

09.13.02

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

Teleconference Meeting
Tuesday, February 29, 2000
1:00 o'clock p.m.

Fourth Floor Conference Room
645 G Street
Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

STATE OF ALASKA - DEPARTMENT OF LAW: (CHAIRMAN)	MR. CRAIG TILLERY Trustee Representative for the Attorney General
U.S. DEPARTMENT OF COMMERCE - NMFS: (Telephonically)	MR. STEVE PENNOYER Director, Alaska Region
STATE OF ALASKA - DEPARTMENT OF FISH AND GAME: (Telephonically)	MR. ROB BOSWORTH for MR. FRANK RUE Commissioner
U.S. DEPARTMENT OF INTERIOR: (Telephonically)	MS. MARILYN HEIMAN Special Assistant to the Secretary for Alaska
U.S. DEPARTMENT OF AGRICULTURE - U.S. FOREST SERVICE (Telephonically)	MR. DAVE GIBBONS Trustee Representative
STATE OF ALASKA - DEPARTMENT OF ENVIRONMENTAL CONSERVATION:	MS. MARIANNE SEE for MS. MICHELE BROWN Commissioner

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1 **TRUSTEE COUNCIL STAFF PRESENT:**

2	MS. MOLLY McCAMMON	Executive Director
3	MS. TRACI CRAMER (Telephonically)	Director of Administration
4	MS. SANDRA SCHUBERT	Director of Restoration
5	MS. REBECCA WILLIAMS	Administrative Manager
6	DR. BOB SPIES (Telephonically)	Chief Scientist
7	DR. PHIL MUNDY	Science Coordinator
8	MR. ALEX SWIDERSKI	State of Alaska Department of Law
9	MR. KEN HOLBROOK	U.S. Forest Service
10	MS. CATHERINE BERG	U.S. Fish and Wildlife Svc.
11	MR. BARRY ROTH	U.S. Department of Interior
12	MS. CLAUDIA SLATER	ADF&G

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P R O C E E D I N G S

(On record - 1:10 p.m.)

CHAIRMAN TILLERY: It's 10 after, so I'm going to go ahead and call the meeting to order of the Exxon Valdez Oil Spill Trustee Council, scheduled for February 29th at 1:00 p.m. We have myself, Craig Tillery for the Department of Law; Marianne See is sitting in for the Department of Environmental Conservation; Rob Bosworth is for the Department of Fish and Game; Dave Gibbons for the United States Forest Services; Steven Pennoyer for NMFS; and Barry Roth is standing in temporarily for Marilyn Heiman for the Department of Interior.

I guess we'll just go ahead and run through the approval of the agenda; is there a motion?

MS. SEE: Motion to approve.

MR. PENNOYER: So moved.

CHAIRMAN TILLERY: Is there a second?

MR. ROTH: Second.

MR. GIBBONS: Second.

CHAIRMAN TILLERY: Okay. Is there any objection or any discussion of the agenda?

(No audible responses)

CHAIRMAN TILLERY: Any objection of approving of the agenda?

MR. PENNOYER: No.

CHAIRMAN TILLERY: Okay, the agenda is

1 approved.

2 The second item of business is the approval of the
3 January 31st, 2000 meeting notes; is there a motion?

4 MS. SEE: Motion to approve.

5 CHAIRMAN TILLERY: It's been moved to approve
6 the meeting notes; is there a second?

7 MR. PENNOYER: Second.

8 CHAIRMAN TILLERY: Okay, it's been moved and
9 seconded, is there any discussion of the January 31st, 2000
10 meeting notes?

11 (No audible responses)

12 CHAIRMAN TILLERY: Is there anyone opposed to
13 approval of those notes?

14 (No audible responses)

15 CHAIRMAN TILLERY: Hearing none, the meeting
16 notes are approved.

17 What I think we'll do is skip the Executive Director's
18 report for the moment until Marilyn gets on line and we'll go
19 right into public comment period. We'll start here in
20 Anchorage, is there anyone in Anchorage that would like to make
21 a comment? Ms. Obermeyer, would you.....

22 MS. OBERMEYER: I don't see an overwhelming
23 throng, Mr. Tillery, I wonder why not. Would you forgive me,
24 sir, I think everyone has been killed off, not only because of
25 an oil spill but because the truth has to surface now.

