think that Overlook Park would be more valuable  
18 because it isn't developed and the intertidal life is in fairly  
19 good shape there. So I'd appreciate it if you'd think about  
20 that when you think about the price.

21 And I just want to repeat Overlook Park is wonderful  
22 because -- it's most important because of the intertidal life  
23 and the Spit is most important because of the shore bird  
24 habitat.

25 Thank you very much.

1 CHAIRMAN TILLERY: Thank you very much. Are  
2 there questions or comments from Council members?

3 (No audible response)

4 CHAIRMAN TILLERY: Okay. Thank you. Is there  
5 anyone else from Homer that would like to testify?

6 HOMER LIO OPERATOR: That's all, thank you.

7 CHAIRMAN TILLERY: Okay. Is there anyone from  
8 Kenai who's come on who would like to comment?

9 MS. R. WILLIAMS: They dropped off.

10 CHAIRMAN TILLERY: Okay. Is there anyone else  
11 in Seward that would like to comment?

12 MS. R. WILLIAMS: They dropped off also.

13 CHAIRMAN TILLERY: Anyone from Anchorage?

14 MS. R. WILLIAMS: No.

15 CHAIRMAN TILLERY: Is there anyone in Juneau  
16 that would like to comment?

17 (No audible response)

18 CHAIRMAN TILLERY: Okay. The public comment  
19 session then is closed. Thank you very much for your comments.  
20 I suspect we will proceed now to the next item on the agenda  
21 which is the Overlook Park small parcel. Ms. McCammon.

22 MS. McCAMMON: Mr. Chairman, I'll start on this  
23 and if Alex Swiderski whenever can jump in and (indiscernible -  
24 cough) Yes, we are very pleased to have this parcel before you  
25 for your consideration today. Overlook Park is right outside

1 the City of Homer. It's 97 acres. It's three-quarters of a  
2 mile north of Watts (ph) Lake on the Sterling Highway. You can  
3 actually see it from the Sterling Highway Scenic Overlook.  
4 Last fall we were with the Public Advisory Group, we were  
5 actually on a boat at the base of this property and could  
6 actually see the tidal pools that people were talking about and  
7 the access from Bishop Beach.

8           The benefit for public ownership of this parcel would  
9 primarily be to protect the intertidal and subtidal habitat  
10 which a number of the public members have testified it is  
11 incredibly rich and incredibly diverse, and also ensure public  
12 access to these areas in perpetuity. And (indiscernible) is  
13 popular with local community groups, including public schools  
14 and natural history study groups. The potential threat is some  
15 kind of development, there is approaching subdivision  
16 development close by and this would ensure that this property  
17 is in permanent protected status.

18           The original appraisal was reviewed and approved by  
19 Federal and State review appraisers, an offer was made to the  
20 landowners, the landowners were not willing to sell at that  
21 price. They provided some additional information to the review  
22 appraisers, this would be taken into account by the review  
23 appraisers and they still stayed with the original appraisal.

24           At that point the landowners did go out and secured  
25 their own appraisal from an appraisal firm that has done work



1 for the Trustee Council on other properties. This was  
2 submitted to the review appraisers for their review, it was  
3 subsequently rejected. In the meantime over this period of  
4 time the original Council appraisal had expired because it was  
5 over a year old, so the Department of Natural Resources  
6 contracted with the appraisal company to update that appraisal  
7 and based on the fact that market values had increased over the  
8 past year the appraisal did -- an updated appraisal did come up  
9 with a higher price.

10 And so the price that you have before you today for  
11 your consideration is \$279,000.00 and this is an update of the  
12 original appraisal that the Council had reviewed -- State and  
13 Federal appraisers had reviewed and approved.

14 And, Alex, did you want to add anything else to that.

15 MR. SWIDERSKI: Mr. Chairman, the only thing I  
16 would add is that Deborah Williams, you asked about the  
17 \$60,000.00. The appraisal commissioned by the landowners was  
18 for \$340,000.00.....

19 MR. KOLASINSKI: Excuse me, Mr. Chairman, this  
20 is the reporter in Anchorage, I can't hear Mr. Swiderski.

21 **(Note: Telephone connection got really bad at this point)**

22 CHAIRMAN TILLERY: Okay.

23 MR. SWIDERSKI: I'll repeat that, the appraisal  
24 commissioned by the landowners was for \$340,000.00. That was  
25 reviewed and was rejected. There was a fair amount of

1 discussion and back and forth concerning that appraisal. And  
2 then, as Ms. McCammon indicated, this past summer because the  
3 original appraisal had become stale, the original approved  
4 appraisal, we commissioned an update on it and the updated  
5 appraisal was valued at \$279,000.00.

6 During discussions with the landowners last week  
7 (indiscernible) that appraisal, they indicated that if they  
8 were to receive an offer for \$279,000.00 they would be willing  
9 to sell at that price.

