

# EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

Public Meeting  
Thursday, January 4, 2001  
9:30 o'clock a.m.

Fourth Floor Conference Room  
645 G Street  
Anchorage, Alaska

## TRUSTEE COUNCIL MEMBERS PRESENT:

|  |   |
|--|---|
| U.S. DEPARTMENT OF AGRICULTURE,<br>U.S. FOREST SERVICE<br>(Chairman) | MR. DAVE GIBBONS<br>Trustee Representative                              |
| U.S. DEPARTMENT OF COMMERCE,<br>NMFS:                                | MR. JAMES W. BALSIGER<br>Director, AK Region                            |
| STATE OF ALASKA -<br>DEPARTMENT OF LAW:                              | MR. CRAIG TILLERY<br>Trustee Representative<br>for the Attorney General |
| STATE OF ALASKA - DEPARTMENT<br>OF FISH AND GAME:                    | MS. CLAUDIA SLATER<br>for MR. FRANK RUE<br>Commissioner                 |
| U.S. DEPARTMENT OF INTERIOR:   | MS. MARILYN HEIMAN<br>Special Assistant to the<br>Secretary for Alaska  |
| STATE OF ALASKA - DEPARTMENT<br>OF ENVIRONMENTAL CONSERVATION:       | MS. MARIANNE SEE<br>for MS. MICHELE BROWN<br>Commissioner               |

Proceedings electronically recorded, then transcribed by:  
Computer Matrix Court Reporters, LLC, 3522 West 27th,  
Anchorage, AK - 243-0668

1       **TRUSTEE COUNCIL STAFF PRESENT:**  
2       MS. MOLLY McCAMMON                   Executive Director  
3       MS. SANDRA SCHUBERT                 Director of Restoration  
4       MS. PAULA BANKS                     Administrative Assistant  
5       DR. PHIL MUNDY                      Chief Scientist  
6       MS. SARAH WARD                      Community Facilitator  
7       MS. DEBORAH HENNIGH                 Special Staff Assistant  
8       MS. DEDE BOHN                      U.S. Geological Service  
9       MR. KEN HOLBROOK                    U.S. Forest Service  
10      MR. STEVE SHUCK                     U.S. Fish and Wildlife Svc.  
11      MR. BARRY ROTH (Telephonically)   U.S. Department of Interior  
12      MS. CAROL FRIES                    ADF&G  
13      MR. GLENN ELISON                   U.S. Fish and Wildlife Svc.  
14      MR. ALEX SWIDERSKI                  Department of Law  
15      MS. GINA BELT                      Department of Justice  
16      MR. BUD RICE                        National Park Service  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

TABLE OF CONTENTS

|   |       |
|---|-------|
| Call to Order   | 04    |
| Approval of Agenda  | 05    |
| Overview of Koniag Conservation Easement Proposal         | 05    |
| Public Comment  |       |
| Dolly Reft (Telephonically)                               | 24/34 |
| Chuck Reft (Telephonically) (Questions)                   | 28    |
| Mike Boskofsky  | 32    |
| John Reft (Telephonically) (Question)                     | 34    |
| Tim Mahoney   | 36    |
| John Schoen   | 38    |
| Brad Meiklejohn   | 39    |
| Frank Pagano  | 41    |
| Ronald Barnes   | 46    |
| Discussion/Action   | 50    |
| Project 01126, Habitat Protection and Acquisition Support | 56    |
| Revision to Project 01404                                 | 57    |
| Adjournment   | 59    |

P R O C E E D I N G S

(On record - 9:38 a.m.)

CHAIRMAN GIBBONS: Good morning, this is Dave Gibbons, I'm with the Forest Service and I'm going to chair the meeting today for the Exxon Valdez Trustee Council. Let me first state that we have all members present or representative present. Craig Tillery representing Department of Law; Claudia Slater representing Alaska Department of Fish and Game; Marilyn Heiman, the Department of Interior; Marianne See, the Department of Environmental Conservation; and Jim Balsiger, the Director of the National Marine Fisheries Service.

So the first item on the agenda would be the approval of the agenda or modification of such. Molly.

MS. McCAMMON: Mr. Chairman, I have two changes to the agenda. One is to add a revision of Project 01404, and we can do that at the end of the meeting, but you have it before and it's the goldenrod or whatever. The other thing is if the Koniag Conservation Easement Proposal is approved then there is an amendment to Project 01126 and that is copied in blue.

CHAIRMAN GIBBONS: Okay.

MS. REFT: Can we get a copy of that, Molly?

MS. McCAMMON: Sure.

1 MS. REFT: Thank you.

2 MS. SLATER: What was that second item,  
3 Molly, I'm sorry.

4 MS. McCAMMON: 01126.

5 MR. BALSIGER: Move to approve as amended.

6 CHAIRMAN GIBBONS: We have a motion to  
7 approve the agenda as amended.

8 MS. HEIMAN: Second.

9 CHAIRMAN GIBBONS: Okay. Don't hear any  
10 against, let's move forward then. Item two on the agenda  
11 is a brief overview of the Koniag Conservation Easement  
12 Proposal by Glenn Elison of the Department of the Interior,  
13 also Alex Swiderski, Department of Law.

14 MR. ELISON: Thank you, Mr. Chairman. For  
15 the record, I'm Glenn Elison, Fish and Wildlife Service,  
16 Department of the Interior, with me is Alex Swiderski,  
17 Department of Law for the State of Alaska who was  
18 intimately involved in the negotiations on the proposed  
19 agreement.

20 I'm going to very concisely run through the  
21 agreement with you this morning. Just for reference there  
22 is a map on the wall to my right, the lands that are at  
23 issue for the agreement are generally in purple. My  
24 daughter might disagree with my characterization of the  
25 color, but there's 58,000 acres that are involved in the

1 proposal, they are key lands within the Kodiak National  
2 Wildlife Refuge and have important restoration values that  
3 I'll talk about shortly.

4 I'd like to touch on elements of the agreement,  
5 starting with the master agreement. It does, in general,  
6 the following things. First, it extends the existing  
7 conservation non-development easement from December 15th of  
8 2001 to October 14th of 2002 for a payment of \$300,000, at  
9 which point the new easement would commence with a 10-year  
10 term which could be extended at the sole option of Koniag  
11 for an additional 10 years. Koniag, at the end of 10 years  
12 and every anniversary thereafter, may elect to sell the  
13 property for the funds in the Special Investment Account  
14 that I'll talk about in a minute.

15 The agreement, to be extended beyond 20 years,  
16 would require the mutual agreement of Koniag and the  
17 Trustee Council. Part of the agreement, Koniag's remaining  
18 land entitlement, if any, will be taken outside of the  
19 Kodiak Refuge. The master agreement establishes a special  
20 agreement account within the EVOS investment fund, which is  
21 currently in the State of Alaska investment system. The  
22 amount of the fund is \$29,550,000 of joint settlement  
23 funds, to be managed by the Trustee Council in consultation  
24 with Koniag.

25 The master agreement provides for annual payments

1 from the Koniag agreement account for the conservation and  
2 limited development easement. Those payments start at  
3 \$372,100, increase over 12 years to \$744,200 and are level  
4 thereafter as annual payments for those easements.  
5 Payments are made from the account. The master agreement  
6 provides for money in the agreement account to revert to  
7 the use of the Trustee Council in accordance with the  
8 consent decree if Koniag does not opt to sell in accordance  
9 with the terms of the agreement.

10 The key elements of the limited warranty deed are  
11 the reserves of subsistence easement for local residents,  
12 the easement is very similar to subsistence reservations  
13 made in other agreements the Trustee Council has approved.  
14 It also reserves archaeological rights and requires  
15 archaeological activities be conducted in accordance with  
16 professional standards on the lands that are subject to the  
17 agreement.

18 Perhaps the crux of the entire agreement is the  
19 conservation easement, which prohibits a wide range of  
20 activities by Koniag, the United States and the State which  
21 would be detrimental to fish and wildlife habitat. It does  
22 provide for a sense of public use and access, it provides  
23 limited access by Fish and Wildlife Service and Alaska  
24 Department of Fish and Game for habitat monitoring and  
25 research. It provides the Service to authorize public

1 access for purposes permissible on national wildlife  
2 refuges, typically hunting, fishing, wild lands enjoyment  
3 and so on.

4 The Fish and Wildlife Service has the  
5 responsibility for providing enforcement of regulations and  
6 management of public use at approximately the same levels  
7 as elsewhere on the refuge. It requires the Fish and  
8 Wildlife Service manage and enforce a permit system for  
9 public use along the Karluk Lake and River and it requires  
10 an allocation be set between guided and unguided public  
11 use. It requires that a study be done to determine the  
12 acceptable levels of public use for long-term management of  
13 the area and this study be done in consultation with Fish  
14 and Game and Koniag.