1 Mr. Tillery, I was just going to look.....

2 CHAIRMAN TILLERY: Excuse -- Ms. Obermeyer.....

3 MS. OBERMEYER:at your minutes.....

4 CHAIRMAN TILLERY:Ms. Obermeyer, you

5 going to need to sit somewhere where there's a microphone.

6 REPORTER: That's all right, I can hear her.

7 MS. OBERMEYER: Oh, great, I'm so glad.

8 REPORTER: I never have a problem with Teresa.

9 MS. OBERMEYER: Do you know that -- and let me

10 mention that I'm passionate.

11 REPORTER: I know you are, Teresa.

12 MS. OBERMEYER: I'm tired of deceit. I mean,

13 I'm very proud. And just to bring up, you see, Mr. Tillery, I

14 grew up in a courthouse, I'm a judge's daughter and I have five

15 siblings that are attorneys. And I do always want to go back

16 to my own growing up, because I'm one of 12 children, I'm the

17 10th. And my father was hard of hearing, so I'm very

18 passionate and I'm tired. And the thing that I brought to

19 Mr. Tillery today, and I'm not sure who to give it to. I gave

20 Marianne one. And, Marianne, your last name?

21 MS. SEE: S-E-E, it's on the sheet there.

22 MS. OBERMEYER: S-E-E.

23 MS. SEE: Oh, it may not be. S-E-E.

24 MS. OBERMEYER: No. Okay. And who are you

25 representing?

1 MS. SEE: Michele Brown, Commissioner of
2 Environmental Conservation.

3 MS. OBERMEYER: Oh, sure. Marianne, who seems
4 wonderful. I mean what I'm positive of is we've all been torn
5 asunder, and I'm so turned off and yet what can I say,
6 Mr. Tillery, life is a great challenge.

7 What I just handed to Mr. Tillery, and I wanted to make
8 sure that the wonderful attorney back here that works for a
9 very outstanding law firm got one of these. I want us to focus
10 on the fact that David Oesting, who was appointed by the courts
11 in the Exxon Valdez -- now, he is not the lawyers [sic] for the
12 Exxon Valdez, they're in Minneapolis and this guy Bryan -- I
13 think his name is Bryan O'Neal, somebody O'Neal, he was the guy
14 that was on 60 Minutes. Mr. Oesting wasn't on 60 Minutes, but
15 Mr. Tillery, I want you to know something. Mr. Oesting should
16 be bottled, he's such a great guy, and guess who he really is,
17 he's the partner of John Dawson, who has sent me all the
18 trespass notices with -- and, you know, I don't want to say if
19 he set me up in the Anchorage Hilton on February 20th, 1998,
20 ask him yourself, Dawson, D-A-W-S-O-N.

21 But I know Mitch was behind it. Now, do we know who
22 Mitch is? Mitch Gravo, who makes almost 500,000 as a lobbyist.
23 He should be behind bars. Mitch, of course, is a lobbyist for
24 the municipality, now that's a frightening thought. And I
25 don't know the man. When I see Mitch, I say hello to him. I

1 don't have any hatred in my heart against anyone, that goes
2 without saying. But if you'll forgive me, go into David
3 Oesting and simply bring up -- I, myself, have walked into
4 several conferences and the money that is spent, and yet these
5 lawyers haven't been paid. Now, all the details -- listen to
6 the tape, figure it out.

7 You know, Mr. Tillery, you are an attorney and I
8 respect your education. And I just believe you're a very fine
9 gentleman and I just believe -- and I told Mr. Oesting, I am in
10 luck [sic] to make sure that man gets paid. And why would I
11 say that? Because, you see, Exxon -- and I told you before the
12 meeting started, Exxon won't even admit the basic premises, and
13 that is that Joe Hazelwood was drunk and, secondly, that he
14 crashed a ship to cause the oil spill. They admit absolutely
15 nothing. And I don't even know how many millions have already
16 been spent on attorneys' fees, I'm really not sure exactly
17 where the thing is, but it ridiculous. Am I wrong that it's 11
18 years later?

19 It all reminds of Tom Obermeyer, 16 years later. And
20 we all sit here and we let all this go on. I don't know what
21 to say anymore. But would you allow me, and going to this, I
22 have gotten two notices on today's meeting and I just find it
23 very offensive. I got one that had the names of you, the
24 people that are involved in this, and then the second page was
25 the list of who got the fax. And then I got the other one that

1 I had gotten about a week ago was the names of the people
2 supposedly to get the fax and then the agenda. And I'm tired
3 of this. Do we know, ladies and gentlemen, the law, ladies and
4 gentleman, is crystal clear, there's no double talk in the law.

