

09.11.07

# EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

TRUSTEE COUNCIL MEETING (Teleconference)  
Friday, September 4, 1998  
9:00 o'clock a.m.

Fourth Floor Conference Room  
645 G Street  
Anchorage, Alaska

## TRUSTEE COUNCIL MEMBERS PRESENT:

U.S. DEPARTMENT OF INTERIOR:  
(Telephonically)  
(Chairwoman)

MS. DEBORAH WILLIAMS  
Special Assistant to the  
Secretary for Alaska

STATE OF ALASKA -  
DEPARTMENT OF LAW:  
(Telephonically)

MR. CRAIG TILLERY  
Trustee Representative  
for the Attorney General

STATE OF ALASKA - DEPARTMENT  
OF FISH AND GAME:  
(Telephonically)

MR. FRANK RUE  
Commissioner

U.S. DEPARTMENT OF AGRICULTURE -  
U.S. FOREST SERVICE  
(Telephonically)

MR. JAMES WOLFE  
Trustee Representative

U.S. DEPARTMENT OF COMMERCE - NMFS:  
(Telephonically)

MR. BRUCE WRIGHT  
for Mr. Steve Pennoyer  
Director, Alaska Region

STATE OF ALASKA - DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION:  
(Telephonically)

MS. MICHELE BROWN  
Commissioner

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1 **TRUSTEE COUNCIL STAFF PRESENT:**

2 MS. MOLLY McCAMMON

Executive Director  
EVOS Trustee Council

3 MR. ERIC MYERS  
4

Director of Operations  
EVOS Trustee Council

5 MS. REBECCA WILLIAMS

Executive Secretary  
EVOS Trustee Council

6 MS. CLAUDIA SLATER  
7

State of Alaska  
Department of Fish and Game

8 MR. ALEX SWIDERSKI  
(Telephonically)

State of Alaska  
Department of Law

9 MR. BARRY ROTH  
10 (Telephonically)

Attorney-Advisor  
Conservation & Wildlife  
Division  
Department of the Solicitor

11  
12 MR. DAVE GIBBONS  
(Telephonically)

U.S. Forest Service

13 MS. MARIA LISOWSKI  
14 (Telephonically)

U.S. Forest Service

15 MR. DAN LOGAN  
(Telephonically)

U.S. Forest Service

16 MS. GINA BELT  
17 (Telephonically)

Department of Justice

18 MR. STEVE BABLER  
(Telephonically)

U.S. Forest Service

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P R O C E E D I N G S

(On record - 9:05 a.m.)

CHAIRWOMAN D. WILLIAMS: Good morning, everyone, my name is Deborah Williams and I've been asked to chair today's meeting and I would like to call the meeting to order at this time. This is the September 4th, 1998 meeting of the Exxon Valdez Oil Spill Trustee Council.

We have representing the Trustees today the following individuals; Michele Brown, Commissioner of Alaska Department of Environmental Conservation; Jim Wolfe, United States Department of Agriculture; Frank Rue, Commissioner of the Alaska Department of Fish and Game; Alex Swiderski representing the Attorney General's office.

MR. SWIDERSKI: Excuse me, Mr. Tillery is here.

CHAIRWOMAN D. WILLIAMS: Oh, Craig is here?

MR. TILLERY: He's here.

CHAIRWOMAN D. WILLIAMS: Oh, sorry, Craig. Molly told me Alex would be here.

MR. TILLERY: Well, he was.

CHAIRWOMAN D. WILLIAMS: Very good. We have Craig Tillery representing the Attorney General's office; we have Bruce Wright representing the National Marine Fishery Service; and myself, Deborah Williams, representing the Department of Interior.

I would like the Trustees to review the agenda at this

1 time and I would entertain a motion to approve the agenda.

2 MS. BROWN: This is Michele Brown, I move to  
3 approve the agenda.

4 CHAIRWOMAN D. WILLIAMS: Thank you. Is there a  
5 second?

6 MR. RUE: I'll second.

7 CHAIRWOMAN D. WILLIAMS: Are there any  
8 recommended changes, additions or deletions to the agenda?

9 (No audible responses)

10 CHAIRWOMAN D. WILLIAMS: Hearing none, it has  
11 been moved by Michele Brown and seconded by Frank Rue that the  
12 agenda be approved as prepared.

13 We have designated at 9:15 a public comment period,  
14 it's a little before 9:15, but let's go ahead and see who we  
15 have who would like to give public comment pertinent to the  
16 issue in front of us today. And the issue in front of us today  
17 is Eyak's Humpback Creek Hydroelectric Project proposal as it  
18 affects the proposed acquisition.

19 Are there any public members who would like to speak to  
20 Eyak's Humpback Creek Hydroelectric Project proposal?

21 MS. OBERMEYER: Am I the only person here for  
22 public comment, Ms. Williams? Theresa Obermeyer. Am I the  
23 only one? I guess I would then come for.....

24 MS. McCAMMON: There may be somebody on line,  
25 just.....

1 MS. OBERMEYER: Oh, sure, whatever.

2 MS. McCAMMON: There may be someone from  
3 Cordova also.

4 CHAIRWOMAN D. WILLIAMS: Okay, Ms. Obermeyer,  
5 you can proceed and, please, if you could, keep your comments  
6 relevant to the item in front of the Trustee Council today.

7 MS. OBERMEYER: You know, wouldn't it be nice,  
8 Ms. Williams, were I to have learned all that you know about  
9 our state. I find all of it very interesting. But,  
10 Ms. Williams, you see for me, I have had to make a career for  
11 the last six years of defending myself against fabricated  
12 charges by an entire judic -- State judiciary and Federal  
13 judiciary and an Alaskan Bar Association.

14 CONFERENCE OPERATOR: I do have Walt Ebell on  
15 line.

16 MS. McCAMMON: Thank you.

17 MS. OBERMEYER: And so how much time would I  
18 have, Ms. Williams? I was not even certain today you, madam,  
19 as Harvard law [sic], understand the issues that we have been  
20 raising for 14 and a half years. The rhetorical question,  
21 Ms. Williams, is how could any of this have been possible? How  
22 could it be that on Friday, September 4th, 1998, I am facing  
23 another trial? Would you (phone beep) Ms. Williams?

24 CONFERENCE OPERATOR: Excuse me, I do have  
25 Barry Roth on line.

1 MS. OBERMEYER: Well, madam, I'm making public  
2 comment, if you'll forgive me. And how much time do I have,  
3 Ms. Williams?

4 CHAIRWOMAN D. WILLIAMS: We were hoping to keep  
5 public comments to two minutes.

6 MS. OBERMEYER: Okay. Well, let me just invite  
7 you, Ms. Williams, and I am very sincere about this. One thing  
8 I say is, please, at any time knock on my door and see what  
9 kind of person that I am. I am a decent person that is a  
10 college administrator with a Ph.D. that is a 53-year-old-  
11 professional. I have been assaulted, receiving the most  
12 serious injury of my life on February 20th, 1998 at the  
13 Anchorage Hilton. Without any provocation I was knocked out  
14 cold, waking up in a pool of blood and having to have seven  
15 stitches in the back of my head.

16 And I do have a great joke. I'm not sure if I told  
17 you, Ms. Williams, two jokes. One is, even my six brothers  
18 didn't knock me out cold so that I woke up in a pool of blood  
19 and had to have seven stitches. And I might have even told the  
20 joke previously. My other one, Ms. Williams, is there are  
21 those that say I already have brain damage, but I could have  
22 had brain damage. The most serious injury of my life. Would  
23 you like to have been treated this way, Ms. Williams?