15 It set use limits on the area of 70 visitors per  
16 day during the king salmon season, provides preference for  
17 Koniag shareholders and residents of Karluk and Larsen Bay  
18 to provide revenue producing services and requires the Fish  
19 and Wildlife Service to enforce regulations on the 17B  
20 easement between Portage and the Karluk River. I'm sorry,  
21 between the portage on the Karluk River and Larsen Bay. It  
22 provides that Koniag reserves the right to manage the five  
23 existing cabins along the Karluk River. Koniag is required  
24 to replace or remove two of the cabins on the east side of  
25 the Karluk River which are in poor shape and, at this



1 point, an unattractive nuisance. Koniag may relinquish to  
2 the Fish and Wildlife Service the cabin management  
3 responsibility, in which case the Service will take that  
4 responsibility and integrate cabin management into its  
5 general program of cabins on the Kodiak Refuge. Koniag  
6 reserves the operation of a bear viewing program on the  
7 Thumb River drainage. It reserves a subsistence priority.

8 And the conservation easement establishes a  
9 management group consisting of representatives of the Fish  
10 and Wildlife Service, the State and Koniag to deal with  
11 issues related to their respective issues in the agreement.  
12 The Camp Island limited development easement which runs  
13 parallel with the conservation easement and if Koniag opts  
14 to sell the land in fee that is subject to the conservation  
15 easement, the Camp Island limited development easement  
16 would become permanent. The limited development easement  
17 provides Koniag the right to develop a very limited area,  
18 six acres, for a wilderness type lodge operation, it sets  
19 the size of the facility at a maximum of 30,000 square feet  
20 and limits the clients to 28 per day during the first 10  
21 years and 40 thereafter, plus staff. To put this in  
22 context, that's about the size of the number of the better  
23 lodges in Western Alaska and Bristol Bay, such as Golden  
24 Horn, Tikchik Narrows Lodge and some of the others.

25 Clients' use of the easement property are limited

1 to fish, wildlife and wildlife oriented activities or  
2 archaeology. The agreement prohibits the use of jet skis,  
3 air boats and helicopters by the clients, and motor boats  
4 are limited to 100 horsepower.

5 The restoration benefits of the agreement are very  
6 significant. The lands at issue, for the most part, were  
7 ranked high, Karluk Lake and Karluk River and Uyak Bay  
8 lands were ranked high by the Habitat Protection Work  
9 Group. The lands in the Sturgeon River were ranked  
10 moderate. Some of the highlights are the sockeye salmon,  
11 commercial harvest during the last part of the '90s ranged  
12 up to 1.1 million sockeye at a value of \$7.3 million. Pink  
13 salmon, there are 14 documented spawning streams wholly or  
14 partially on these lands, commercial harvest was up to  
15 6,000,000 fish with a value of \$3.2 million. Dolly Varden  
16 are widespread and abundant throughout the drainages. Bald  
17 eagles are common, approximately 116 pairs of bald eagles  
18 nesting has been documented, primarily along the Karluk  
19 Lake shore. Up to 25 pairs of harlequin ducks are  
20 estimated to nest in the Karluk watershed. Molting  
21 aggregations are common throughout the coastal areas and  
22 along the rivers.

23 That area provides important recreation and tourism  
24 for residents of Kodiak and Alaska in general. The area is  
25 noted for its abundant chinook, coho and steelhead runs in

1 the Karluk. It attracts clientele from all over the world  
2 to enjoy the use there. Angling days alone approach 3,000  
3 in the area.

4 The area is important for subsistence for residents  
5 of Karluk, Larsen Bay, in particular, and Kodiak in  
6 general. Harvest is focused on fish, deer, waterfowl, crab  
7 and clams. The area is rich in archaeological resources,  
8 they're widespread along the Karluk Lake shore, along the  
9 river, near the mouth of the Sturgeon River and along the  
10 coast.

11 Those are the high points and a very quick  
12 overview. I'll ask Alex if he has anything he would like  
13 to add at this point.

14 MR. SWIDERSKI: No, I think that was very  
15 complete.

16 CHAIRMAN GIBBONS: Any questions for --  
17 Mr. Tillery.

18 MR. TILLERY: Yeah, the draft easements has  
19 a legal description to be inserted. Is there -- are the  
20 lands clear, specific, no arguments between the parties,  
21 everything is final, we know exactly what lands are in this  
22 deal?

23 MR. ELISON: Well, I think I hear about  
24 four questions and the general answer is there's not 100  
25 percent certainty. There is some questions and the

1 questions evolve around lands on the east side of Uyak Bay.  
2 There are the insert reference maps, which I think were  
3 distributed in your packet, they give you a little more  
4 clarity on the issues. There are small parcels of Koniag  
5 land scattered along the coast, mixed in with land that had  
6 been conveyed to Larsen Bay. And it's our objective to  
7 clean up the land ownership there. Koniag, to this point  
8 in time, has been negotiating with -- making representation  
9 to us that they were willing to do that. I think, all of a  
10 sudden, they have got a couple of questions in the area of  
11 Carlsen Point, so it's a long answer to, no, it's not  
12 completely sorted out, but that's where the issue arises.

13 MR. TILLERY: But does this agreement  
14 reference.....

15 MR. ELISON: That agreement references that  
16 map and that map.....

17 MR. TILLERY: And that map includes those?

18 MR. ELISON: .....includes all the things  
19 that we believe, strongly, to be part of the agreement.

20 MR. TILLERY: And so if there's any change  
21 it's going to come back to the Council.....

22 MR. ELISON: Yes.

23 MR. TILLERY: .....for approval?

24 MR. ELISON: Yes.

25 MR. TILLERY: Okay.

1 MR. ELISON: That would, in our view, be an  
2 extremely substantive change.

3 MR. TILLERY: What's the -- and the access,  
4 the breakdown between commercial and private use of the  
5 river, is that addressed?

6 MR. ELISON: It is and it is -- that's the  
7 other area that's unsettled. Right now the language in the  
8 agreement provides a floor for non-guided public use and  
9 guided public use at 40 percent of the allocated use with  
10 the remaining 20 percent to be distributed based upon the  
11 public use study and the historical use and the public  
12 comments that are received. That language was proposed by  
13 the negotiating team here and is reflected in that  
14 agreement. Koniag prefers an earlier version which  
15 directed that the Fish and Wildlife Service would make the  
16 allocation based upon historic use and other  
17 considerations. It's a little more open-ended. The  
18 historic use for guided and unguided use on the Kodiak  
19 Refuge is roughly a hair over 50 percent is guided and in  
20 the order of 47 percent is unguided, based on the  
21 information from the last five or six years. So it's real  
22 close to an even split based on historic use, to  
23 encapsulize that, the proposal before you would put a floor  
24 of 40 percent for either side. Koniag said they don't  
25 agree with that language and want to see the guarantee of

1 40 percent removed.

2 MR. TILLERY: So you would determine the  
3 allocation based on historic use, but no less than 40  
4 percent for unguided?

5 MR. ELISON: That's the current proposals  
6 in the documents.

7 MR. TILLERY: Which is what we would  
8 approve and any change to that would come back?

9 MR. ELISON: Come back.

10 MR. BALSIGER: On that point, then, if we  
11 approve this, it goes back to Koniag and what schedule  
12 would they come back with their changes?

13 MR. ELISON: Koniag is scheduled -- the  
14 board is scheduled to meet, I understand, on January 10th.  
15 It's our expectation that the board will deal with the  
16 agreement at their meeting and come back to us almost  
17 immediately thereafter and I would anticipate that if there  
18 are substantive changes that we would be back before you on  
19 the 16th of January.

20 CHAIRMAN GIBBONS: Any other questions?  
21 Mr. Tillery.

22 MR. TILLERY: Yeah, I had understood that  
23 some issue had come up on 14H1 recently and I don't  
24 understand how 14H1 can play a role in this deal, can you  
25 explain to me whether it does?

1 MR. ELISON: There is an issue that has  
2 recently arisen, and Marilyn has more of the details,  
3 perhaps, than I do, but my understanding, Mr. Tillery, is  
4 this, that there are a number of 14H1 filings that were  
5 closed by BLM in the last 10 or 15 years. BIA had come  
6 forward and said they believe that some of those -- some of  
7 their certifications of ineligibility were in error and  
8 recommended they be with -- those filings be opened again  
9 for review. There are probably, what, a couple of hundred  
10 statewide?

11 MS. HEIMAN: (Nods in the affirmative)

12 MR. ELISON: A handful of them are on  
13 national wildlife refuges and there is a draft secretarial  
14 order up in the department right now that would basically  
15 direct that those 14H1 sites at issue be reviewed, if the  
16 Native corporation requests it.

17 MR. TILLERY: Who owns the land?

18 MR. ELISON: Right now it's part of the  
19 Kodiak Refuge.

20 MR. TILLERY: So we're not buying land we  
21 already own, right?

22 MR. ELISON: No, we're not buying it.

23 MR. TILLERY: So why would 14H1 be an  
24 issue?

25 MR. ELISON: There were some members of

1 staff advocating that Koniag forego its right to open up  
2 those closed filings in this agreement.