5 The law, ladies and gentlemen, is about the truth.
6 And, of course, can we remember -- can we remember that Tom
7 Obermeyer, who works right across the way, go over and meet my
8 husband, Tom Obermeyer, the smartest man I know. He's on the
9 seventh floor, he works there at the Municipal Attorney's
10 office. Meet him yourself, but I also know this, the British
11 have bought both Lawyers Co-op that published my husband's
12 case. Bankcroft Whitney, West Publishing, it's all owned by
13 Thompson International. I don't know if you know these things,
14 Mr. Tillery. These things motivate me so much.

15 I am an American and I mean I think of the BP Teachers
16 of Excellence. Now, that would never had happened if I was on
17 the school board. That began the month I left the Anchorage
18 School Board. That is a foreign oil company using American
19 teachers.

20 And I didn't mean to belabor it, but what do you think?
21 I really think it's possible. Can we start with the fact that
22 I am running for a non-partisan office, it has nothing to do
23 with partisan politics. And, Mr. Tillery, I wanted to be able
24 -- since we are allowed, as Americans, to talk about this
25 election freely in our places of business. May I pass this

1 out? And I don't see the other nine candidates, where are
2 they?

3 CHAIRMAN TILLERY: Thank you. If you could --
4 you sort of went past that five minutes, if you could kind of
5 bring it to a conclusion, I'd appreciate it.

6 MS. OBERMEYER: Oh, yes. And would you, lastly
7 -- what I was paging though when you began is the minutes,
8 because I consider the minutes so very important. And I would
9 like my comments not to be just testimony, but because I have
10 learned so much and I tell the truth. Don't ever think I
11 believe I'm always right or I'm always even correct, but I know
12 this, I will not intentionally deceive you. And so I know that
13 my comments in the past have not been transcribed and -- you
14 know, the main thing though is that Mr. Oesting's comments be
15 transcribed. My comments are not important.

16 But, you know, would you forgive me, Mr. Tillery,
17 weren't you here in '96, when Cliff Groh and Cliff Groh, Jr.
18 were paid off?

19 CHAIRMAN TILLERY: I was here in '96, yes,
20 ma'am, when.....

21 MS. OBERMEYER: Yes, and they were paid off.
22 When I was the Democratic nominee to the U.S. Senate, you let
23 them -- you were sitting here and they were sitting here, Cliff
24 Groh, Jr. You know, I'm trying not to speak ill of the dead,
25 but Mr. Groh, Sr., his name is on Ted Steven's case, he was the

1 reciprocity chairman for a man that has been in the U.S. Senate
2 for, like, 34 years that wasn't even licensed to practice law
3 here fairly as long ago as 1950.

4 So, Mr. Tillery, have you read Ted Stevens' case?

5 CHAIRMAN TILLERY: No, ma'am.

6 MS. OBERMEYER: I know I've given it to you
7 many, many times. Mr. Tillery, the British own us. If we
8 don't stop and join hands with Americans, how could it possibly
9 -- you haven't read that case? I mean, I know I've given it to
10 you many, many times. It's the Pacific Reporter.

11 CHAIRMAN TILLERY: Okay.

12 MS. OBERMEYER: It was published on August 8th,
13 1960, you don't remember it?

14 CHAIRMAN TILLERY: I don't recall reading it,
15 but if you could.....

16 MS. OBERMEYER: So you don't -- do you keep a
17 file on the things I give you?

18 CHAIRMAN TILLERY: They're kept here in the
19 office.

20 MS. OBERMEYER: But you don't even keep any
21 files of your own?

22 CHAIRMAN TILLERY: No, I don't keep any of this
23 stuff in a file.

24 MS. OBERMEYER: And, you see, that I don't
25 believe in. You are in charge, you are the Exxon Valdez Oil

1 Spill Trustee Council. But I think you'll remember,
2 Mr. Tillery, that years ago I brought up that all of you are
3 public employees. There's no independence of thought. And so
4 that's why I've been put through the things that I've been put
5 through.

6 Would you allow me? I'm going to follow up by leaving
7 a voice mail at your office and I'm asking that you read Tom
8 Obermeyer's case, it's right here in your Directory of
9 Attorneys, have you seen my husband's ad? Have you seen my
10 husband's ad?