24 And I also say to my husband, what man would be knocked  
25 out cold? This is blatantly because I'm a woman, that all of



1 this has happened.

2 But would you allow me, I want to make sure, next  
3 Wednesday morning at 10:00 o'clock, that is on September the  
4 9th, we have Judge Joannides, I mean it's comical, she's  
5 supposed to be a judge? I don't believe so.

6 And, Mr. Tillery, are you on line? Is Mr. Tillery on  
7 line? I assume you are. You know, Mr. Tillery, I sincerely  
8 apologize because you see it's all so unseemly, do you think  
9 I'm having fun being knocked out cold? And all of you are  
10 highly paid, I, ladies and gentlemen, gave up a paying job to  
11 help our children get a good education, and this is the result.  
12 I mean it's so outrageous it defies any logic or any civility.

13 And I would really field, if anyone would have a  
14 question. You know, I started asking, does anybody know how to  
15 read? I mean I'm sitting here right now with the ALR bound  
16 volume that has caused all of this, but it should have been  
17 over so many years ago. Fourteen and a half years, it's so  
18 outrageous.

19 And so did you have a question, Ms. Williams?

20 CHAIRWOMAN D. WILLIAMS: Do any of the Trustee  
21 Council members have a question for Ms. Obermeyer?

22 (No audible responses)

23 CHAIRWOMAN D. WILLIAMS: I do not believe we do  
24 today, Ms. Obermeyer, but we thank you very much for  
25 testifying.

1 MS. OBERMEYER: Wait. And I hope I speak the  
2 English language, I'm beginning to question whether or not I  
3 even speak the English language. Well, have a great day.

4 CHAIRWOMAN D. WILLIAMS: Thank you very much,  
5 Mrs. Obermeyer.

6 Is there anyone else who would like to present public  
7 comment at this time? What other sites do we have on line? Do  
8 we have any remote sites on line?

9 MS. McCAMMON: We do have Cordova on line.

10 CHAIRWOMAN D. WILLIAMS: Very good. Is there  
11 anybody in Cordova who wishes to testify?

12 MR. ROBERTS: Yes. My name is Jim Roberts, I'm  
13 the General Manager of Cordova Electric Cooperative.

14 CHAIRWOMAN D. WILLIAMS: Please, Mr. Roberts,  
15 if you would proceed.

16 MR. ROBERTS: I'm not sure of what information  
17 that the Council has in front of them. I thought maybe what I  
18 could do is just go over a brief history of the situation that  
19 we're in at this present time.

20 CHAIRWOMAN D. WILLIAMS: We would appreciate  
21 that.

22 MR. ROBERTS: A couple of years ago we had a  
23 flood down here, a hundred-year flood, and it caused some  
24 damage to an existing dam at Humpback Creek, it's a log crib  
25 dam. And it fell under the FEMA for getting some funding to

1 repair it. We did the temporary repairs and then we've had  
2 quite a bit of problem trying to get the permanent repairs  
3 done. Basically the engineers came up with some ideas that  
4 were not real practical as far as the contractors being able to  
5 do the work the way the engineers wanted to, so it drug out for  
6 a while. And where we're at now is that the design that  
7 they're looking at doing is basically putting a false front on  
8 the existing dam, using logs.

9           So there's quite a few logs that are required that we  
10 weren't aware of until here just recently. But we're in a time  
11 crunch on this whole thing, we need about 160 logs and with the  
12 funding available to do the repairs we can't afford to bring  
13 them in from anywhere, so we were trying to get them, you know,  
14 close to the site where we could utilize them right there.

15           CHAIRWOMAN D. WILLIAMS: Very good. Is there  
16 anything else you wish to say, Mr. Roberts, or are you prepared  
17 for questions?

18           MR. ROBERTS: I'm prepared for questions,  
19 ma'am.

20           CHAIRWOMAN D. WILLIAMS: Very good. Trustee  
21 Council members, do you have questions of Mr. Roberts?

22           MR. RUE: This is Frank Rue, I've got one.

23           CHAIRWOMAN D. WILLIAMS: Yes, please.

24           MR. RUE: Yeah, Mr. Roberts, this is Frank Rue  
25 at Fish and Game. My question would be, if, as you put in the

1 new logs, is there any concern that the old dam will sort of  
2 have a catastrophic failure and then knock out the new logs or  
3 anything like that? Or do you have a plan for dealing with  
4 that?

5 MR. ROBERTS: What we're looking at doing is  
6 they're going to build up in front of it in stages and they'll  
7 put log cribbing in and then behind the old dam it's all filled  
8 with gravel and stuff, and we got equipment up there, we can  
9 push gravel over and fill up the new one as they build it and  
10 that will make it stable and it will be tied into the old one.

11 MR. RUE: I got you. Okay, good.

12 CHAIRWOMAN D. WILLIAMS: Mr. Roberts, this is  
13 Deborah Williams and I do have a few questions. I'm looking at  
14 the resolution and paragraph number four in the resolution  
15 talks about a skyline yarding system. And the sentence says "A  
16 skyline yarding system will be used to yard logs from the north  
17 side of the Humpback Creek drainage, and a double drum yarder  
18 will be placed by helicopter on a hill approximately 100 feet  
19 above the site on the south side." Could you interpret that  
20 for us?

21 MR. ROBERTS: Yes. Basically what they use in  
22 logging is like a skyline and it's a cable stretched between  
23 two points and what they can do is they can hook onto  
24 equipment, logs, whatever and move it up, down, sideways,  
25 anywhere along where those cables are strung. And considering

1 the location of where this dam is down in a canyon, the  
2 contractors felt that this was the most cost effective way to  
3 pick the logs and actually put them in place.

4 CHAIRWOMAN D. WILLIAMS: Is this methodology  
5 what we might called selective harvesting of trees or is it  
6 more akin to clear cutting?

7 MR. ROBERTS: I am not sure. I think what  
8 they're doing is they're trying to pick out -- you know, we  
9 need certain size trees and I think they're doing selective  
10 cutting up there. I think that Gary Squires of Wilson  
11 Construction and Steve Babler of the Forest Service are on line  
12 here also in Cordova and they might be able to address that a  
13 little further.

14 CHAIRWOMAN D. WILLIAMS: Okay. Can either of  
15 you gentlemen address that?

16 MR. DOIG: This is Clair Doig, I can address  
17 that.

18 CHAIRWOMAN D. WILLIAMS: Oh, Clair, that would  
19 be great.

20 MR. DOIG: Actually there -- it's going to be  
21 small clear-cut patches. When talking with Gary on the site, I  
22 asked that they do it more in corridors rather than one, you  
23 know, completely clear-cut area, but it may not be possible  
24 just because of the way -- when you're using a skyline system  
25 you aren't clear above, you know, the surrounding trees, the

1 skyline will probably be strung 20 to 30 feet up in existing  
2 trees, and that's not over the tops of the other trees. So you  
3 would get your line snarled. But they can do, possibly,  
4 somewhat of a corridor-type yarding to restrict where they  
5 actually do have to cut. And they do have the possibility of  
6 doing some side blocking on that, too. It's small timber up  
7 there, it's all second growth timber that's grown up since  
8 they've built the first dam, you know, so I -- you know, it's  
9 not going to be as much as an impact as, you know, if you're  
10 thinking about a normal commercial harvest operation.