3 MR. TILLERY: Okay, but those are only on  
4 lands that Fish and Wildlife Service now.....

5 MR. ELISON: Already owns.

6 MR. TILLERY: That we're not paying for?

7 MR. ELISON: We're not paying for them.

8 MR. TILLERY: There's not an issue  
9 regarding us buying lands.....

10 MR. ELISON: No.

11 MR. TILLERY: .....from them and then them  
12 somehow getting them back or getting rights back on them?

13 MR. ELISON: No.

14 MR. TILLERY: Okay. That was.....

15 MS. McCAMMON: Were some of those lands,  
16 though, in the original agreement, the original sale,  
17 purchased from Koniag in the original phase one?

18 MR. ELISON: I don't have the original '94  
19 maps with me. I don't think either of those parcels,  
20 they're in the southern end of Uyak Bay, probably a third  
21 of a township south of that insert that says Map 6. I  
22 don't think that they were part of the original  
23 acquisition, but I will not guarantee that, I have to look  
24 at the map.

25 MR. ROTH: Excuse me. Barry Roth. They



1 couldn't be lands we purchased earlier because the whole  
2 point is Koniag had applications that were closed, for some  
3 reason, before and so these are lands that are under  
4 Federal ownership now. And they've always been in the  
5 Federal ownership and there's a possibility that a new  
6 order could come out from the Secretary allowing regional  
7 corporations whose applications were felt to be wrongly  
8 closed to be reopened, but it would not affect anything  
9 that the Council has bought or anything that was negotiated  
10 for. It's not from either of the villages' entitlement,  
11 which is what we are buying from Koniag now.

12 CHAIRMAN GIBBONS: Thank you, Mr. Roth.  
13 Any other questions? Mr. Tillery.

14 MR. TILLERY: The resolution that's this  
15 draft resolution provides that the agreement shall contain  
16 or be subject to a term that it -- that it essentially be  
17 conditioned upon the filing of a notice with the court and  
18 receipt of the money. Could you identify for me, in the  
19 agreement, where that condition is?

20 MR. ELISON: Counselor Roth, can you give  
21 me a hand here?

22 MR. ROTH: In the agreement, in the one  
23 that's been faxed, because the electronic version is not  
24 getting there, it's been inserted in the conditions  
25 precedent, which is section six and it was -- and when you

1 get it, it will be 6(A) Roman numeral XI. And it says, and  
2 one of the conditions precedent to the agreement is  
3 (indiscernible - paper rustling) terms and conditions set  
4 forth in the resolution of the Trustee Council dated  
5 January 4th, assuming the Council resolution is today,  
6 including but not limited to the filing by the United  
7 States Department of Justice and the Alaska Department of  
8 Law of the notices required by the third amended order for  
9 deposit and transfer of settlement proceeds, of the  
10 proposed expenditure with the United States District Court  
11 for the District of Alaska and with the investment fund  
12 established by the Trustee Council within the Alaska  
13 Department of Revenue, Division of Treasury or Investment  
14 Funds and transfer of the necessary money from the  
15 Investment Fund of the United States.

16 Now, because this relates to the closing that would  
17 take place prior to December 15th of this year, that is  
18 only the \$300,000 that's being withdrawn at this point, so  
19 that's why the notice is in the singular. In the revised  
20 notice you'll see for the Trustee Council resolution, it  
21 referred to notices, parens, s for plural, so the  
22 resolution recognizes multiple notices. In this case, for  
23 the first closing there seems to be only one notice  
24 required.

25 MS. McCAMMON: Mr. Chairman, I should say

1 that those documents were e-mailed to us and we had trouble  
2 opening them and they're 117 pages long and they're being  
3 copied right now for you, so you'll have all of them  
4 momentarily.

5 MR. TILLERY: Are we potentially in a  
6 position where could go through with the first part, the  
7 300,000 then have a contractual obligation to, for example,  
8 make these regular payments or make the sort of the final  
9 payment, the one at the end of 10 years, have someone  
10 intercede in court and prevent us from getting that money  
11 and end up as kind of a conflict? It sounds like you're  
12 saying there's only a condition for that first payment, for  
13 the 300,000, and not for any subsequent.

14 MR. ROTH: The resolution makes it a  
15 condition for everything and this incorporates,  
16 specifically, the terms and conditions of the resolution.  
17 If the subsequent payments are enjoined, the remedy as a  
18 practical matter would be then to -- Koniag would move to  
19 terminate the agreement for non-payment and, I mean, again,  
20 under the first closing, we're getting for -- for the  
21 \$300,000 we're getting approximately a 10-month extension  
22 of the existing easement, then thereafter we're paying  
23 annually, but we're basically getting -- for that period  
24 we're paying in arrears, we're getting -- you know, we're  
25 paying for another 12-month period of easements. And if we

1 didn't have the money for the closing they were entitled  
2 to, then -- and what I think would be a likely event we  
3 were somehow enjoined from spending it, then the agreements  
4 would all terminate. I'm not sure what other thing, so  
5 it's hard to picture how somebody would have standing or  
6 otherwise to object at that point or that -- well, the deal  
7 here is, I mean, it's no different than any other deal  
8 we've had where we've obligated the money. Lawfully, in  
9 this case, the money is all -- we have sufficient money in  
10 hand to obligate now, regardless, even though the payments  
11 aren't due for some period of time.

12 MR. SWIDERSKI: This is Alex Swiderski. It  
13 seems to me, Barry, that we may need a similar paragraph in  
14 the part B of this section six as well to address the final  
15 closing.

16 MR. TILLERY: Might not in addition to  
17 termination, if the fund has been doing extraordinarily  
18 well and the current value of the fund is in excess of the  
19 value of the land, might they claim that difference as some  
20 kind of damages in the event of a termination, unless  
21 there's a specific condition that the money be available?

22 MR. ROTH: We can put in a clause -- I  
23 mean, we can do it one of two ways. One, we can put in the  
24 same conditions for the subsequent closing, or the other,  
25 we can put in a clause saying that the sole remedy will be

1 -- what the sole remedy will be in the event that the court  
2 does not -- you know, that we're enjoined from spending the  
3 money and describe what that remedy is. I mean, I assume  
4 the only remedy is terminate the agreement. I think either  
5 one -- either approach would work.

6 MR. TILLERY: Didn't we have that in one of  
7 the previous deals? I'm trying to think about whether it  
8 might have been one of the ones on Afognak where.....

9 MR. SWIDERSKI: Well, we've always.....

10 MR. TILLERY: .....we specified the remedy  
11 was simply termination and a pro rata thing?

12 MR. SWIDERSKI: I think we typically have  
13 had that.

14 MR. ROTH: And the only difference between  
15 this and the previous agreement is you were -- at those  
16 points in time you were contemplating that the money hadn't  
17 arrived. Here, we have in hand more than sufficient money  
18 to back up this agreement. That's the difference. I mean,  
19 there's only one more payment due from Exxon, but we had  
20 the sufficient money to pay the 29,550. So that's quite  
21 different, before we were conditioned upon receiving the  
22 money from Exxon because we weren't sure we would have  
23 enough. But I don't see any problem and I would assume  
24 Koniag would be amenable to putting in the language that is  
25 in XI there and turning into the condition for a future

1 closing and also making it clear that the remedy is -- in  
2 the event that we are -- you know, the money is withheld  
3 from us by court order to complete any transaction, the  
4 remedy in that event is termination.

5 Would that be acceptable to the Department of Law?

6 MR. SWIDERSKI: Yes. And I agree, I think  
7 Koniag would not object.

8 MR. ROTH: And I think it's unlike -- I  
9 mean, it seems highly unlikely that this will occur anyway,  
10 so that's probably one reason why Koniag should agree to  
11 it.

12 MR. ELISON: Barry, you'll make those  
13 conforming changes, then?

14 MR. ROTH: Yes.

15 MR. ELISON: Okay.

16 CHAIRMAN GIBBONS: Any other questions?

17 MR. BALSIGER: Mr. Chairman.

18 CHAIRMAN GIBBONS: Jim.

19 MR. BALSIGER: Thank you. I'm finding  
20 number 16 on the resolution, and maybe you said this and I  
21 missed it, but a satisfactory hazardous substance survey  
22 has been or will be completed prior to the initial closing.  
23 Can you tell me the status of that?

24 MR. ELISON: It will have to be done.

25 MR. BALSIGER: It's not done yet?

1 MR. ELISON: We've looked at the land once,  
2 actually more than once, we will do it again before the  
3 closing.

4 MR. BALSIGER: Okay, thank you.

5 CHAIRMAN GIBBONS: Any other questions?

6 (No audible responses)

7 CHAIRMAN GIBBONS: Hearing none, maybe we  
8 can go to the public comment period and then there's been a  
9 request after the public comment period to go, briefly,  
10 into executive session.