11 CHAIRMAN TILLERY: No.

12 MS. OBERMEYER: Right here on page 9.

13 CHAIRMAN TILLERY: Okay.

14 MS. OBERMEYER: Do you have a directory?

15 CHAIRMAN TILLERY: I do.

16 MS. OBERMEYER: Would you look at that?

17 CHAIRMAN TILLERY: I will do that.

18 MS. OBERMEYER: After 16 years, I mean,
19 Mr. Tillery, I'm tired.

20 But you have a great meeting.

21 CHAIRMAN TILLERY: Okay.

22 MS. OBERMEYER: And thanks so much.

23 CHAIRMAN TILLERY: Thank you very much,

24 Ms. Obermeyer. Thank you.

25 Okay. Are there any questions or comments for

1 Ms. Obermeyer?

2 (No audible responses)

3 CHAIRMAN TILLERY: Okay. Did someone join us,
4 perhaps, Marilyn?

5 MS. HEIMAN: Perhaps, yes.

6 CHAIRMAN TILLERY: Okay. Marilyn is here. Is
7 there anyone else in Anchorage who would like to make a public
8 comment?

9 (No audible responses)

10 CHAIRMAN TILLERY: Is there anyone on the line
11 who would like to make a public comment?

12 (No audible responses)

13 MS. OBERMEYER: Who is representing Ms. Heiman,
14 if I may ask?

15 CHAIRMAN TILLERY: Ms. Heiman is.....

16 MS. OBERMEYER: Oh, she's there, there's no one
17 in for her?

18 CHAIRMAN TILLERY: No.

19 MS. OBERMEYER: Okay.

20 CHAIRMAN TILLERY: Okay. Thank you then. We
21 will close the public comment period at this time. And we have
22 skipped over the Executive Director's report, we will go back
23 to that now. Ms. McCammon.

24 MS. MCCAMMON: Mr. Chairman, it's going to be
25 very brief. Mainly, to point out in your binders that there

1 are recent financial reports as of January 31st, 2000. And
2 also a quarterly project status summary as of December 31st,
3 1999.

4 I also wanted to let you know that a copy of the draft
5 audit for fiscal year 1999 is being circulated to agency staff
6 for their review and so you should be seeing the results of
7 that audit fairly soon here.

8 The other item that I did want to mention is that I
9 think I had briefed most of you that we did meet with Koniag
10 yesterday, we have another session scheduled for tomorrow
11 morning. At this time there won't be a need for an executive
12 session, but I would ask that perhaps at the end of this
13 meeting rather than adjourning that we recess it in case we do
14 have to go into executive session later this week.

15 And that's it.

16 CHAIRMAN TILLERY: Thank you very much. The
17 next item of business is the deferred FY2000 Work Plan
18 projects.

19 MR. PENNOYER: Mr. Chairman.

20 CHAIRMAN TILLERY: Mr. Pennoyer.

21 MR. PENNOYER: Can I ask a question of the
22 Executive Director on her report?

23 CHAIRMAN TILLERY: Yes, Mr. Pennoyer.

24 MR. PENNOYER: Molly, in the quarterly project
25 status summary, after reading through that, I feel we're well

1 on track on reports and progress on filing through reports on
2 work we already funded; is that true or do you need to point
3 anything out to us?

4 MS. McCAMMON: Mr. Chairman, Mr. Pennoyer, I
5 think we've made a lot of progress and I think for the most
6 part we are on track. There continue to be a number of very,
7 very, overdue reports from the early to mid-'90s that we have
8 reached agreement on getting draft reports by certain dates,
9 and those have slipped, some of them considerably by a number
10 of years. We need to revisit those and take another look at
11 them. For the most part I think the principal investigators
12 have left, they're no longer there, it's asking someone else to
13 do the report. It continues to be somewhat of a problem, but I
14 will get back to you individually on that. But for the most
15 part I would say things are on track.

16 MR. PENNOYER: So by the next meeting maybe
17 you'll be able to tell us where we're going? And I understand
18 the -- and I don't think any of these affect the current
19 projects in terms of our funding resolution, do they?

20 MS. McCAMMON: That's correct, they don't.

21 MR. PENNOYER: Okay, thank you.

22 CHAIRMAN TILLERY: Are there other questions or
23 comments for the Executive Director?

24 (No audible responses)

25 CHAIRMAN TILLERY: Okay. Looking at the

1 Deferred FY2000 Work Plan projects, the first project is 0423,
2 NVP Sea Otters. Ms. McCammon, are you going to describe that,
3 please?