11 MR. WOLFE: Clair, we were talking earlier,  
12 this is partially in response to Deborah's question, this will  
13 be full suspension, though, of the material across the drainage  
14 and down into the site, right?

15 MR. DOIG: That's right. We talked about that  
16 on the site and, you know, to the extent that they can do it,  
17 but the ground that they're getting the logs off of is --  
18 slopes towards -- you know, it's a fairly gentle sloping  
19 towards the ravine and then when you get to the edge of the  
20 ravine it's almost vertical. You know, it's a very steep  
21 ravine in there, so, you know, if for -- back at the back end  
22 of things there may not be full suspension, but probably by the  
23 time they get halfway down the slope it will be.

24 MR. WOLFE: One other question. Before you get  
25 into the over steepened slopes, though, would that be suspended?

1 MR. DOIG: Yes, yes.

2 MR. WOLFE: Yeah, okay. What about -- Deborah  
3 was asking about partial clearing, it was my understanding it  
4 probably would be almost clear cutting two to three acres.

5 MR. DOIG: Yeah, that's what I'm saying, you  
6 know, but they -- you know they have some ability on the edges  
7 of the areas that they're harvesting to go back into it, you  
8 know, to side block timber towards the skyline, you know, so  
9 that -- you know, conceivably they can reduce the impact so it  
10 won't be -- you know, they'll be selected on -- selective  
11 logging on the end of it. In other words, kind of feathering  
12 the openings.

13 MR. WOLFE: Okay.

14 CHAIRWOMAN D. WILLIAMS: Okay. Another  
15 question for Mr. Roberts. Again, looking at our draft  
16 resolution, we -- at the very end, we talk about a potential  
17 compensation. We say "the purchase price for the acquisition  
18 of the Lands shall be reduced by the value of the timber  
19 removed from the Site as may be determined by any compensation  
20 Eyak receives from the Cordova Electric Cooperative in the form  
21 of cash and/or credit toward its utility billing, less Eyak's  
22 costs." What sense do we have of the amount of cash and/or  
23 credit Cordova Electric Cooperative might be paying Eyak? And  
24 how do we think that would compare with costs?

25 MR. ROBERTS: Well, I haven't received anything

1 from Eyak as to what, you know, what the worth is. What Brian  
2 Lettich, who's the General Manager of Eyak and I had talked  
3 about was in the range of 12 to 25,000, in that range and we  
4 have not agreed upon whether it would be an exchange of  
5 services or cash or what, that's something that both our Board  
6 of Directors will have to address.

7 CHAIRWOMAN D. WILLIAMS: Okay. And, Clair, do  
8 we have a sense of how much this will cost?

9 MR. DOIG: I really don't. What I determined  
10 on -- being on the site, it was more practical to come back out  
11 there and tally the trees that they actually cut rather than  
12 try to take an, you know, estimated guess at it while I was out  
13 there, but I think it'll be within the range that Mr. Roberts  
14 mentioned.

15 MR. RUE: Madam Chair.

16 CHAIRWOMAN D. WILLIAMS: Yes, Mr. Rue.

17 MR. RUE: If you're finished that line of  
18 questioning, I have a question.

19 CHAIRWOMAN D. WILLIAMS: Great.

20 MR. RUE: It's a procedural one. Does everyone  
21 have the resolution before them to look at? I'm not sure we've  
22 introduced it officially.

23 CHAIRWOMAN D. WILLIAMS: We have not.

24 MR. RUE: Okay.

25 CHAIRWOMAN D. WILLIAMS: Does everyone



1 have.....

2 MR. RUE: Should we before we -- I've got a  
3 question relating to the resolution also.

4 CHAIRWOMAN D. WILLIAMS: Certainly.

5 MR. RUE: Why don't I ask it, I guess. I'm  
6 concerned that we not artificially limit what goes on out  
7 there. For instance, in the first paragraph we say "prohibit  
8 development on the Lands prior to closing, with the exception  
9 of harvesting of 160", I realize it's going to be -- do we want  
10 to talk about logs or trees and what if they need 161 logs? I  
11 mean -- I guess I would ask Clair or folks if that would  
12 constrain them unnecessarily, talking about 160 logs versus  
13 some number of trees. Does that give you enough leeway, I  
14 guess, to get the job done?

15 MR. WOLFE: That's a good point, Frank.

16 MR. DOIG: Yeah, maybe we should.....

17 MR. RUE: Well, that's the question whenever  
18 they have the chance to look at it, I want to make sure we  
19 don't artificially constrain what goes on out there.

20 MR. WOLFE: Yeah, I agree.

21 MR. DOIG: Yeah, I -- this is Clair. I was  
22 just trying to figure out what -- you know, I know you want to  
23 put some sideboards on it, maybe you want to address it by,  
24 say, two to three acres or something like that. You know,  
25 there's probably going to be more trees cut than logs utilized

1 and the number of logs to be utilized is estimate -- you know,  
2 just an estimate at this time, so.....

3 MR. RUE: Okay. In the preamble we talk about  
4 some clearing of second-growth hemlock will occur at the sight.  
5 Additionally -- so there's allowed for some clearing of  
6 hemlock. "Additionally, it is expected that 160 logs of 20 to  
7 30 feet in length, approximately 80 to 100 trees will be needed  
8 to construct the replacement dam." So the preamble gives a  
9 fair amount of latitude because it's approximate kind of  
10 language.

11 MR. DOIG: Right.

12 MR. RUE: But then when we do the therefore, we  
13 say -- we're quite specific about what gets to get taken so,  
14 anyway, a thought for folks to ponder.

15 CHAIRWOMAN D. WILLIAMS: Okay, very good. Are  
16 there any other questions of Mr. Roberts?

17 MR. WRIGHT: Yes, this is Bruce Wright, Madam  
18 Chair, I have a question.

19 CHAIRWOMAN D. WILLIAMS: Yes, Bruce.

20 MR. WRIGHT: The first dam was built in 1904  
21 and so that dam has existed now for 98 years; is that correct?  
22 Or 94?

23 MR. ROBERTS: I believe it was built in 1908,  
24 but, yeah.

25 MR. WRIGHT: And do we expect this next dam to

1 last 90 years?

2 MR. ROBERTS: Given the conditions up there, I  
3 don't see why not.

4 MR. WRIGHT: I just wanted to know if I had to  
5 deal with this issue again in a couple of years. I guess not.

6 MR. ROBERTS: No, no.

7 MR. WRIGHT: That's all I have.

8 CHAIRWOMAN D. WILLIAMS: Very good.

9 MR. TILLERY: Deborah.

10 CHAIRWOMAN D. WILLIAMS: Yes.

11 MR. TILLERY: This is Craig Tillery.

12 CHAIRWOMAN D. WILLIAMS: Craig.

13 MR. TILLERY: Just one quick question for Eyak.  
14 Are they comfortable with the requirement that they replant  
15 trees as required by the Forest Service?

16 MR. DOIG: This is Clair. There's no need to  
17 replant trees, the trees that we're cutting are second growth,  
18 there's an adequate seed source up there, natural regeneration  
19 is adequate, you know, totally adequate.

20 MR. TILLERY: Well, actually that was kind of  
21 my thought, particularly if it's a small cut and I was  
22 wondering, there is a provision here that says "Eyak shall also  
23 agree to replant trees in the area if requested to do so by the  
24 Forest Service." I.....