11 MR. ELISON: I don't think, at this point,  
12 we need that.

13 CHAIRMAN GIBBONS: Okay.

14 MR. ELISON: Unless the Council sees --  
15 they desire it.

16 CHAIRMAN GIBBONS: Okay.

17 MR. ELISON: Thank you.

18 CHAIRMAN GIBBONS: Okay, let's go to the  
19 public comment period. How many people do we have on line?  
20 I hear Karluk. Any other people on line?

21 MR. C. REFT: I'm here in Anchorage.

22 MS. McCAMMON: That's Chuck Reft.

23 CHAIRMAN GIBBONS: Okay. Any others?

24 MS. REFT: Dolly Reft, Kodiak.

25 CHAIRMAN GIBBONS: Kodiak, okay. Is there

1 anybody from Karluk then?

2 (No audible responses)

3 MR. J. REFT: John Reft, Kodiak.

4 CHAIRMAN GIBBONS: Okay.

5 MS. REFT: We're all Karluk landowners.

6 CHAIRMAN GIBBONS: Okay.

7 MS. REFT: We have another individual here.

8 UNIDENTIFIED VOICE: (Indiscernible - away  
9 from phone)

10 CHAIRMAN GIBBONS: Okay. Great. Well,  
11 maybe we can start, then, with Kodiak. Can we try to keep  
12 our comments, if we can, to about three minutes? And when  
13 you step up will you please state your name and spell it  
14 for the record, please?

15 MS. REFT: This is Dolly Reft, Dolly, first  
16 name, Reft, R-E-F-T. I believe we sent you a letter on  
17 December 21st to reiterate the interests of the landowners  
18 of Karluk. First of all, we're unable to offer any  
19 comments, we don't have the information you have in front  
20 of us so, if possible, we'd like a copy of that. And I  
21 guess my question would be how are the people affected  
22 living around the river, around Larsen Bay, are they  
23 involved in this management process regarding the rivers  
24 and the land and, if so, how?

25 CHAIRMAN GIBBONS: Well, anybody want to



1 answer that question? All I know is the Trustee Council  
2 works with Koniag, in negotiation with Koniag, and there is  
3 a responsibility there to keep their members involved.  
4 And, Glenn, do you want to follow up with that? Glenn  
5 Elison may have a further answer for you.

6 MR. ELISON: There's a variety of ways that  
7 residents of Karluk and Larsen Bay may have opportunities  
8 to be involved, they include -- there's a preference in the  
9 agreement for commercial operations to be provided by the  
10 residents of Karluk and Larsen Bay. There are  
11 opportunities for Koniag, through some sort of a  
12 concession, to continue to manage the cabins that provide  
13 economic opportunity. There's a commitment on the part of  
14 the Interior Department to provide for a training program  
15 for residents of Karluk and Larsen Bay and potentially  
16 other Koniag shareholders to provide careers and training  
17 related to natural resource management. There's also a  
18 provision in the agreement for a management group that will  
19 involve Koniag, Fish and Wildlife Service and the State.  
20 And the intent of that group is specifically to provide a  
21 forum to deal with concerns and interests of the various  
22 parties and that would include the Koniag shareholders, I  
23 think, particularly in Larsen Bay and Karluk. So there's a  
24 few of the ways that there's involvement.

25 CHAIRMAN GIBBONS: Thank you, Mr. Elison.

1 Do you have any other comments, Ms. Reft?

2 MS. REFT: The only other one, I guess, I'm  
3 being asked to make a comment about is you're speaking to  
4 the corporate shareholders, have there been any provisions  
5 or any communications with the tribal entities involved?

6 CHAIRMAN GIBBONS: Mr. Elison.

7 I'm asking the people who are negotiating this, I'm  
8 not directly involved in that.

9 MS. REFT: Okay. Yeah, no problem.

10 MR. ELISON: There's been a bit of  
11 correspondence, I understand, between the tribal entities  
12 and the Trustee Council office, but we rely on the  
13 corporation to be keeping the tribal entities involved in  
14 this, or at least informed. So there has been no direct  
15 involvement between the negotiating team and the tribal  
16 entities.

17 MS. REFT: I think what needs to be said --  
18 we're all familiar with Koniag as a corporation and their  
19 duties to the shareholders, but in regards to the tribes,  
20 corporations do not intervene or interfere with tribal  
21 matters, so that's why I asked the question is what  
22 communications have been going on directly with the tribes,  
23 because there's some issues concerning the livelihood and  
24 the way of life of our people. So that's the crux of the  
25 matter that I'm referring to.

1 CHAIRMAN GIBBONS: Okay. Any other  
2 comments, Ms. Reft?

3 MR. ELISON: No, just to reiterate.....

4 MS. REFT: Just the letter that we  
5 submitted on the 21st. I think the ongoing concern is that  
6 the Native (phone cut out) Karluk and Larsen Bay have been,  
7 (phone cut out) well, involvement regarding their tribal  
8 lands and their lifestyles.

9 MR. ELISON: If I could pick up on that,  
10 Mr. Chairman. There's a separate issue out there related  
11 to habitat protection effort on the Karluk tribal lands,  
12 primarily near the mouth of the Karluk River and the mouth  
13 of the Sturgeon River. That is completely separate and  
14 delinked from this effort we've been pursuing with Koniag,  
15 it's my understanding that the Karluk Tribal Council has  
16 representation specific to those tribal lands. And, again,  
17 it's totally separate from this proposed agreement.

18 CHAIRMAN GIBBONS: Thank you, Mr. Elison.

19 MR. ELISON: Thank you.

20 MS. REFT: Okay. And I guess I'll hurry up  
21 with my three minutes. I did talk with Dennis Metrokin  
22 last night. He did assure me that -- he explain (phone cut  
23 out) the fact our subsistence was affected, as they were in  
24 ANILCA, and I understand that. I guess the only thing I  
25 want to get across is please understand that the wishes of

1 three people within that Karluk do not necessarily reflect  
2 the concerns of all members and people involved.

3 CHAIRMAN GIBBONS: Okay. Thank you. Is  
4 there anybody else from Kodiak that would like to testify  
5 at this time?

6 MR. BOSKOFISKY: Yeah.

7 CHAIRMAN GIBBONS: I'll get to Anchorage  
8 here in a minute, sir.

9 MR. BOSKOFISKY: My name is Michael.....

10 MS. REFT: Well, thank you, and we look  
11 forward to any information that you have before you. Other  
12 than that, we'll just stand by and listen.

13 MR. BOSKOFISKY: Yeah, my name is Mike  
14 Boskofsky, I'm from Ouzinkie, of the Ouzinkie Tribe  
15 and.....

16 MS. HEIMAN: You need to come forward, sir.

17 CHAIRMAN GIBBONS: Yeah, please come  
18 forward. We have a person here in Anchorage who would like  
19 to testify at this time.

20 MR. C. REFT: Yeah, Chuck Reft in  
21 Anchorage. I have three questions, please. Number 1, this  
22 conservation easement, is this an agreement to purchase  
23 this by Fish and Game or Fish and Wildlife? Number 2, how  
24 does this affect our subsistence rights for the village  
25 members of Karluk? And I should tell you I'm a shareholder

1 of Koniag and a member of Karluk. And, number 3, can I get  
2 a copy of the easement as far as the boundaries involved?

3 MR. BOSKOFISKY: Well, one of the questions  
4 I hear for all the people involved is, in behalf of all the  
5 tribes there, I'd like to know why the EVOS Committee, what  
6 took place between the rest of the tribes, like Ouzinkie?  
7 We see Paul Panamarioff's name is signed onto that paper  
8 and I don't know who else is involved with that, but we  
9 want to come to a head with this, because we're also  
10 involved in this Kodiak Island transactions of lands. And  
11 one person over there does not have the authority by the  
12 tribes to sign anything away for us.

13 MR. C. REFT: Hello.

14 CHAIRMAN GIBBONS: Excuse me a minute. We  
15 have another person talking right now and maybe what we can  
16 do is have Mr. Elison come up and answer the questions from  
17 Mr. Reft and then we can go to you, sir, and then we can  
18 try to answer the questions from yourself.

19 So, Mr. Elison, can you.....

20 MR. ELISON: The question about subsistence  
21 protection, there is specific reservations by Koniag for a  
22 subsistence easement that protect the subsistence rights of  
23 the residents of Larsen Bay and Karluk. The protection is  
24 essentially identical to the protections that have been  
25 included in other agreements that the Trustee Council has

1 entered into. And certainly the level of protection equals  
2 or exceeds that found in ANILCA.

3 The third question, I think, related to requesting  
4 a map showing the agreement and we certainly can provide  
5 that, perhaps we can get Mr. Reft's address. We would like  
6 it sent and we'll be sure to do that.

7 The first question I didn't hear completely.

8 CHAIRMAN GIBBONS: Mr. Reft, can you repeat  
9 that first question, please?

10 MR. C. REFT: Yeah, I'm sorry, I'm getting  
11 kind of cut off, fading in and out. My first question is  
12 the conservation easement along the river, is this a  
13 potential purchase by Fish and Game or Fish and Wildlife?