10 CHAIRMAN TILLERY: Questions or comments from  
11 Council members. Mr. Pennoyer.

12 MR. PENNOYER: Not so much in the context of  
13 the appraisal, but would you refresh my memory on the parcel  
14 itself and the map we got in front of us? What is the access  
15 to the property (indiscernible) the land directly above it.  
16 And then who owns land between that and the highway?

17 MR. SWIDERSKI: Mr. Chairman.

18 CHAIRMAN TILLERY: Be sure you speak up.

19 MR. SWIDERSKI: Not access -- public access to  
20 the land from the road and that, I think, is part of the reason  
21 for the value of the parcel. There is access apparently at low  
22 tide and I'm not sure (indiscernible) higher tides to the  
23 parcel from the beach. Apparently people drive (indiscernible)  
24 vehicles from Homer to access the property. It is adjacent to  
25 another parcel, the Baycrest parcel that we are also

1 negotiating on. An update on the (indiscernible) done on that,  
2 there is road -- there is access to that parcel from the road,  
3 and conceivably there would -- eventually there may be access  
4 to the Overlook parcel from the Baycrest parcel, I think, if we  
5 acquired the Baycrest parcel but, of course, that is not a done  
6 deal.

7 MR. PENNOYER: Now, if they're adjacent --  
8 where's Baycrest on the map?

9 MR. SWIDERSKI: Baycrest, I believe, is the  
10 next parcel to the east.

11 MS. McCAMMON: To the right on the map.

12 MR. SWIDERSKI: To the right, I'm sorry.

13 MR. PENNOYER: Mr. Chairman.

14 CHAIRMAN TILLERY: Mr. Pennoyer.

15 MR. PENNOYER: And ownership of the parcel  
16 above it, of the Overlook Park is -- it says public lands,  
17 Federal or State, what is ownership of that?

18 MS. McCAMMON: So it'd be State land.

19 MR. PENNOYER: It is State land. In park  
20 status or just.....

21 MS. RUTHERFORD: It's not in park status. But  
22 I believe it is classified as recreational.

23 CHAIRMAN TILLERY: Are there other --  
24 Mr. Pennoyer.

25 MR. PENNOYER: So what is the State's intent

1 regarding that piece of land, then, that's directly uphill from  
2 the land we're talking about acquiring?

3 (Indiscernible)

4 MS. D. WILLIAMS: Mr. Chairman.

5 CHAIRMAN TILLERY: Ms. Williams.

6 MS. D. WILLIAMS: What's the intent with  
7 respect to Overlook Park?

8 MR. SWIDERSKI: It would be managed by State  
9 parks as -- for recreations and preservation or conservation  
10 purposes.

11 MS. D. WILLIAMS: Would you need legislative  
12 action to have it managed as a State park?

13 MR. SWIDERSKI: No.

14 MS. D. WILLIAMS: Okay.

15 CHAIRMAN TILLERY: Ms. Rutherford.

16 MS. RUTHERFORD: I think the other thing that  
17 is important to know is that we have a ranger station right  
18 there, it would be -- we have people who are managing it right  
19 at hand and that is (indiscernible) for that entire area.

20 CHAIRMAN TILLERY: I think there is a ranger  
21 station on that other parcel I think.

22 MS. D. WILLIAMS: Would it be designated as a  
23 State park though?

24 CHAIRMAN TILLERY: That would be up to  
25 (indiscernible - interrupted).....

1 MR. SWIDERSKI: That would be, yeah. The  
2 Department of Natural Resources has the authority to acquire  
3 land for management as park land without a designation.  
4 (Indiscernible - static).....

5 MS. RUTHERFORD: The other thing I think that  
6 we're saying is that we got a lot of lands that are designated  
7 recreation -- or classified recreational land that are  
8 legislatively designated areas that are managed for  
9 recreational purposes. It is not unique in any sense of the  
10 word. We're quite comfortable with it. Now, sometimes when we  
11 feel it's appropriate we do go in for legislative designations  
12 which does provide a higher level of protection. But if we --  
13 if it's acquired with a conservation easement, you know,  
14 there's extensive protections on it.

15 CHAIRMAN TILLERY: Mr. Janik.

16 MR. JANIK: Yeah, a follow up to Mr. Pennoyer's  
17 question on access. Is there now -- would there be public  
18 access to the parcel? What is the immediate adjacency to the  
19 parcel I guess is the question? I can't see on the map very  
20 clearly.

21 CHAIRMAN TILLERY: If I understand it to access  
22 the -- you got a cliff here.

23 MR. JANIK: Yeah.

24 CHAIRMAN TILLERY: Then to access the parcel  
25 there is the Baycrest parcel which has road access and some

1 kind of a road or trail that actually could lead to this parcel  
2 and we are negotiating with this landowner, but right now all  
3 this testimony you heard about all these kids that go to it and  
4 so forth, they just come along the shoreline.