25 MR. LOGAN: Madam Chair, this is the Forest

1 Service, we're on line.

2 CHAIRWOMAN D. WILLIAMS: Yes, please, would you  
3 like to respond?

4 MR. LOGAN: Yes, I would. We have Gary  
5 Squires, Steve Babler and Dan Logan here. I agree with what  
6 Clair said, regeneration isn't a problem, we usually have a  
7 stocking minimum requirement that we have. I doubt if that'll  
8 be the case on this one, I think it will regenerate fine.

9 MS. McCAMMON: Could you please identify  
10 yourself?

11 MR. LOGAN: This is Dan Logan and on our line  
12 here we have Gary Squires from Wilson Construction, Steve  
13 Babler from the Forest Service and myself, Dan Logan, from the  
14 Forest Service.

15 CHAIRWOMAN D. WILLIAMS: Okay. Thank you, Dan.

16 MR. WOLFE: Deborah, this is Jim.

17 CHAIRWOMAN D. WILLIAMS: Yes, Jim.

18 MR. WOLFE: I think Maria's intent or the  
19 resolution's intent, though, is if, by some reason or other, it  
20 didn't naturally regenerate that we would go in and replant or  
21 that Eyak would go in and replant. So maybe it should say  
22 something a little different, but I don't think you would  
23 disagree with that, I think we all agree that natural  
24 regeneration would probably adequate there, but just in case it  
25 isn't, there should be some clause.

1 MR. TILLERY: Madam Chair.

2 CHAIRWOMAN D. WILLIAMS: Yes, Mr. Tillery.

3 MR. TILLERY: I guess then for Clair, with  
4 those explanations are you comfortable with having a provision  
5 like that in the agreement?

6 MR. DOIG: Yeah, as long as there's nothing  
7 that requires us to do it. I mean, you know, you're talking  
8 about -- you know, under the Forest Practices Act, we have  
9 basically five years. I don't think that that's going to be a  
10 problem, you know, I think, you know, within three years you'll  
11 have brush that you can't even walk through up there, so -- or  
12 regeneration, at least, that you can't even walk through.

13 MR. WOLFE: So if natural regeneration hasn't  
14 occurred in five to seven years?

15 MR. DOIG: Well, even five years is fine.

16 MR. RUE: I'm not sure why we need it if we got  
17 it in another place, like the Forest Practices Act.

18 MR. DOIG: Yeah. I mean, you know, the fact of  
19 the matter is it isn't going to be a problem, so.....

20 MR. WOLFE: I don't think so either. Frank, do  
21 you think we can just drop the clause if it's in the Forest  
22 Practices Act?

23 MS. McCAMMON: Madam Chair, this is Molly  
24 McCammon, can I ask a clarifying question about that?

25 CHAIRWOMAN D. WILLIAMS: Yes, Ms. McCammon.

1 MS. McCAMMON: Are these lands part of the  
2 timber-only conservation easement or are they lands that would  
3 be acquired by the government in fee?

4 MR. DOIG: Timber-only conservation easement.

5 MS. McCAMMON: All right. So they still remain  
6 in Eyak's ownership?

7 MR. DOIG: That's right.

8 MR. WOLFE: That's correct.

9 MS. McCAMMON: Thank you.

10 CHAIRWOMAN D. WILLIAMS: All right. Again, we  
11 can -- when we actually put the resolution on the table, we can  
12 start talking about amendments. We are still in public comment  
13 period, this has been a good one. Are there any other  
14 questions of Mr. Roberts?

15 MR. WOLFE: I have a question for Mr. Logan or  
16 the other Forest Service people that were there.

17 CHAIRWOMAN D. WILLIAMS: Okay. Let's just --  
18 Jim, I look forward to entertaining that question once we  
19 determine whether there are any further questions of  
20 Mr. Roberts. Are there any further questions of Mr. Roberts?

21 (No audible responses)

22 CHAIRWOMAN D. WILLIAMS: Okay. Thank you very  
23 much, Mr. Roberts, and I know you'll standby in case we have  
24 further questions as we discuss the resolution itself.

25 MR. ROBERTS: Thank you very much.

1 CHAIRWOMAN D. WILLIAMS: Thank you. Is there  
2 any further public comment at this time?

3 (No audible responses)

4 CHAIRWOMAN D. WILLIAMS: Is there any further  
5 public comment in Cordova?

6 (No audible responses)

7 CHAIRWOMAN D. WILLIAMS: Is there any further  
8 public comment in Anchorage?

9 (No audible responses)

10 MS. McCAMMON: We also have Homer on the line.

11 CHAIRWOMAN D. WILLIAMS: Oh, is there anyone  
12 who wishes to testify in Homer?

13 MS. BRODIE: Hi, this is Pamela Brodie, I'm on  
14 for listen only, thank you.

15 CHAIRWOMAN D. WILLIAMS: Thank you. Are there  
16 any other sites on line and anyone who wishes to testify?

17 (No audible responses)

18 CHAIRWOMAN D. WILLIAMS: Okay, hearing none, we  
19 will now close the public comment period. And thank you very  
20 much for those of who did testify.

21 That brings us to the third item on the agenda, which  
22 is the resolution and the issue of Eyak's Humpback Creek  
23 Hydroelectric Project. I would entertain a motion with respect  
24 to the resolution that is in front of us, which I believe  
25 everyone should have revised draft version number two.

1 Ms. McCammon, is that the resolution everyone has in  
2 front of them?

3 MS. McCAMMON: It should be, yes.

4 CHAIRWOMAN D. WILLIAMS: Okay. And it should  
5 say revised 9/3/98.

6 MR. RUE: Madam Chair.

7 CHAIRWOMAN D. WILLIAMS: Yes, Mr. Rue.

8 MR. RUE: The draft I have before me says  
9 "Revised Draft 9/3/98", there's no.....

10 CHAIRWOMAN D. WILLIAMS: Yes, I believe that's  
11 the one we all have.

12 MS. McCAMMON: Okay.

13 MR. RUE: Okay.

14 CHAIRWOMAN D. WILLIAMS: Okay. I would  
15 entertain a motion regarding the resolution.

16 MR. WOLFE: Madam Chair, for purposes of  
17 discussion, I would move that we adopt the resolution, this  
18 draft, 9/3/98.

19 CHAIRWOMAN D. WILLIAMS: Very good. Is there a  
20 second?

21 MS. BROWN: Second. This is Michele Brown.

22 CHAIRWOMAN D. WILLIAMS: Okay. It has been  
23 moved by Mr. Wolfe and seconded by Ms. Brown that the Trustee  
24 Council adopt the resolution regarding Eyak's Humpback Creek  
25 Hydroelectric Project, entitled "Revised Draft 9/3/98." I now



1 open up this motion for discussion. Is there discussion?

2 MR. WOLFE: Madam Chair.

3 MR. RUE: Madam Chair.

4 CHAIRWOMAN D. WILLIAMS: Ms. McCammon, would  
5 you like to give us a brief overview?

6 MS. McCAMMON: I would defer to the Forest  
7 Service on this, Jim Wolfe.....

8 CHAIRWOMAN D. WILLIAMS: Very good.

9 MS. McCAMMON: .....since I've been out of the  
10 office the last couple of days.

11 CHAIRWOMAN D. WILLIAMS: Okay. Very good.  
12 Jim, if you'd like to give us a brief overview.

13 MR. WOLFE: I can do that. We kind of got  
14 somewhat of an overview of what's being proposed at this point  
15 in time. I'm not sure we need any more on that end of it,  
16 unless somebody has some additional questions on that end of  
17 it.