14 MR. ELISON: There's a provision in the  
15 agreement that Koniag may opt, at some point in the future,  
16 but not sooner than December of 2012, to sell the lands in  
17 fee to the Fish and Wildlife Service with the State having  
18 an easement on it. But that would not occur until some  
19 point well in the future. And there's no guarantee of a  
20 sale, it's going to be up to Koniag's sole discretion as to  
21 whether they choose to do that or not.

22 CHAIRMAN GIBBONS: Does that answer your  
23 questions, Mr. Reft?

24 MR. C. REFT: Yes. I didn't hear the  
25 second, like I said, I was fading in and out here, I didn't

1 hear how this affected our subsistence rights along the  
2 river.

3 MR. ELISON: The subsistence rights are  
4 thoroughly protected as a result of a reservation in the  
5 conservation easement for that purpose, so Larsen Bay and  
6 Karluk residents have full subsistence rights to the area.

7 MR. C. REFT: And, thirdly, can I receive a  
8 copy of the boundaries of the easement along the river  
9 that's involved?

10 MR. ELISON: Yes, just make sure we get  
11 your address.

12 MR. C. REFT: Okay.

13 CHAIRMAN GIBBONS: Could you give us that  
14 address at this time, so we can.....

15 MS. McCAMMON: We have it.

16 CHAIRMAN GIBBONS: I've been informed we  
17 have it, so we'll send that out to you.

18 MR. C. REFT: Yes, who do I give the  
19 address to?

20 MS. McCAMMON: We have it, Chuck. This is  
21 Molly.

22 MR. C. REFT: Oh, hi, Molly. Yeah, my  
23 address is 2807 Bass Street, B-A-S-S, Anchorage, zip code  
24 99507.

25 CHAIRMAN GIBBONS: Okay, thank you.

1 Sir, would you like to come back up or.....

2 MR. BOSKOFISKY: I think you pretty much  
3 heard what I had to say, I want an answer from you people  
4 what's taking place on this -- up here. And also in behalf  
5 of (indiscernible - away from microphone) we know for a  
6 fact that Paul Panamarioff signed one part, we have that  
7 copy. And I'm also involved with the rep from them on this  
8 deal with Karluk, so I'd like an answer to that from  
9 (indiscernible - away from microphone)

10 MR. TILLERY: Mr. Chairman.

11 CHAIRMAN GIBBONS: Yes.

12 MR. TILLERY: He's not getting this.

13 CHAIRMAN GIBBONS: Can you come up, sir, we  
14 didn't get that on the record, we'd like to make sure to  
15 get that on the record and then we can try to answer your  
16 question.

17 MS. REFT: We're not hearing very well at  
18 this end, he keeps cutting in and out.

19 CHAIRMAN GIBBONS: Yeah, we had an  
20 individual that was talking a ways away from the microphone  
21 that's now come up to the microphone.

22 MR. BOSKOFISKY: Yeah, Dolly.

23 MS. REFT: Hi, Mike.

24 MR. BOSKOFISKY: Dolly, this is Mike.

25 MS. REFT: Thanks for being there, Mike.



1 MR. BOSKOFISKY: Okay, I've asked them to  
2 give us the information of who all signed the other  
3 documents besides Paul here and we'd like to know who's  
4 done that because, like I said, I'm involved with Ouzinkie  
5 and, of course, everything that's happening here is taking  
6 place throughout the whole island of Kodiak. And as a  
7 tribal member there, I don't believe anybody there has any  
8 authority to sign anything away, that includes the  
9 corporations, at this point. And I'd like an answer from  
10 the EVOS Committee here to come forward, at least give us  
11 the information of who all signed that besides Paul.

12 CHAIRMAN GIBBONS: Okay, Mike, could you  
13 state your last name and spell it for us, please?

14 MR. BOSKOFISKY: My name is Mike Boskofsky,  
15 B-O-S-K-O-F-S-K-Y. I'm a tribal member from Ouzinkie.

16 CHAIRMAN GIBBONS: Okay.

17 MS. McCAMMON: Mr. Chairman.

18 CHAIRMAN GIBBONS: Molly.

19 MS. McCAMMON: I don't know what document  
20 you're referring to that Paul Panamarioff signed.

21 MR. BOSKOFISKY: Well, this is a deal on  
22 something that he signed and he hadn't given us a clear  
23 explanation of why he signed it or what it was for and it  
24 sounds to me like most of the island has been signed off  
25 for something here on this -- you guys are only squabbling

1 over the Karluk area, so what we want is an actual draft of  
2 what's taking place on this, so the people could see it.  
3 You know, the tribal boards don't have the authority to  
4 sign anything away, neither does the corporation, without  
5 our permission. They have to come to a vote for -- to the  
6 tribes to do this.

7 MS. McCAMMON: If you have any copy of  
8 anything, any document, but I don't know what you're  
9 referring to.

10 CHAIRMAN GIBBONS: Yeah, Mr. Boskofsky, if  
11 you've got a copy, please provide that, then we can try to  
12 get you a response, but at the present we don't know what  
13 you're referring to.

14 Is there any other comments, at this time, from  
15 Kodiak?

16 MS. REFT: Yes, we got someone from here  
17 that would like to make a comment.

18 MR. J. REFT: Yeah, this is John Reft from  
19 Kodiak. Can we get in writing how these subsistence rights  
20 are protected, please?

21 CHAIRMAN GIBBONS: Sure, we can get you  
22 that quite easily.

23 MR. J. REFT: Okay, thank you.

24 CHAIRMAN GIBBONS: Any other comments from  
25 Kodiak?

1 MS. REFT: Yeah, I think to clarify, Mike  
2 Boskofsky, he was concerned because in the last meeting we  
3 were referred to one individual that apparently  
4 participated in identifying subsistence and the foods, and  
5 that was Paul Panamarioff of Ouzinkie. And we never got an  
6 answer to that first and second inquiry regarding that, and  
7 people are real concerned about our subsistence foods, how  
8 they're identified and how they're protected and our  
9 access, too, because that's a way of life.

10 CHAIRMAN GIBBONS: Yeah, maybe the  
11 subsistence provision in the proposed agreement will answer  
12 that, but my understanding is it's just like the existing  
13 subsistence agreement rights that you have now, which is  
14 rural preference to local residents, but basically that's  
15 what, I think, the agreement states.

16 MS. REFT: Okay. I guess the concern is  
17 that people are needing to have that assurance that they're  
18 not going to be kept from getting the food within their  
19 subsistence and lifestyle that we've enjoyed forever. And,  
20 you know, we're really -- you keep saying that people are  
21 being communicated with through their corporations or these  
22 other agencies that you have and people don't know what's  
23 going on and because of that they're starting to panic.

24 CHAIRMAN GIBBONS: Okay. We can get you  
25 that language on the subsistence provisions. Would that be

1 the same fax number as yours, Dolly?

2 MS. REFT: Yes. And, also, you know, we're  
3 trying to participate and coordinate and we're coming  
4 across looking like fools because we really don't know.  
5 And, you know, I keep hearing from Molly and from other  
6 people that there's being public access and what not, and  
7 the local Joe that's out there fishing and hunting isn't  
8 being reflected or they're not feeling like they've had  
9 that access. So you may think that you have that, but  
10 that's not what we're hearing from our people. And if we  
11 don't start looking at that, you're going to have a  
12 problem.

13 CHAIRMAN GIBBONS: Okay. Thank you. Are  
14 there any other comments from Kodiak?

15 (No audible responses)

16 CHAIRMAN GIBBONS: Okay, maybe we can go to  
17 Anchorage. I've got some people here that would like to  
18 comment. Mr. Mahoney, would you like to comment at this  
19 time?

20 MR. BOSKOFISKY: I forgot my paper in my  
21 briefcase that I had with Paul's name on it.

22 MS. McCAMMON: Okay.

23 MR. BOSKOFISKY: I'll get back with you,  
24 Molly.

25 MS. McCAMMON: Okay.

1 MR. MAHONEY: Well, I'm Tim Mahoney and I  
2 represent Koniag, and I have a statement here, authorized  
3 by Dennis Metrokin, the President of Koniag. It says,  
4 since 1994 Koniag has managed its lands in the Karluk and  
5 Sturgeon drainages on Kodiak Island under the terms of a  
6 non-development easement and during this time Koniag has  
7 continued to work with its shareholders and other parties  
8 to find ways to better manage the important natural and  
9 cultural resources of this area. In addition, Koniag has  
10 undertaken discussions with leaders in this area in an  
11 effort to better develop economic opportunities for the  
12 shareholders from the villages as well as the local  
13 residents.

14 Finally, Koniag has held a series of meetings with  
15 its shareholders, both in Alaska and outside the state and  
16 has conducted extensive surveys of all of its shareholders  
17 to determine their wishes as to the future uses of these  
18 lands. We believe that the proposal before the Trustees  
19 today contains essential elements to protect the natural  
20 resources and the cultural resources of the area, to  
21 protect and promote economic opportunities for the  
22 shareholders and residents of Larsen Bay and Karluk and to  
23 provide for a management system of these lands which meets  
24 the desires of our shareholders. We look forward to  
25 examining the proposal from the Trustees and we will

1 address it at a special meeting of our board of directors.