4 MS. McCAMMON: Yes, Mr. Chairman. And I should
5 mention that we have both Dr. Spies and Dr. Mundy here.
6 Dr. Mundy is here in Anchorage with us and Dr. Spies is on
7 teleconference, and so they would be available to answer any
8 questions as we go through these.

9 Project 423 was one that actually wasn't on the prior
10 list, but it had been in the original proposal and this is a
11 follow-up to the NVP project. Some additional modeling work
12 this fall indicated the importance of sea otter carcass work in
13 determining the recovery success and status of population of
14 sea otters in Prince William Sound. Based on some new
15 information that was brought to us by the Department of
16 Interior, we thought it was appropriate that this project go
17 forward.

18 The full request is for about \$28,000, however, the
19 Department is absorbing a good portion of those costs and so
20 the request is only for an additional \$14,800. In reviewing
21 this with the Chief Scientist we do believe that this is
22 appropriate and would recommend that it be funded.

23 CHAIRMAN TILLERY: Okay. And are there any
24 questions or comments from Council members about 0423?

25 (No audible responses)

1 MR. PENNOYER: Mr. Chairman, move we approve
2 the request.

3 MR. BOSWORTH: Second.

4 CHAIRMAN TILLERY: Okay. It's been moved and
5 seconded to approve the request; is there discussion?

6 (No audible responses)

7 CHAIRMAN TILLERY: Okay. All in favor of
8 approving the request signify by saying aye.

9 IN UNISON: Aye.

10 CHAIRMAN TILLERY: Opposed?

11 (No opposing responses)

12 CHAIRMAN TILLERY: Okay, the request is
13 approved. The next -- or the only other deferred project is
14 0396 Sharks.

15 MS. McCAMMON: Yes, Mr. Chairman, this proposal
16 has been before us several times. The last project proposal
17 was received in this office last week. We had it reviewed by
18 several reviewers and the recommendation of the Chief Scientist
19 is to fund it, but basically to reduce the scope of the project
20 and to fund only one year at this time and base the second-year
21 funding on seeing how the objectives of the first year are
22 accomplished. The Chief Scientist is here, he can go into more
23 detail, if you'd like, on the scope of the project, but the
24 recommendation is to fund contingent on submission and approval
25 of a revised detailed project description and budget which

1 reduces the scope to salmon sharks only with focus on abundance
2 relevant to ocean warming and added objective related to
3 crayfish populations. Funding for continued work in FY01 may
4 be considered following review of results from the FY00 effort.

5 CHAIRMAN TILLERY: Okay. Thank you. Are there
6 questions or comments for either Ms. McCammon or Dr. Spies?

7 MR. PENNOYER: Mr. Chairman, if I could.

8 CHAIRMAN TILLERY: Mr. Pennoyer.

9 MR. PENNOYER: I believe that basically the
10 focus concept is certainly appropriate. I believe that the
11 ancillary work on sleeper sharks and it was most sampling on
12 surveys of opportunity by either Fish and Game or ourselves or
13 the Halibut Commission and I still continue to believe the
14 sleeper shark part is important. I think there's been major
15 changes out here and we're reaching shark abundances that are,
16 frankly, not heard of in other areas and the people we talk to
17 about presence of sharks at this level predator in their
18 ecosystem, so -- but I think the idea of focus for the first
19 year, looking at what we have and then coming back and
20 reevaluating for the second year is a good one and I certainly
21 propose that we go ahead and do it, take the recommendation.

22 CHAIRMAN TILLERY: Okay. Other questions or
23 comments from Council members?

24 MR. BOSWORTH: This is Rob and I also think
25 that both the Chief Scientist's recommendation and the

1 Executive Director's recommendation are good ones and we should
2 go forward with those recommendations. We certainly concur
3 with the need for information and also the need for focus. The
4 staff that I've spoken with are concerned that the original
5 proposal was overly ambitious and for that reason, and others,
6 the Chief Scientist's recommendation and the Executive
7 Director's recommendation seem to be the right approach from
8 our perspective. So we'll support that.

9 CHAIRMAN TILLERY: Okay. Thank you. Are there
10 other questions or comments?

11 (No audible responses)

12 CHAIRMAN TILLERY: I had one question which was
13 the -- even though we're reducing the scope, the price remains
14 the same; is that.....