18 My overview would be, our people have been out to the  
19 site with the corporation folks to look at the site and  
20 basically our determination is that -- and Dan or Steve could  
21 probably do this better than I, but we've determined that there  
22 are no eagle nests within a short distance of it, there are no  
23 anadromous fish streams involved, except in the intertidal  
24 reaches of the drainage. And it didn't look -- and our folk  
25 were -- generally didn't feel like the impact from the harvest

1 of the trees would have any impact on the EVOS restoration  
2 objectives. And it wasn't clear that that was what they had  
3 found but I would ask the question of either Dan or Steve if  
4 that was their conclusion?

5 CHAIRWOMAN D. WILLIAMS: Yes, please. Dan or  
6 Steve, if you could respond to Mr. Wolfe's inquiry. And the  
7 inquiry.....

8 MR. LOGAN: Madam Chair, this is Dan Logan, we  
9 concur with what Jim Wolfe said. We reviewed it during the  
10 week, there is no eagle nest trees in that area, there's no  
11 issues with anadromous streams and we feel that the proposal  
12 that's given is reasonable.

13 CHAIRWOMAN D. WILLIAMS: Okay. And so you  
14 would agree that it will not have any adverse impacts on the  
15 restoration attributes of this land?

16 MR. LOGAN: Yes, that's correct.

17 CHAIRWOMAN D. WILLIAMS: Okay. Maria, would  
18 you be willing to add a sentence to the resolution that would  
19 reflect that?

20 MR. WOLFE: Maria is not in, but we were  
21 already talking about adding a clause to that effect somewhere  
22 in the front end of it.

23 CHAIRWOMAN D. WILLIAMS: Good. Barry, are you  
24 on the line now?

25 MR. ROTH: Yes, I am.

1 CHAIRWOMAN D. WILLIAMS: Could you, while we're  
2 talking, quickly draft up a sentence that is faxed to the  
3 Trustee Council?

4 MR. ROTH: Sure.

5 CHAIRWOMAN D. WILLIAMS: Thank you.

6 MR. RUE: Madam Chair, this is Frank Rue, I  
7 have a proposed amendment.

8 CHAIRWOMAN D. WILLIAMS: Yes, please, Mr. Rue.

9 MR. RUE: I would propose amending item (A)1,  
10 under the therefore, so that it would read "1) prohibit  
11 development on the Lands prior to closing, with the exception  
12 the harvesting of," delete 160 logs, insert trees "from the  
13 site," and then insert after the word site, "necessary for the  
14 construction of a replacement dam." So it doesn't -- so that  
15 if they get out there and they need, you know, 161 logs we  
16 haven't created a problem, but it's only those necessary for  
17 the construction of the replacement dam.

18 CHAIRWOMAN D. WILLIAMS: Okay.

19 MR. WOLFE: Very good.

20 CHAIRWOMAN D. WILLIAMS: Do the Trustee Council  
21 members feel comfortable with that modification? Anyone have  
22 concerns with that amendment?

23 MR. WRIGHT: Is there a limitation at all here,  
24 Frank?

25 MR. RUE: Only the "necessary for

1 construction."

2 MR. WRIGHT: So they can take a thousand trees  
3 if they feel like it's necessary?

4 MR. RUE: Yeah. Which I doubt they will.

5 MR. WOLFE: Okay.

6 MR. RUE: I mean I don't know, if there's  
7 another way folks want to limit it, that's fine.

8 MR. ROTH: Well, they have to pay for them to  
9 Eyak, so there's an incentive not to take superfluous trees.

10 CHAIRWOMAN D. WILLIAMS: Okay.

11 MR. DOIG: Plus where you going to take them?

12 MR. WOLFE: I still have one other question for  
13 -- and I should have asked this when the person from Chugach  
14 [sic] Electric was on the line. Is he still on the line?

15 CHAIRWOMAN D. WILLIAMS: Mr. Roberts?

16 MR. ROBERTS: Yes, I am.

17 MR. WOLFE: Before you start any construction  
18 you have to get an approved plan. A plan approved by the State  
19 and/or FERC, do you not?

20 MR. ROBERTS: Not to my knowledge for this.

21 MR. WOLFE: Is that right?

22 MR. RUE: I think that's correct.

23 MR. WOLFE: Is this what's called a low hazard  
24 structure, then?

25 MR. ROBERTS: Yes, this is not an integral part

1 of the existing hydroelectric site.....

2 MR. WOLFE: Okay.

3 MR. ROBERTS: .....but if the old dam and  
4 gravel up there washes out, it would take out a portion of our  
5 pen stock for our existing project.

6 MR. WOLFE: Okay. That's fine.

7 CHAIRWOMAN D. WILLIAMS: I have a question, and  
8 that is with respect to the subsection five under therefore. I  
9 guess it's the very last numbered subsection in the resolution.  
10 And I'm particularly interested in Barry's thoughts or other  
11 people's thoughts about this. It says "the purchase price for  
12 the acquisition of the Lands shall be reduced by the value of  
13 the timber removed from the site" which makes sense. But then  
14 it has "less Eyak's costs" and that doesn't seem intuitively  
15 obvious for me. We are paying for timber rights, there is  
16 going to be less timber on this land than we thought we were  
17 buying. I don't see the relevance of Eyak's cost to  
18 determining how much the Trustee Council should pay for the  
19 timber costs. And so I question whether we should have the  
20 phrase "less Eyak's costs" in this resolution and as part of  
21 the compensation for allowing these 100 or so trees to be  
22 removed.

23 Or, Ms. McCammon. If anyone would like to respond to  
24 that, I just simply don't see the logic of it.

25 MR. WOLFE: Deborah, if I could respond

1 partially?

2 CHAIRWOMAN D. WILLIAMS: Yes.

3 MR. WOLFE: Some of that language, I think, is  
4 from the Bomb Point language dealing with the timber on the  
5 conservation easement there. And it was assumed that the land  
6 owner would do some oversight and provide -- have some  
7 investment in providing oversight of the harvest activity  
8 that's going on, and that's what that relates to, in my  
9 opinion, anyway.

10 MS. LISOWSKI: Madam Chairman.

11 CHAIRWOMAN D. WILLIAMS: Yes.

12 MS. LISOWSKI: This is Maria Lisowski.

13 CHAIRWOMAN D. WILLIAMS: Yes, Maria.

14 MS. LISOWSKI: And the intent behind that  
15 language is, as we understood it, Eyak was going to have  
16 negotiations with the cooperative of what compensation they  
17 would receive from the cooperative for the value of the timber.  
18 As part of that, they would be negotiating some value for  
19 Eyak's costs associated with administering this particular  
20 activity. And I think the intent there was not that we recoup  
21 whatever that administrative cost to Eyak would be, but simply  
22 the value of the actual timber removed.

23 MR. WOLFE: But that still doesn't answer the  
24 question about the Eyak costs.

25 MS. LISOWSKI: Well, the Eyak costs is the

1 costs of whatever they would be charging the cooperative to  
2 cover their particular costs for administering this activity  
3 out there.

4 MR. WOLFE: Okay. That's kind of what I was  
5 trying to say, yeah. For providing (indiscernible -  
6 interrupted).....

7 MR. RUE: Madam Chair.

8 MR. WOLFE: .....identifying the trees, yeah.

9 CHAIRWOMAN D. WILLIAMS: Mr. Rue.

10 MR. RUE: Madam Chair, this is Frank Rue, and  
11 since I didn't get a second to my amendment, can I quickly  
12 finish it? Okay?