2 CHAIRMAN GIBBONS: Thank you, Mr. Mahoney.

3 Any questions for.....

4 (No audible responses)

5 CHAIRMAN GIBBONS: All right, thank you.

6 Mr. Schoen, would you like to comment?

7 MR. SCHOEN: Good morning. My name is John  
8 Schoen, I'm the senior scientist for the Alaska State  
9 Office of the National Audubon Society. And on behalf of  
10 the National Audubon Society and our 550 members, including  
11 2,300 Alaskan members, I offer our strong support for the  
12 proposed protection agreement between Koniag and the EVOS  
13 Trustees. For several decades, the National Audubon  
14 Society has had a strong interest in the conservation of  
15 the Kodiak National Wildlife Refuge.

16 The drainages of the Karluk River and the Sturgeon  
17 River are biologically very important to the Kodiak Refuge  
18 in terms of providing valuable habitat for some of the  
19 refuge's most significant salmon runs, brown bear  
20 populations, nesting bald eagles and many other wildlife  
21 resources. We believe this agreement will safeguard these  
22 important lands and ultimately provide an opportunity to  
23 include them once again in the Kodiak Refuge system.

24 The agreement provides a significant opportunity  
25 for protecting the ecological integrity of the Kodiak

1 Refuge and providing continuing opportunities for  
2 subsistence, recreational and commercial uses of this  
3 region's significant biological and recreational resources.  
4 Audubon believe this agreement will bring significant  
5 benefits to local residents and ultimately all Americans.  
6 We want to reiterate our thanks to the Trustee Council and  
7 to Koniag for their continuing dialogue on this issue and  
8 all of your conservation efforts within the Kodiak  
9 Archipelago. Finally, we strongly encourage you to sign  
10 this important agreement.

11 Thank you.

12 CHAIRMAN GIBBONS: Any questions for  
13 Mr. Schoen?

14 (No audible responses)

15 CHAIRMAN GIBBONS: Thank you. Next,  
16 Mr. Meiklejohn.

17 MR. MEIKLEJOHN: My name is Brad  
18 Meiklejohn, I'm the Alaska representative for the  
19 Conservation Fund. Mr. Chairman, ladies and gentleman of  
20 the Trustee Council, on behalf of the Conservation Fund I  
21 want to thank you for your years of hard work in protecting  
22 the wild lands of Kodiak Island. Kodiak, with its massive  
23 bears, its abundant salmon, its legendary rivers, its lush  
24 valleys and rugged mountains is an international treasure.  
25 It's our belief that on Kodiak you, the Trustee Council,

1 have created the silver lining inside the dark cloud of  
2 Exxon oil.

3 Land conservation is often thankless work,  
4 especially in Alaska, where environment is a dirty word.  
5 And believe me, I know, it's the business we're in. No  
6 place can be as frustrating to work as Kodiak Island. An  
7 experienced colleague once referred to Kodiak as the Bosnia  
8 of the North Pacific because of the perpetual rancor within  
9 the various factions. But somehow the Trustee Council has  
10 managed to traverse mine fields and dodge snipers and come  
11 away with remarkable conservation victories again and  
12 again.

13 Never in the history of America have we regretted  
14 protecting our natural heritage, rather we have come to  
15 regret that which we have failed to protect. We praise the  
16 courage of those who protected Yellowstone and Yosemite and  
17 Grand Canyon and Denali and we curse the spinelessness that  
18 allowed buffalo to be slaughtered, our rivers to be dammed  
19 and our forests to be stripped. It's terribly easy to be  
20 swayed by the demands of the here and now and local, it's  
21 far harder to pursue what is right for the nation, for the  
22 world and for tomorrow. Your work on Kodiak is for the  
23 future, you may get few thanks now, but history will prove  
24 you wise.

25 On behalf of the Conservation Fund, I thank you for



1 your commitment to conservation.

2 CHAIRMAN GIBBONS: Thank you. Any  
3 questions?

4 (No audible responses)

5 CHAIRMAN GIBBONS: Anybody else in  
6 Anchorage that's not signed up that would like to testify  
7 at this time? Sir.

8 MR. PAGANO: I really had no plans to  
9 testify today. My name is Frank Pagano, I'm 73 years old,  
10 I'm the past President of Koniag. I was the president that  
11 signed the initial first phase sale with the provision in  
12 it for the conservation easement for the life of the  
13 Trustee Council. This had no provision for extension of  
14 any easement as is, it was for the sole purpose to work out  
15 a solution to purchase the remaining portion of the Karluk  
16 lands, which included the Karluk River and the Sturgeon,  
17 which is the main food source for the bears.

18 Also in that provision there was a set-aside of  
19 \$16,000,000 for the second sale. Under the second sale  
20 there was a contract with Koniag that was going to pay a  
21 consultant three percent of that first 16,000,000. Now, my  
22 questions and my concerns are when you do this deal with  
23 Koniag to put the land into a pot and you're putting money  
24 in, which we don't know what it is yet, 29, 35,000,000,  
25 I've heard. How is that consultant paid the three percent

1 of that 16,000,000, which is a non-Native? That's one of  
2 my questions and statements.

3 The second portion is I know this meeting is a  
4 hurried-up meeting before the Bush administration takes  
5 over. Number 1, the Karluk River belongs to 3,400  
6 shareholders plus, not just to the people in the villages  
7 who depend on subsistence ways of life. It's an asset that  
8 is worth many millions of dollars than what I see which  
9 you're going to purchase it for. To me, this is a  
10 purchase. And also setting up of a trust, because the  
11 money is going to be in a trust managed by somebody other  
12 than the Koniag Board of Directors, being removed from the  
13 shareholders.

14 Two-thirds of our shareholders live off of the  
15 island. Those shareholder have no concept or idea what is  
16 taking place here today. That asset is going to be sold,  
17 10 years, the first provision will be as to whether the  
18 board, at that time, will sell or let it go for another 10.  
19 These are big issues which I understand. I'm 73, in 10  
20 years I'll be 84, if I'm even above the ground. My family  
21 belongs to this, my grandkids may inherit my shares. My  
22 question and statement, will the present shareholder,  
23 today, benefit from this asset? Will the future  
24 shareholders benefit? Who will benefit?

25 I don't believe the present shareholders will

1 benefit in one way, shape or form of this asset, the way  
2 it's being handled. Secondly, I don't believe that our  
3 future shareholders will even benefit from it. I can go on  
4 and talk a lot more on this, I'm really upset at the fact  
5 that I, as a shareholder, and I'm not an instant  
6 shareholder, I was raised in the BIA schools. I was  
7 determined a Native by the U.S. Court circuit judge in  
8 Kodiak in 1934, to be placed in a Baptist mission because  
9 my mother couldn't take care of us. So I'm not what you  
10 call an instant Native. I've served in the United States  
11 military, I've served in combat in Korea. So I really  
12 resent the fact that I see this as a taking and what I call  
13 it is a modern day Manhattan deed sale. Don't be part of  
14 it. Koniag has not come to the shareholders to tell us  
15 what this is all about. They haven't given us a right to  
16 vote on it.

17 In 1997 there was a big shareholder fight on proxy,  
18 in it was a voting down a shareholder trust and selling of  
19 lands. The shareholders do not want a trust and I believe  
20 they don't want any selling of lands without their input as  
21 to voting on it. I don't believe the Koniag board has a  
22 right to do what they're doing without the shareholders'  
23 vote and I would urge this Council to demand that Koniag  
24 take a vote of their shareholders before they commit  
25 anything of putting in a trust. This, to me, is a sale.

1           And Koniag's lowest appraisal on the land in the  
2   ANWR deal was 77,000,000 plus, it was put on by DOI and our  
3   people, Bill Timme, Uwe Gross, Art Kennedy, I don't know  
4   who else was involved, but that 77,000,000 is the lowest  
5   value. We had three independent appraisals by certified  
6   appraiser on those lands, one was for 141,000,000,  
7   thereabout, one was for 116,000,000 and one was for about  
8   101,000,000. We have received 26.5 million on the first  
9   sale. With what I understand the 29 or 35,000,000 being  
10   put into the pot from the Trustees, we equate out to some  
11   60,000,000. According to the first appraisal of 77,000,000  
12   we're still below that some \$19,000,000. I believe Koniag  
13   is selling our land cheap, below the appraised value and I  
14   believe the Council is accepting to get those lands, out of  
15   the hands of the Native people. I think it's wrong.

16           And I've said enough, so I just had to say that  
17   today. I feel that we're being taken as Native people.  
18   We're being relieved of an asset and I know it's a valuable  
19   asset and the government goofed up when they gave it to us,  
20   but it's ours. And I think if the government wants it back  
21   then they should pay the fair market value price for it.  
22   And there was no provision for an easement extension. It  
23   was to acquire the second phase.