15 MS. McCAMMON: That was part of the concern
16 about the project is, given the amount of money that was
17 available, it seemed definitely overly ambitious, so I think
18 the scope is now more appropriately tied to the amount of
19 funding.

20 CHAIRMAN TILLERY: Okay.

21 MS. McCAMMON: So there may be some minor
22 reductions, but I wouldn't anticipate much.

23 CHAIRMAN TILLERY: Okay. Thank you. Any other
24 questions or comments from Council members?

25 (No audible responses)

1 CHAIRMAN TILLERY: Okay. Is there a motion?

2 MR. BOSWORTH: Move to adopt.

3 MR. PENNOYER: Second.

4 CHAIRMAN TILLERY: Okay. Are there -- is there
5 discussion?

6 (No audible responses)

7 CHAIRMAN TILLERY: Okay. We actually have
8 something of a form motion for these projects to include a
9 discussion of the principal investigator's status on reports
10 and so forth and, perhaps, someone might want to make that
11 motion, I could give that to Ms. See, that might be a more
12 appropriate way to spell out exactly what the motion is, if
13 that's all right?

14 MR. BOSWORTH: Would you like me to retract my
15 original motion or how do you want to do that?

16 CHAIRMAN TILLERY: Yeah, I think it might be
17 appropriate if you could retract that motion. And this motion,
18 I think, will actually supersede the previous motion in that it
19 deals with both of the recommendations.

20 MR. BOSWORTH: Okay, fine. Well, then with the
21 concurrence of the second then I will retract my original
22 motion.

23 MR. PENNOYER: I concur.

24 CHAIRMAN TILLERY: Ms. See.

25 MS. SEE: Okay. Then I would like to move that

1 the Trustee Council adopt the recommendations for additional
2 FY00 deferred projects as outlined in the spreadsheets dated
3 February 28th, 2000 with the following conditions. One, if a
4 principal investigator has an overdue report from the previous
5 year, no funds may be expended on a project involving the PI,
6 unless the report is submitted or a schedule for submission as
7 approved by the Executive Director. And, two, a project's lead
8 agency must demonstrate that requirements of NEPA are met
9 before any project funds may be expended with the exception of
10 funds spend to prepare NEPA documentation.

11 CHAIRMAN TILLERY: Okay. Is there a second?

12 MS. HEIMAN: Second.

13 MR. PENNOYER: Second.

14 CHAIRMAN TILLERY: Okay, is there any
15 discussion of the motion?

16 (No audible responses)

17 CHAIRMAN TILLERY: Okay, it's been moved and
18 seconded, all in favor signify by saying aye.

19 IN UNISON: Aye.

20 CHAIRMAN TILLERY: Opposed?

21 (No opposing responses)

22 CHAIRMAN TILLERY: Okay, the motion, as read,
23 passes. That motion will cover all of the deferred projects --
24 both of the deferred projects.

25 The final item on the agenda is Draft Investment

1 Policies. Everyone should have -- I think we kind of went
2 through this, everyone should have received a copy of the
3 policies in the notebook. There also was faxed around a two-
4 page sheet that had some changes to the section entitled
5 "Indemnification" in the last three or four hours. I think
6 everybody either has that or -- Ms. Heiman, do you have that
7 fax?

8 MS. HEIMAN: Yes, I do.

9 CHAIRMAN TILLERY: Okay. Ms. McCammon, is
10 Ms. Cramer going to walk us through this or how do you want to
11 do this?

12 MS. McCAMMON: Mr. Chairman, I could start
13 through this. We also have in Juneau Bob Storer and Peter
14 Bushre available on line if there are any questions on this.
15 What is in the notebook is actually very similar to the
16 investment policy that was presented to the Council at its last
17 meeting and discussed at that time. There have been some minor
18 changes since that time. On page 2 there's some language that
19 was added to clarify that the Executive Director consults with
20 the Investment Working Group and that basically the Investment
21 Working Group is providing advice to the Executive Director.

22 Let's see on page 4 there was a change from a citation,
23 the statutory citation, was clarified there.

24 On page 6 it was clarified that the Investment Working
25 Group may brief the Council at the Executive Director's request

1 and/or at the request of a member of the Investment Working
2 Group, but basically it's a reporting and advising group to the
3 Executive Director.

4 Another -- there's significant changes on page 9 and 10
5 in the section on Indemnification, but I'll wait and,
6 Mr. Tillery, you can go through those.