13 CHAIRWOMAN D. WILLIAMS: Yeah.

14 MR. RUE: It's still open, I assume.

15 CHAIRWOMAN D. WILLIAMS: There was no objection  
16 to your amendment.

17 MR. RUE: Oh. Well, actually I wanted to -- I  
18 was going to go with it, so if you don't mind?

19 CHAIRWOMAN D. WILLIAMS: Oh, okay, we'll go  
20 back.

21 MR. RUE: Okay. Let me go back to that and say  
22 -- instead of just saying trees, how about approximately 80 to  
23 100 trees necessary? So we repeat it's approximately, so you  
24 have a sense of how large this is. And then delete item four,  
25 Eyak shall also agree to replant. I think that's unnecessary

1 given, one, the natural conditions around Cordova for  
2 restocking. And two, I believe, the Forest Practices Act, I  
3 believe, requires this to be restocked at a certain level  
4 within five years.

5 CHAIRWOMAN D. WILLIAMS: Okay. Let me tell you  
6 what I'd like to do. Let's -- we'll go back and address the  
7 modification to (A)1, but I'd like to finish five before we go  
8 to four.

9 MR. RUE: Okay.

10 CHAIRWOMAN D. WILLIAMS: So do all the Trustee  
11 Council members feel comfortable with the amendment that (A)1  
12 would now read, under Mr. Rue's amendment "prohibit development  
13 on the Lands prior to closing, with exception of the harvesting  
14 of approximately 80 to 100 trees from the site necessary for  
15 the construction of replacement dam."

16 MR. WOLFE: I'm fine with that.

17 CHAIRWOMAN D. WILLIAMS: Okay, good. All  
18 right, let's go back to five then and then we will do number  
19 four. Let me say, in the first instance, I don't understand  
20 why we'd even deduct administrative costs from this, but let me  
21 ask a clarify question. Who is actually paying for the  
22 harvesting of the trees themselves? I guess I was under the  
23 impression from the comment we had earlier that Eyak was paying  
24 for the harvesting of the trees and I had a sense from Clair,  
25 and I'll forward for any better sense of this. I had a sense



1 from Clair that Eyak would be paying for the harvesting of the  
2 trees and that that cost would be approximately the same as the  
3 value of the trees.

4 And maybe, Clair, if you could discuss this?

5 MR. DOIG: Okay, I'll discuss that and then I  
6 got to run to get on my plane before it leaves.

7 CHAIRWOMAN D. WILLIAMS: Okay.

8 MR. DOIG: Eyak is not paying for the harvest  
9 of the trees. All Eyak would be charging would be, you know,  
10 basically what would be comparable to fair market value for  
11 that timber. In other words, the net value of the trees after  
12 the harvesting costs.

13 CHAIRWOMAN D. WILLIAMS: And who is harvesting  
14 the trees?

15 MR. DOIG: It'll be the contractor for CEC.

16 CHAIRWOMAN D. WILLIAMS: I see.

17 MR. DOIG: And that's -- Gary Squires is the  
18 superintendent on that project. The costs -- the Eyak costs  
19 we're talking about is my time and whatever else, supervision  
20 time.

21 CHAIRWOMAN D. WILLIAMS: And what would you  
22 estimate that to be in terms of total costs for Eyak?

23 MR. DOIG: Eyak's costs are probably going to  
24 be in the neighborhood of \$2,500-4,000, depends if I have to  
25 make another trip out there or something like that.

1 CHAIRWOMAN D. WILLIAMS: Would it be a problem  
2 if Eyak were not compensated for its costs in.....

3 MR. DOIG: Well, Eyak's getting compensated by  
4 CEC for those costs. I think the intent of the resolution was  
5 to talk about the value of the trees that it's getting  
6 compensated for from CEC. So, basically, none of this would  
7 ultimately end up costing Eyak anything.

8 CHAIRWOMAN D. WILLIAMS: Okay.

9 MR. ROTH: Well, let me ask the question this  
10 way.

11 CHAIRWOMAN D. WILLIAMS: Yes, Barry.

12 MR. ROTH: And if I understand that, then --  
13 there's two elements to what you're saying CEC is going to  
14 compensate you for, one is the value of trees and the other is  
15 the Eyak cost component. So all we're saying is that the  
16 purchase -- well, wouldn't work then to say the purchase price  
17 shall be reduced by the value of the timber removed as  
18 determined by compensation Eyak receives from CEC for the value  
19 of trees. I mean if we limit it -- association gets the value  
20 of trees, drop the cost element, is all you're trying to do.

21 CHAIRWOMAN D. WILLIAMS: Yeah, I would like to  
22 drop "less Eyak's costs" out of this clause at which I'm  
23 looking.

24 MR. ROTH: Yeah, yeah, that works.

25 CHAIRWOMAN D. WILLIAMS: That works, okay,

1 good.

2 MR. WOLFE: Say that again.

3 MR. DOIG: But you're not making it any  
4 different, so if the semantics are better.....

5 MR. ROTH: Well, before it said -- before it  
6 looked and said -- it got confusing to some of us, I guess,  
7 because it read.....

8 MR. DOIG: Either way is the same thing, it's  
9 fine by me.

10 MR. ROTH: Yeah. I mean it's just the value of  
11 the trees, it's the amount that is compensated there and that  
12 you've already indicated there is real value there and it's  
13 going to be counted and so that -- you know, so the Council is  
14 not asked to subsidize anything, and that's fine. It was just  
15 that it got confusing when the cost, you know, was mentioned  
16 because it's really -- the only reason you were mentioning it's  
17 -- the total compensation is the value of the tree, plus the  
18 value of Eyak's administrative costs associated with it. And  
19 all we're asking for is adjusting it by the value of the trees,  
20 so we don't need to mention the administrative costs.

21 CHAIRWOMAN D. WILLIAMS: Correct.

22 MR. WOLFE: All right.

23 CHAIRWOMAN D. WILLIAMS: That sounds good.

24 MR. WOLFE: Did you pick up that, Margaret?

25 Whew.

1 CHAIRWOMAN D. WILLIAMS: Maria?

2 MS. LISOWSKI: Well, the only question I would  
3 have is if you delete "less Eyak's costs" if you're saying the  
4 compensation that Eyak receives is the value of the timber and  
5 I don't think that that's correct.

6 CHAIRWOMAN D. WILLIAMS: Basically we.....

7 MR. ROTH: How about, the purchase price for  
8 the acquisition of Lands shall be reduced.....

9 CHAIRWOMAN D. WILLIAMS: By the value of the  
10 timber.

11 MR. ROTH: .....by the value received by Eyak  
12 from CEC for the value of the timber?

13 CHAIRWOMAN D. WILLIAMS: Right. That's right.

14 MS. LISOWSKI: Did you guys catch that in  
15 Anchorage, since you'll be making the corrections to the.....

16 MS. McCAMMON: Yes, we caught it.

17 MS. LISOWSKI: Okay.

18 CHAIRWOMAN D. WILLIAMS: Okay, very good. So  
19 that would be the proposed second amendment, which I believe we  
20 can do in five by just simply taking out the last clause which  
21 is "less Eyak's costs" because then we are -- purchase price is  
22 reduced by the value of the timber removed, period. Value of  
23 timber removed is going to be something that will be quantified  
24 in the cost washout.

25 MR. WOLFE: Okay.

1 CHAIRWOMAN D. WILLIAMS: Okay. Is there any  
2 objection to that second amendment?

3 (No audible responses)

4 CHAIRWOMAN D. WILLIAMS: Very good.

5 MR. RUE: So you put a period after the word  
6 "site" in the first sentence? Is that what you're doing, Madam  
7 Chair?