24           Thank you.

25                   CHAIRMAN GIBBONS: Thank you. Any other

1 people in Anchorage who would like to comment? Ms. Heiman.

2 MS. HEIMAN: I'd just like to make a very  
3 brief comment, which is that there is nothing in this  
4 agreement that requires that Koniag sell their land. There  
5 is a schedule of payments, and I hope everyone has had the  
6 opportunity to see this, because I think it's very  
7 important. There's a schedule of payments over the next 10  
8 years and up to 20 years to pay for non-development along  
9 the easement, but there's nothing that requires at any time  
10 that Koniag sell their land. They may decide after 10  
11 years they don't want the payments anymore and they don't  
12 want to sell their land. So I guess I just want to say,  
13 for the record, this allows for a payment from -- the first  
14 year is \$372,000, the 10th year is \$673,000, that is paid  
15 for the development rights along the river for those years.  
16 At any time after that 10 years, you know, Koniag can  
17 decide not to sell. I just want to make sure that's very  
18 clear for the record, because I keep hearing a lot of  
19 information and a lot of discussion about sale of land, and  
20 that is not what this agreement requires. And I hope that  
21 we can go forward with this and do what I think is a very  
22 beneficial thing for the resources and if after 10 years  
23 there's a feeling by the Koniag shareholders or others who  
24 are members of -- I guess the Koniag shareholders, if they  
25 feel they do not want to be a part of this, they don't have

1 to be, so I just want to make sure that's very clear.

2 CHAIRMAN GIBBONS: Okay. Thank you. Any  
3 other people in Anchorage who would like to comment at this  
4 time?

5 MR. BARNES: Good morning.

6 CHAIRMAN GIBBONS: Good morning. Could we  
7 please have you state your name and spell your last name,  
8 please?

9 MR. BARNES: Okay. My name is Ronald  
10 Barnes, B-A-R-N-E-S. I think what's going on here is a  
11 State corporation is trying to purchase land utilizing this  
12 oil spill and taking advantage of the situation. Of  
13 course, for those of you who are not aware, the State of  
14 Alaska is defined as a public and private corporation  
15 informed (ph) territory under Trading With the Enemy Act.  
16 Now, since it is under the Trading With the Enemy Act  
17 there's only two ways that you guys could be operating.  
18 Number 1, is if you are at war with the people and, number  
19 2, is if you are in territory that does not belong to the  
20 United States.

21 I have made a diplomatic protest against the United  
22 States government and the State of Alaska. And if you look  
23 at the International Convention on the non-applicability of  
24 statutory limitations for crimes against humanity and  
25 crimes against peace, the opening statement mentions that

1 you cannot, and it specifically mentions indigenous  
2 inhabitants, do anything against the indigenous inhabitants  
3 for your own economic gain, for your own political reasons.  
4 And as such this is a crime against humanity, what you guys  
5 are doing.

6 I think what we're going to do is to lodge a  
7 complaint to that effect because you're operating on the  
8 pretense that the United States has full title and dominion  
9 and it's very obvious that in 1975 when the State of Alaska  
10 tried to gain quiet title to submerged lands here in Cook  
11 Inlet, the United States Supreme Court had said, and it's a  
12 standing decision, it said that the -- the United State  
13 acquired whatever dominion Czarist Russia had prior to the  
14 1867 Treaty of Cession and it said that it was a quitclaim.  
15 So if you're operating off a quitclaim how are you going to  
16 quiet title? I know the State of Alaska is attempting to  
17 quiet title through the Glacier Bay, using that and park  
18 lands. And I was there in Geneva when the -- on behalf of  
19 the Sho-Shone peoples and I read it in the newspapers, it  
20 was very significant. And I did speak up against the  
21 United States for their action.

22 You are continuing the same pattern of deception  
23 against the indigenous peoples of Alaska. And you need to  
24 look into this. Because if you are directly put on notice,  
25 you can be held liable for this. Now, what -- this

1 attempted sale or trying to take land from these peoples by  
2 messing up their land and creating some form of council  
3 with no indigenous peoples or without full information to  
4 anyone here on this board, it's sham and you guys should  
5 look into this. I believe it's serious what you are doing.

6 In 1955 when the Tehaiton case decision, of course  
7 Hugo Black was a Kluk Klux Klan member, and I did raise  
8 this question. Why did the United States Supreme Court say  
9 that the land in Alaska was for the white race and the  
10 Alaska Natives have no Fifth Amendment rights under the  
11 U.S. Constitution? You are fulfilling and continuing this  
12 deception, because in this decision the U.S. Supreme Court  
13 said the land in Alaska was for the white race and it also  
14 said that we have no Fifth Amendment rights under the U.S.  
15 Constitution, no due process of law, no right to life, no  
16 right to liberty, no right to just compensation, and you're  
17 continuing to operate under grave offenses under which the  
18 United States government has signed these conventions.

19 I did an intervention at the United Nations, at the  
20 Commission on Human Rights, that the reason that the United  
21 States government will not implement -- they may sign  
22 conventions and they may, also, even ratify a few  
23 conventions, but if they do not complete the optional  
24 protocol for the full implementation then they do not have  
25 to uphold or use these in their decisions, and this makes



1 the U.S. Supreme Court a racist regime and it continues to  
2 be a racist regime. And until there is full and freely  
3 informed people with due knowledge to everything that I  
4 said, if you continue in this regard, I will speak up  
5 against the United States at the Commission on Human  
6 Rights. It's a crime against humanity what you're doing.

7 Thank you.

8 CHAIRMAN GIBBONS: Okay. Thank you. Any  
9 questions?

10 (No audible responses)

11 MS. REFT: Thank you, Ambassador Barnes.

12 MR. BARNES: Yes?

13 CHAIRMAN GIBBONS: Okay, thank you.

14 MS. HEIMAN: She said thank you.

15 CHAIRMAN GIBBONS: Any other people in  
16 Anchorage like to comment at this time?

17 (No audible responses)

18 CHAIRMAN GIBBONS: Anybody else on line  
19 that hasn't commented previously that would like to comment  
20 at this time?

21 (No audible responses)

22 CHAIRMAN GIBBONS: Okay, hearing nothing,  
23 I'll close the comment period and thank all who commented  
24 and I appreciate that and I'm sure the Trustee Council  
25 does.

1 MS. McCAMMON: Can we take a couple of  
2 minutes break?

3 CHAIRMAN GIBBONS: I think we'll take a  
4 five-minute break at this time and we'll come back.

5 (Off record - 10:43 a.m.)

6 (On record - 10:55 a.m.)

7 CHAIRMAN GIBBONS: Well, looks like  
8 everybody is back, maybe we can get started again. Next  
9 item here is further discussion on the possible lands  
10 proposal. Is there any other comments on this or  
11 statements?

12 MS. REFT: Well, this is Dolly Reft from  
13 Kodiak, actually I have a strong recommendation. Although  
14 (phone faded) the Karluk IRA Tribal Council and Koniag with  
15 EVOS, I guess I just want to ensure that we're getting all  
16 the information so that we can pass this out to other  
17 Natives affected, so they can participate or at least pass  
18 on our concerns.

19 CHAIRMAN GIBBONS: Sure, we can make sure  
20 and see that happens.

21 MR. C. REFT: Chuck Reft from Anchorage,  
22 I'm sorry, I didn't hear your question, I'm cutting in and  
23 out also.

24 CHAIRMAN GIBBONS: Just to supply the  
25 information, to adequately inform all the shareholders.

1 MS. REFT: Well, not just all the  
2 shareholders, the Native people because although these  
3 lands are coming from Koniag there's a strong effect on the  
4 Native people and it's not just Karluk. Natives around the  
5 villages aren't knowledgeable and aren't assured that  
6 they're being taken care of.

7 CHAIRMAN GIBBONS: Okay.

8 MR. C. REFT: Chuck Reft in Anchorage, can  
9 I make one statement?

10 CHAIRMAN GIBBONS: Sure, go ahead.

11 MR. C. REFT: And this is directed to the  
12 Council, the EVOS Council, and to all the people who are  
13 thanking EVOS and what they're accomplishing. If you  
14 people were members of our village I think you would have a  
15 total different attitude. Understand what we're trying to  
16 tell you people, these are not your lands, these are our  
17 lands.

18 That's all I have to say.

19 CHAIRMAN GIBBONS: Thank you, Mr. Reft.  
20 Any other comments from the Trustee Council or --  
21 Ms. Heiman.

22 MS. HEIMAN: If you're ready, I would like  
23 to make a comment and then a motion.

24 CHAIRMAN GIBBONS: Sure.

25 MS. HEIMAN: This is Marilyn Heiman from

1 the Department of Interior and I want to thank the Refts  
2 and all of the folks who have testified and provided us  
3 information. This has been a very good learning experience  
4 for me, I learned a lot about what happened with the Koniag  
5 merger and how some shareholders were left behind and how  
6 -- this is a very difficult situation. And I want to  
7 recognize that and I thank you for helping us understand  
8 what has taken place.