7 On page 11 and -- basically page 11 there's some
8 reductions, basically, in some of the language regarding the
9 State Code of Ethics and basically the statutory citation was
10 used as a reference.

11 And the other major change was on page 16 and at that
12 time -- or at this time the recommendation is to not set in
13 this resolution the annualized return. In the earlier draft it
14 had been recommended at four percent, but to leave that for
15 further discussion about asset allocations and adopt it at a
16 later time. And this will be discussed at the March 16th
17 meeting.

18 So with that, those are the changes in the draft since
19 the Council last saw it with the exception of pages 9 and 10
20 regarding indemnification.

21 CHAIRMAN TILLERY: I'll just go briefly through
22 the changes on 9 and 10. There is a general change in the
23 number of places in that section. There was -- the word
24 fiduciaries was used. As a technical matter that is the
25 correct terminology, fiduciaries and fiduciaries of state fund

1 are both terms defined in AS 37.10.071, however, because
2 fiduciaries also have sort of a common law fiduciary
3 connotation we felt that it would be more precise to use the
4 fiduciaries of a state fund when it is referring to a fiduciary
5 under that statute, so that was just sort of a change to make
6 that.

7 In the last line of the first paragraph, the -- it
8 talks about the desire of the state trustees to hold appointed
9 investment managers and other appointed fiduciaries to high
10 standards including in contract language with such retained
11 consultants. It was felt that it was confusing, although
12 appointed was intended to be the same as retained, it was felt
13 that it was confusing, it was felt that it might be considered
14 more of a government type action as opposed to a retention
15 which would be retaining a private consultant. And so,
16 therefore, it was changed to retained where it said appointed
17 just to clarify that we are talking about investment managers
18 who were hired by the Council, not State or Federal employees.

19 The change in the next paragraph, there was a reference
20 to AS 37.10.280, that was a mistaken reference, that statute
21 really only refers to the Alaska State Pension Board and this
22 was changed. Instead of saying that the State is required by
23 that statute to note that the Trustee Council may wish to
24 ensure that trust assets and its own services are protected
25 and, in that respect, may purchase insurance or provide for

1 self insurance to provide for the acts, including various
2 fiduciary acts, errors and omissions. And the last sentence
3 talking about the law making a requirement about insurance is
4 again deleted because that law is not applicable to the Trustee
5 Council.

6 In the following paragraph the first sentence remains
7 intact and the second and third sentences are deleted. The
8 reason for that is that it says, it is believed the State and
9 Federal Trustees are not subject to liability based upon a
10 breach of duty. And that is something that we are currently
11 looking into, but at this point I don't believe that that's
12 probably a correct statement, at least with respect to the
13 State Trustees. And so it was felt it was better not to have
14 it in there.

15 And then there's a statement the United States and its
16 officers are not entitled to indemnification under AS 37.10.071
17 and again, that may not be true depending upon whether the
18 United States and its officers are subject to liability under
19 AS 37.10.071(d).

20 So just took those two out and in the final paragraph
21 was simply some changes were made to clarify that a fiduciary
22 of a state fund is someone provided by law to manage
23 investments and inserted the words, in an account invested by
24 the State of Alaska, to clarify what that is.

25 Anyway, those are the changes under Indemnification.

1 Are there questions or comments from Council members?

2 (No audible responses)

3 MS. McCAMMON: Mr. Chairman, the only other
4 thing I wanted to bring up was that there was a request by
5 Trustee Commissioner Rue at our last meeting to investigate the
6 possible use of socially conscious investments. At the request
7 of the Council this is being looked at by the Department of Law
8 and we anticipate that there will be an opinion on it. That
9 opinion is not available at this point, but there has been some
10 preliminary legal review and the preliminary legal review
11 indicates that it will probably not be legal for at least the
12 State Trustees, under State law, to base their investment
13 policy on anything other than the prudent investor rule or the
14 financial benefit of the trust.

15 CHAIRMAN TILLERY: Well.....

16 MS. McCAMMON: But you're doing the legal
17 opinion, so you can clarify that.

18 CHAIRMAN TILLERY:just a point of
19 clarification. A request for legal opinion has been submitted
20 by Commissioner Brown and it has not come to us yet. Based
21 upon the discussions at the last meeting we have looked at this
22 issue and while we can't say definitively until we actually
23 receive the request and go through and review it and go through
24 the proper procedures for an opinion, the preliminary
25 information suggests that under either State or Federal law it

1 would not permissible to take into account social issues in
2 making investment decisions. That would be the State's view,
3 the Federal attorneys could, obviously, differ, but my
4 understanding is that they generally concur with that
5 assessment. Anyway, that's the current status of that request.