8 CHAIRWOMAN D. WILLIAMS: I was going to put it  
9 after the word "billing".

10 MR. RUE: Billing, okay.

11 CHAIRWOMAN D. WILLIAMS: But it would be --  
12 well, what do people think?

13 MR. WOLFE: I would put it after billing.

14 CHAIRWOMAN D. WILLIAMS: Okay.

15 MR. RUE: Okay.

16 MS. McCAMMON: Madam Chair, can I just restate  
17 it?

18 CHAIRWOMAN D. WILLIAMS: Well, actually I like  
19 your idea better, Frank. I like putting the word -- after the  
20 word "site" if people feel comfortable with that.

21 MR. WOLFE: It will work, the other is just an  
22 explanation of how we determined that.

23 CHAIRWOMAN D. WILLIAMS: Right.

24 MR. WOLFE: Yeah.

25 MR. RUE: That's fine.

1 MR. WOLFE: Okay.

2 CHAIRWOMAN D. WILLIAMS: Okay. Actually if we  
3 do it after billing, should we may be -- may be determined by  
4 the compensation Eyak receives for the timber? And then that  
5 will wash out the -- Eyak's costs. Okay, so this is what I  
6 would propose. Subsection five be amended to read "the  
7 purchase price for the acquisition of the Lands shall be  
8 reduced by the value of the timber removed from the Site as may  
9 be determined by any compensation Eyak receives for the timber  
10 from the Cordova Electric Cooperative in the form of cash  
11 and/or credit toward its utility billing." Period. We feel  
12 comfortable with that?

13 (No audible responses)

14 CHAIRWOMAN D. WILLIAMS: That does it for me.  
15 Barry? Maria?

16 MR. ROTH: Fine. Fine with me.

17 MS. LISOWSKI: Fine.

18 CHAIRWOMAN D. WILLIAMS: Okay, excellent.  
19 Okay. Are there any other questions or comments about the  
20 amendment to subsection five?

21 (No audible responses)

22 CHAIRWOMAN D. WILLIAMS: Let's move to  
23 subsection four. Frank, why don't you go ahead and restate  
24 your comment and then I'm sure Mr. Wolfe has a response.

25 MR. RUE: I would propose deleting section

1 four. I believe that, given the conditions in Cordova,  
2 stocking is not a problem, maybe overstocking is a problem from  
3 a forester's perspective.

4 MR. WOLFE: Yeah.

5 MR. RUE: So I think it's unnecessary. Now  
6 maybe you don't need to delete it because the Forest Service  
7 won't ask them to do anything, but I think it's cleaner to just  
8 say it's not an issue.

9 CHAIRWOMAN D. WILLIAMS: Jim.

10 MR. WOLFE: I'm okay, that's fine.

11 CHAIRWOMAN D. WILLIAMS: I guess I would tend  
12 to keep it in. I guess if, you know, no harm, no foul, and one  
13 who believes, you know, in global warming and everything else.  
14 We really don't know what's going to be happening in the next  
15 several years. I just don't see any harm in keeping it in and  
16 it sounds as if Eyak did not have a problem in keeping it in.  
17 And I'd feel more comfortable keeping it in.

18 MR. WOLFE: Then if you're going to keep it in,  
19 then it needs to be revised, Deborah, just briefly.

20 CHAIRWOMAN D. WILLIAMS: Okay.

21 MR. WOLFE: So it could be revised to say, Eyak  
22 shall also agree to replant trees in the area where timber was  
23 removed from the Site, if requested -- no, if natural  
24 regeneration does not occur within a five to seven year period,  
25 if requested to do so by the Forest Service.

1 MR. RUE: That's a double deal.

2 MR. WOLFE: Yeah.

3 CHAIRWOMAN D. WILLIAMS: How about -- I hate to  
4 put -- I hate to think if natural regeneration doesn't occur in  
5 five to seven years that you would not. How about, if natural  
6 regeneration does not occur within a five to seven year period  
7 and when requested to do so by the Forest Service?

8 MR. WOLFE: That's better.

9 CHAIRWOMAN D. WILLIAMS: Okay.

10 MR. WOLFE: Did you capture that, Molly?

11 MS. McCAMMON: Yes, I did.

12 MR. WOLFE: Very good.

13 CHAIRWOMAN D. WILLIAMS: Okay. So four would  
14 be amended to read "Eyak shall also agree to replant trees in  
15 the area where timber was removed from the Site, if natural  
16 regeneration does not occur within a five to seven year period,  
17 and when requested to do so by the Forest Service."

18 MR. RUE: I don't what to nitpick but why five  
19 to -- I mean, geez. It's like five to seven is -- why don't we  
20 say seven?

21 CHAIRWOMAN D. WILLIAMS: Okay, I think that's  
22 right.

23 MR. RUE: I think the Forest Practice requires  
24 five, but that's all right.

25 CHAIRWOMAN D. WILLIAMS: All right.



1 MR. RUE: I'm not going to quibble.

2 MS. McCAMMON: So it would be within seven  
3 years?

4 CHAIRWOMAN D. WILLIAMS: Within a seven year  
5 period, right.

6 MR. WOLFE: Yeah. That's just terminology that  
7 we normally use, but.....

8 MR. RUE: Okay.

9 MR. WOLFE: .....that's fine, seven is fine.

10 CHAIRWOMAN D. WILLIAMS: Right.

11 MR. RUE: Does Eyak have any problems with  
12 that? Is Clair still here?

13 MR. WOLFE: I think Clair's on a plane right  
14 now.

15 MR. RUE: I would assume he doesn't because  
16 this is a lot of ifs.

17 CHAIRWOMAN D. WILLIAMS: Right.

18 MR. RUE: Probably won't happen.

19 CHAIRWOMAN D. WILLIAMS: Right. Well, let's  
20 hope it doesn't happen, if it.....

21 MR. RUE: That's fine.

22 CHAIRWOMAN D. WILLIAMS: .....don't have  
23 natural regeneration our climate is more confused than we are  
24 predicting right now.

25 MR. RUE: Actually opening up the second growth

1 will probably be kind of good for it, if it's small enough.

2 MR. WOLFE: That's true.

3 CHAIRWOMAN D. WILLIAMS: All right.

4 MR. RUE: Okay.

5 CHAIRWOMAN D. WILLIAMS: Are there any other  
6 questions, comments, proposed amendments on the resolution?

7 MR. ROTH: Madam Chair.

8 CHAIRWOMAN D. WILLIAMS: Oh, yes.

9 MR. ROTH: I faxed to Molly, I don't know if  
10 she got it yet, the sentence you asked me to draft.

11 CHAIRWOMAN D. WILLIAMS: Excellent, thank you,  
12 Barry. Molly, do you have it?

13 MS. McCAMMON: No, we'll go get it.

14 CHAIRWOMAN D. WILLIAMS: Thank you.

15 MR. WOLFE: Can you read it for us, Barry?

16 CHAIRWOMAN D. WILLIAMS: Yes.

17 MR. ROTH: Yeah, I just stuck in as in the - on  
18 page two as item number seven "U.S. Forest Service personnel  
19 have examined the Site and determined that under terms and  
20 conditions provided herein, the proposed activity will not  
21 affect the recovery of the injured EVOS resources."

22 MR. WOLFE: Sounds good.

23 CHAIRWOMAN D. WILLIAMS: Sounds good. Anyone  
24 have any comments about that?

25 MR. ROTH: And I defer to Maria whether that's

1 "effect" with and E or an A.