9 I also, again, want to reiterate that this does not  
10 lock Koniag shareholders or Koniag Corporation into a sale  
11 of their land. They may, after 10 years, decide they don't  
12 want anything to do with this proposal and decide not to  
13 sell the lands, and they will have received the payments  
14 each year for the 10 years.

15 This area and the Karluk River is one of the most  
16 important salmon rivers in the world and it is a resource  
17 that is important to the public, to subsistence users, to  
18 sport and commercial fishermen and it's important for our  
19 grandchildren and those to follow us that we protect this  
20 river and this area.

21 I want to reiterate, too, that the subsistence  
22 protection on these lands is beyond what is in ANILCA and I  
23 believe that's very important that we ensure that  
24 subsistence continues on all the lands that are purchased  
25 or there are conservation easements related to the Exxon

1 Valdez Oil Spill Trustee Council.

2 So given all that information and the benefits, I  
3 think, outweigh some of the costs that we have heard, I  
4 would like to move that we, I hope I'm going to say this  
5 right, approve the resolution of Exxon Valdez Oil Spill  
6 Trustee Council involving the Koniag conservation easement.  
7 Do you want me to say more? Is there a motion  
8 specifically?

9 CHAIRMAN GIBBONS: I believe there's a  
10 draft motion in front of us.

11 MS. McCAMMON: It's a resolution.

12 CHAIRMAN GIBBONS: Excuse me, a resolution  
13 in front of us.

14 MS. McCAMMON: Draft January 4th.

15 MS. HEIMAN: So I move the resolution of  
16 Exxon Valdez Oil Spill Trustee Council 1/4/2001 -- oh, it's  
17 Resolution 01-05, with the understanding that this does not  
18 make the agreement go into place until it's approved by the  
19 Koniag Corporation. Is that correct?

20 CHAIRMAN GIBBONS: Okay. Is there a  
21 second?

22 MR. BALSIGER: Second.

23 MR. TILLERY: I'll second.

24 CHAIRMAN GIBBONS: Okay. Is there any  
25 further discussion on it?

1 MS. HEIMAN: Actually I would like to  
2 request one other thing. I would like to request that  
3 Molly McCammon go to Kodiak and meet with the folks that  
4 have concerns remaining prior to the finalization of this  
5 proposal, if possible.

6 CHAIRMAN GIBBONS: I see a head bobbing, I  
7 think, yes, so we'll make that happen. And before we go  
8 any further, there's one other person that would like to  
9 testify, even though I've closed it, there's been -- we've  
10 allowed people to come, so there's a Mr. Tim Richardson on  
11 line who would like to comment at this time.

12 (No audible responses)

13 CHAIRMAN GIBBONS: Mr. Richardson?

14 (No audible responses)

15 CHAIRMAN GIBBONS: Okay, I guess not.  
16 Okay, we've had the -- shall I call the question at this  
17 point?

18 MS. HEIMAN: We need a second, don't we?

19 MR. BALSIGER: We had a second.

20 MS. SEE: We had a second.

21 CHAIRMAN GIBBONS: Okay. Any further  
22 discussion before I call the question?

23 MS. REFT: We're having a hard time hearing  
24 over here.

25 CHAIRMAN GIBBONS: Okay, we're about ready

1 to call the question on the draft resolution proposal to go  
2 forward with the conservation easement on the Koniag lands.

3 MS. REFT: Ms. Heiman, I want to thank you  
4 for making that statement and I just want to reiterate  
5 we're scared, okay? It's not like we have any authority  
6 we're having to work with. What's left over after you guys  
7 make the deal? So that's all I have to say.

8 MR. C. REFT: Chuck Reft in Anchorage. Can  
9 I ask Ms. Heiman for her phone number where I can contact  
10 her?

11 MS. HEIMAN: Sure, my number is  
12 907-271-5485.

13 MR. C. REFT: 5485?

14 MS. HEIMAN: Yeah. And, Dolly, I thank you  
15 for your comments and I want to just say although this may  
16 seem like a long-term decision, and I think to some degree  
17 it is, although it is not a purchase, you know, at any time  
18 after the 10 years this -- you know, this can be reopened,  
19 it can be relooked at if other kinds of proposals are on  
20 the table. I think that this leaves a lot of flexibility  
21 and that it isn't as foreboding as it may sound.

22 CHAIRMAN GIBBONS: Thank you. I guess I'll  
23 call the question at this time. All in favor of the  
24 resolution as stated by Ms. Heiman, say aye.

25 IN UNISON: Aye.

1 CHAIRMAN GIBBONS: Opposed?

2 (No opposing responses)

3 CHAIRMAN GIBBONS: Resolution passes.

4 Thank you. Molly.

5 MS. McCAMMON: Well, given that the  
6 resolution is passed, then the next item would be the blue  
7 sheet here, which is a proposed amendment to Project 01126,  
8 Habitat Protection and Acquisition Support. And this is a  
9 request for an additional \$11,700 in support costs for site  
10 inspection, air charter for the site inspection, title  
11 insurance and then some general administration costs. And  
12 there is a suggested motion at the end.

13 MS. HEIMAN: Mr. Chairman.

14 CHAIRMAN GIBBONS: Yes.

15 MS. HEIMAN: I move that the Trustee  
16 Council approve the addition of 11,700 to Project 01126 for  
17 the U.S. Fish and Wildlife Service for support costs for  
18 the Koniag acquisition.

19 CHAIRMAN GIBBONS: Do we have a second?

20 MR. BALSIGER: Second.

21 CHAIRMAN GIBBONS: Okay. It's been moved  
22 and seconded, all those in favor say aye.

23 IN UNISON: Aye.

24 CHAIRMAN GIBBONS: Against?

25 (No opposing responses)



1 CHAIRMAN GIBBONS: Okay. Thank you. I  
2 think we have one more item on the agenda, it's a revision  
3 to Project 1404.

4 MS. McCAMMON: That's correct,  
5 Mr. Chairman. At the December meeting you approved \$75,000  
6 in funding for Dr. Neilsen to proceed with Project 01404,  
7 Archival Tags for Tracking King Salmon. At the time there  
8 were some questions raised, though, concerning which  
9 particular species of salmon might be better, most  
10 appropriate, for the tagging test and the location of the  
11 release of the fish. During this interim period  
12 Dr. Neilsen has been in discussion with hatchery folks and  
13 with Department of Fish and Game, they are requesting  
14 revisions to the project to test the tags on coho instead  
15 of chinook salmon and to release the fish at Ship Creek and  
16 Cook Inlet, rather than the Ester Island Hatchery and  
17 Prince William Sound. These revisions have been reviewed  
18 by Dr. Spies, the Chief Scientist, and he approves them.

19 This doesn't change the funding amount, but it  
20 changes some of the major -- and it doesn't really change  
21 the object of the project because it still is testing the  
22 tagging technology, but these were significant enough  
23 changes that we thought it should come back to you.

24 CHAIRMAN GIBBONS: Okay, thank you. Do we  
25 have a motion? Ms. Heiman.

1 MS. HEIMAN: I move that we change the --  
2 on Project 01404 that we change the species from king  
3 salmon to sockeye?

4 CHAIRMAN GIBBONS: Coho.

5 MS. McCAMMON: Coho.

6 MS. HEIMAN: Sorry, coho, and we change the  
7 location, I guess, from Prince William Sound to Ship Creek.

8 CHAIRMAN GIBBONS: Is there a second?

9 MS. SLATER: Second.

10 CHAIRMAN GIBBONS: Okay. It's been moved  
11 and seconded, all those in favor say aye.

12 IN UNISON: Aye.

13 CHAIRMAN GIBBONS: All opposed?

14 (No opposing responses)

15 CHAIRMAN GIBBONS: Motion carries. I  
16 believe that's it for today.

17 MS. McCAMMON: That's it.

18 CHAIRMAN GIBBONS: So do I hear a motion we  
19 adjourn?

20 MR. BALSIGER: I move we adjourn.

21 MS. SEE: Second.

22 CHAIRMAN GIBBONS: It's been moved and  
23 seconded to adjourn, all those in favor say aye.

24 IN UNISON: Aye.

25 CHAIRMAN GIBBONS: Opposed?

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

(No opposing responses)

CHAIRMAN GIBBONS: We stand adjourned.

(Off record - 11:09 a.m.)

**(MEETING ADJOURNED)**

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

I, Joseph P. Kolasinski, Notary Public in and for the state of Alaska and reporter for Computer Matrix Court Reporters, LLC, do hereby certify:

THAT the foregoing pages numbered 4 through 59 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Meeting recorded electronically by me on the 4th day of January 2001, commencing at the hour of 9:38 a.m. and thereafter transcribed by me to the best of my knowledge and ability.

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

DATED at Anchorage, Alaska this 10th day of January  
2001.

SIGNED AND CERTIFIED TO BY:

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