6 MS. McCAMMON: So at this time it would be my
7 recommendation to move forward with the investment policies as
8 we have them before us and when that legal opinion is available
9 bring that issue back to the Council and if there's any
10 additional action at that time it could be either adopted into
11 an amendment to this or taken up at that time.

12 MR. BOSWORTH: Yeah, this is Rob, I've got a
13 question. Because we know what's going to be in the legal
14 opinion, why do we need the legal opinion?

15 CHAIRMAN TILLERY: Mr. Bosworth, we don't know,
16 at this point, what's going to be in the legal opinion, we're
17 still looking at it. The legal opinion -- this is only one of
18 six questions that we were requested to give our opinion on.

19 MR. BOSWORTH: Oh, I see, okay, I didn't
20 understand that. I just was not interested in making more work
21 for somebody unnecessarily.

22 MS. McCAMMON: I think, though, this is an
23 important question that while it's raised now, it might also be
24 raised by other Council members in the future and that it would
25 be useful to have this on the file and on the record.

1 MR. BOSWORTH: Yeah, okay, fair enough.

2 CHAIRMAN TILLERY: Are there other questions or
3 comments?

4 (No audible responses)

5 CHAIRMAN TILLERY: Okay, I assume that the
6 proposal would be to adopt the -- it would appropriate, at this
7 time, to adopt the investment policies, if that's the Council's
8 wish; is there a motion?

9 MR. BOSWORTH: So moved.

10 MR. PENNOYER: Second.

11 MS. SEE: Second.

12 CHAIRMAN TILLERY: Okay. Is there any further
13 discussion on the motion?

14 (No audible responses)

15 CHAIRMAN TILLERY: All in favor of the motion
16 signify by saying aye.

17 IN UNISON: Aye.

18 CHAIRMAN TILLERY: Opposed?

19 (No opposing responses)

20 CHAIRMAN TILLERY: Okay. The investment
21 policies, as described, are adopted.

22 MS. McCAMMON: Mr. Chairman, it would be my
23 intent to get a clean draft of this redone and circulated. I
24 think it would be good to have a page at the end where it's
25 just clearly indicated that it was adopted on a certain day and

1 even have the Trustees sign that page, just so we have that in
2 our files also.

3 CHAIRMAN TILLERY: Okay. That would be
4 appropriate.

5 That is the last item of business on the agenda, other
6 than the possible executive session. As Ms. McCammon indicated
7 earlier, events suggest that it wouldn't really be very
8 fruitful to have an executive session unless one of the Council
9 members wishes to do so at this time.

10 (No audible responses)

11 CHAIRMAN TILLERY: Okay, not hearing a clamor
12 to do that then I think what would be appropriate would be to
13 sort of defer the executive session perhaps to a later meeting
14 this week, next week or sometime in the near future and for
15 that purposes I think it probably best that we recess this
16 meeting.

17 Ms. McCammon.

18 MS. McCAMMON: Mr. Chairman, just one quick
19 item. Just to remind folks that the next meeting is scheduled
20 for March 16th in Juneau. At that time we do have a fairly
21 lengthy briefing planned on asset allocation issues. There
22 will also be a public hearing on GEM, the Gulf Ecosystem
23 Monitoring and there will be a draft document before you that
24 we are hoping for final adoption as the proposal to go forth to
25 the National Research Council for their review. We will have

1 that revised draft available on the web Monday at this time, so
2 that will be out there. And we'll get an agenda out to
3 everyone with the time and location in the next week or so.

4 CHAIRMAN TILLERY: Okay. Unless there's any
5 other business, is there a motion?

6 MR. PENNOYER: Move we recess the meeting until
7 the next session.

8 MS. HEIMAN: Second.

9 MS. SEE: Second.

10 CHAIRMAN TILLERY: It's been moved and
11 seconded; is there any discussion?

12 (No audible responses)

13 CHAIRMAN TILLERY: Hearing none, all in favor
14 signify by saying aye.

15 IN UNISON: Aye.

16 CHAIRMAN TILLERY: Opposed?

17 (No opposing responses)

18 CHAIRMAN TILLERY: The meeting is recessed.
19 Thank you very much.

20 (Off record - 1:45 p.m.)

21 (MEETING RECESSED)

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