5 MR. JANIK: I see. So in terms of public, full  
6 public property, there is nothing currently adjacent to the  
7 parcel.

8 CHAIRMAN TILLERY: Well, not that would provide  
9 -- I mean there's this.....

10 MR. JANIK: Yeah.

11 CHAIRMAN TILLERY: .....but it's a pretty steep  
12 cliff is my understanding, so you really would -- a sort of  
13 road access that would do this.

14 Commission Rue.

15 MR. RUE: Yes, Mr. Chairman. As I understand  
16 it there would be an easement with the Federal government on  
17 this parcel then.....

18 CHAIRMAN TILLERY: That's correct.

19 MR. RUE: .....which would protect it pending  
20 any further designation by the Legislature or whatever? Okay.  
21 And give it additional protection above and beyond the normal  
22 piece of State land that's just classified recreational?

23 CHAIRMAN TILLERY: That is correct.

24 MS. RUTHERFORD: Mr. Chairman, it not also just  
25 classified recreation, it's also classified as habitat. And I

1 think that's an important clarification too.

2 MR. RUE: Right. But without the easement  
3 language DNR can't change the classification.

4 MS. RUTHERFORD: Correct.

5 CHAIRMAN TILLERY: Ms. Williams.

6 MS. D. WILLIAMS: I mean, it just  
7 (indiscernible) no different than other small parcels that we  
8 have purchased where there isn't legislative action pending to  
9 identify them as a park. With a conservation easement they are  
10 protected.

11 CHAIRMAN TILLERY: This would be done, as I  
12 understand it, the same as Lowell Point or Kenai River and  
13 Tulin or any of those.

14 UNIDENTIFIED MALE VOICE: That's right. Or any  
15 of the large parcels for that matter.

16 CHAIRMAN TILLERY: Or by the (indiscernible).  
17 Are there other comments or questions from the Council members  
18 about this parcel. Ms. Williams.

19 MS. D. WILLIAMS: Mr. Chairman, I move that the  
20 Trustee Council make an offer of \$279,000.00 for the purchase  
21 of Overlook parcel.

22 MS. BROWN: Second.

23 CHAIRMAN TILLERY: Seconded by Ms. Brown. Are  
24 there questions?

25 (No audible response)

1 CHAIRMAN TILLERY: All in favor of the motion  
2 say aye.

3 IN UNISON: Aye.

4 CHAIRMAN TILLERY: Opposed.

5 (No opposing responses)

6 CHAIRMAN TILLERY: Hearing none the motion is  
7 passed and, Mr. Swiderski, would you direct an offer to  
8 the.....

9 MR. SWIDERSKI: I will do that. There's a  
10 resolution that Ms. McCammon has (indiscernible) reviewed by  
11 the Council.

12 CHAIRMAN TILLERY: Okay. So there's a  
13 resolution that people can review sometime today and perhaps  
14 before we leave we can sign it.

15 MR. SWIDERSKI: That would be great.

16 CHAIRMAN TILLERY: Thank you very much. And  
17 thank you to the people in Homer who have come out and  
18 testified today and given their comments in support of this  
19 parcel.

20 I believe that we are now -- is there anything else  
21 Ms. McCammon before executive session?

22 (No audible response)

23 CHAIRMAN TILLERY: There was a proposal to have  
24 a -- one of the reasons I think we had this meeting was to have  
25 -- the primary reason was to have an executive session to



1 discuss some of the habitat negotiations and acquisition  
2 strategies that sort of reflect on price and so forth. Is  
3 there a motion for executive session?

4 MR. PENNOYER: Move we go to executive session  
5 for purposes of looking at small parcels land.

6 MS. McCAMMON: And large parcel and other  
7 habitat negotiation (indiscernible - multiple voices)....

8 CHAIRMAN TILLERY: It's been moved and  
9 seconded. Is there anyone opposed?

10 (No opposing responses)

11 CHAIRMAN TILLERY: Hearing none the session --  
12 the public session is closed, we'll be going into executive  
13 session. We will come back into public session, probably just  
14 very briefly, and I would guess around 3:00 o'clock, but I  
15 don't believe we'll be bringing people on line for that, is  
16 that correct.

17 MS. McCAMMON: We will bring on Anchorage.

18 CHAIRMAN TILLERY: We will bring on Anchorage  
19 unless someone calls in and specifically requests it.

20 MS. McCAMMON: There's no action anticipated.

21 CHAIRMAN TILLERY: Okay. So thank you very  
22 much, people who have joined us and we will be disconnecting  
23 now.

24 (Off record - 11:36 a.m.)


25 (EXECUTIVE SESSION)

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I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and Owner of Computer Matrix do hereby certify:

of:            THAT the Transcript has been prepared at the request

DATED at Anchorage, Alaska this 10th day of March 1997.

  
\_\_\_\_\_  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 04/17/00