2 MS. LISOWSKI: A.

3 MR. RUE: E. Vote on that, can we vote on  
4 that.

5 CHAIRWOMAN D. WILLIAMS: Yeah, really.

6 MR. ROTH: I wrote it with an E, but Molly, she  
7 usually finds.....

8 MR. WOLFE: Keeps you straight?

9 MR. ROTH: Point -- keeps me straight.

10 MS. McCAMMON: I think it's an A, but we'll  
11 check.

12 MS. LISOWSKI: I concur.

13 MR. MYERS: We have the electronic document.

14 CHAIRWOMAN D. WILLIAMS: Okay.

15 MS. McCAMMON: Madam Chair, I have one  
16 more.....

17 MR. RUE: Are we ready for the question or  
18 what.....

19 MS. McCAMMON: .....minor amendment.

20 CHAIRWOMAN D. WILLIAMS: Great.

21 MS. McCAMMON: And that's on number six, even  
22 though I can't make an amendment, just to note a technical  
23 change, it's the Alaska Division of Emergency Service, not the  
24 Alaska Department.

25 CHAIRWOMAN D. WILLIAMS: Okay. All right. Are

1 there any other questions, comments, or proposed amendments  
2 from the Trustee Council?

3 MR. WRIGHT: Madam Chair, just a question.  
4 This is Bruce Wright. We don't have any timing limitations on  
5 when these activities can take place in this resolution at all.  
6 And it appears that their funding runs out in early October,  
7 and that would be fine if the project's complete by then. My  
8 concern is if they get an exemption or an extension of the  
9 project that then takes this project into the spring -- and  
10 this might be one of those streams that's used by harlequin  
11 ducks, which is a species of concern for us, so I don't know  
12 how best to address this in the resolution, but I think somehow  
13 we should put an end date for when these activities are  
14 completed.

15 CHAIRWOMAN D. WILLIAMS: Okay. Mr. Roberts,  
16 are you still with us?

17 MR. ROBERTS: Yes, I am, ma'am.

18 CHAIRWOMAN D. WILLIAMS: Very good. Would you  
19 feel comfortable with stating somewhere in the resolution that  
20 this activity will be completed in this calendar year?

21 MR. ROBERTS: I guess I would defer that  
22 question to Gary Squires of Wilson Construction.

23 CHAIRWOMAN D. WILLIAMS: Okay. Mr. Squires.

24 MR. LOGAN: Mr. Squires just left.

25 MR. RUE: Oh, great.

1 MR. ROBERTS: I would assume that they would be  
2 able to do it within that time frame, by the end of the year.

3 MR. WOLFE: What is the time frame that we can  
4 expect the harlequin ducks, if there were any, to be on that  
5 stream, do you know? Does anybody know?

6 MR. LOGAN: We haven't observed any -- this is  
7 Dan Logan with the Forest Service in Cordova. We haven't  
8 observed any harlequin ducks at that site. If they were using  
9 it for nesting it would be from about May through the end of  
10 June.

11 MR. GIBBONS: Dan, this is Dave Gibbons, isn't  
12 the harlequin duck nesting related to anadromous fish streams?

13 MR. LOGAN: Yes, it is. We -- that's why I say  
14 we haven't observed any on the Site.

15 MR. GIBBONS: (Indiscernible - simultaneous  
16 speech) not an anadromous fish stream, other than the mouth.

17 MR. LOGAN: That's right, they would be out at  
18 the mouth and the intertidal. I don't think they would be  
19 nesting in this site that we surveyed.

20 MR. ROTH: I guess, Madam Chair, let me point  
21 out that item three on page three "Eyak shall require the  
22 implementation of the mitigation measures identified in the  
23 resolutions and any reasonable measures the Forest Service or  
24 ADF&G may request while present at the Site." So I mean that  
25 would, I think, give -- even if they were -- it doesn't look

1 like the problem is there anyway but even if they find a  
2 problem on site, then, you know, the Forest Service and ADF&G  
3 have the means and Eyak is obliged to, you know, mitigate. So  
4 I think they can deal with it and it shouldn't impact the  
5 harlequin, not only because it's not likely to be there, but  
6 they have the means, if something arises, to deal with it.

7 MR. WRIGHT: Actually, I think that's a very  
8 good point and this probably covers my concern.

9 CHAIRWOMAN D. WILLIAMS: Okay. Thank you very  
10 much, Bruce. Any other questions, comments or proposed  
11 amendments?

12 (No audible responses)

13 CHAIRWOMAN D. WILLIAMS: All right. Hearing  
14 none, I will ask the Trustee Council to vote on the resolution  
15 as amended. And, to remind the Trustee Council, we have  
16 amended the word "Department" to be "Division" in item six in  
17 the preface. We have amended section one after the therefore  
18 clause and section four and section five.

19 All in favor of the resolution, as amended, please  
20 indicate by saying aye.

21 MS. McCAMMON: Madam Chair.

22 CHAIRWOMAN D. WILLIAMS: Ms. McCammon.

23 MS. McCAMMON: You've also added a new section  
24 seven on this, too.

25 CHAIRWOMAN D. WILLIAMS: Oh, yes, thank you

1 very much. And we have added a new section seven to the  
2 preface. Thank you very much.

3 Okay, all in favor of adopting the resolution, as  
4 amended, indicate by say aye.

5 IN UNISON: Aye.

6 CHAIRWOMAN D. WILLIAMS: All opposed?

7 (No opposing responses).

8 CHAIRWOMAN D. WILLIAMS: The amended resolution  
9 passes unanimously.

10 Ms. McCammon, are there any other issues that need to  
11 be discussed at this time?

12 MS. McCAMMON: No, there are not.

13 CHAIRWOMAN D. WILLIAMS: Okay, hearing none, I  
14 will entertain a motion to adjourn.

15 MR. RUE: So moved.

16 MR. WOLFE: And seconded.

17 CHAIRWOMAN D. WILLIAMS: Okay, it's been moved  
18 by Mr. Rue and seconded by Mr. Wolfe to adjourn. All in favor  
19 indicate by saying aye.

20 IN UNISON: Aye.

21 CHAIRWOMAN D. WILLIAMS: Opposed?

22 (No opposing responses)

23 CHAIRWOMAN D. WILLIAMS: All right. And our  
24 next meeting, Ms. McCammon is September.....

25 MS. McCAMMON: 29th, in Juneau.

1 CHAIRWOMAN D. WILLIAMS: 29th in Juneau. Look  
2 forward to seeing you all then. Hope you all have a very nice  
3 Labor Day weekend.

4 MR. RUE: Thank you.

5 MR. WOLFE: Thank you.

6 (Off record - 9:56 a.m.)

7 (END OF PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA )

) ss.

STATE OF ALASKA )

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

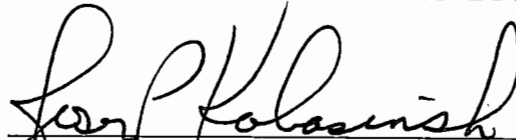
THAT the foregoing pages numbered 3 through 47 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Teleconference Meeting recorded electronically by me on the 4th day of September, 1998, commencing at the hour of 9:00 a.m. and thereafter transcribed by me to the best of my knowledge and ability.

THAT the Transcript has been prepared at the request of:

EXXON VALDEZ TRUSTEE COUNCIL, 645 G Street,  
Anchorage, Alaska 99501;

DATED at Anchorage, Alaska this 7th day of September 1998.

SIGNED AND CERTIFIED TO BY:

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