

09.24.01

EXXON VALDEZ OIL SPILL

TRUSTEE COUNCIL

Public Meeting

Wednesday, January 13, 2010

1:30 o'clock p.m.

441 West 5th Avenue, Suite 500

Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

U.S. DEPARTMENT OF COMMERCE, MR. CRAIG O'CONNOR

National Marine Fisheries Svc: Special Counsel

(Chair)

STATE OF ALASKA - DEC: MR. LARRY HARTIG

Commissioner

U.S. DEPARTMENT OF AGRICULTURE, MR. STEVE ZEMKE for

U.S. FOREST SERVICE MR. JOE MEADE, Supervisor

STATE OF ALASKA - DEPARTMENT MR. DENBY LLOYD

OF FISH AND GAME: Commissioner

U.S. DEPARTMENT OF INTERIOR: MR. KIM ELTON

Senior Advisor

MR. DOUG MUTTER

STATE OF ALASKA - MR. CRAIG TILLERY for

DEPARTMENT OF LAW: MR. DANIEL S. SULLIVAN

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JAN 22 2010

EXXON VALDEZ OIL SPILL
TRUSTEE Council

STAFF PRESENT:

ELISE HSIEN	Executive Director
CHERRI WOMAC	Associate Coordinator
CATHERINE BOERNER	Science Coordinator
CAROL FRIES	DNR
PETE HAGEN	NOAA
CARRIE HOLBA	ARLIS Librarian
RENEE JAMES	Administrative Manager
LAURA JENNINGS	NOAA
MICHAEL SCHLEI	Data Systems Manager
REBECCA TALBOTT	

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P R O C E E D I N G S

(Anchorage, Alaska - 1/13/2010)

(On record - 1:00 p.m.)

CHAIRMAN HARTIG: Okay. We'll call the meeting to order. I'm Larry Hartig, I'll sit in today as the state chair and we're starting here just a few minutes after 1:00 o'clock. Do you want to do a roll call, just one, did you do a roll call?

UNIDENTIFIED SPEAKER: Everybody can (indiscernible).

CHAIRMAN HARTIG: Elise or.....

MS. HSIEH: Sorry. Elise Hsieh.

CHAIRMAN HARTIG: No, we're going to do a roll call.

MS. HSIEH: Oh, sorry. Yes.

CHAIRMAN HARTIG: Elise will start.

MS. HSIEH: Sorry, I was writing notes.

MR. ELTON: Here.

UNIDENTIFIED SPEAKER: You know we're here.

(Laughter - off record conversation)

MR. O'CONNOR: Craig O'Connor from NOAA.

MR. ZEMKE: Steve Zemke from the Department of Agriculture, US Forest Service.

CHAIRMAN HARTIG: Larry Hartig, DEC.

MR. TILLERY: Craig Tillery, Department of Law.

MR. ELTON: Kim Elton, Department of Interior.

MR. LLOYD: Denby Lloyd, Department of Fish and Game.

CHAIRMAN HARTIG: All six trustees are here or are represented. Okay. Has everybody had a chance to look at the agenda for today?

MR. LLOYD: Yes.

UNIDENTIFIED SPEAKER: Uh-huh.

CHAIRMAN HARTIG: Okay. Motion to approve.

MR. LLOYD: Move to approve the agenda.

MR. O'CONNOR: Second.

CHAIRMAN HARTIG: Any other discussion on it? Anybody opposed to the agenda?

(No audible responses)

CHAIRMAN HARTIG: The agenda is approved. In your packet you have the August 31, 2009 meeting minutes. Do I have a motion to approve the minutes?

MR. O'CONNOR: So moved, Mr. Chairman.

CHAIRMAN HARTIG: Second?

UNIDENTIFIED SPEAKER: I'll second.

CHAIRMAN HARTIG: Any discussion, comments on the draft notes?

UNIDENTIFIED SPEAKER: Mr. Chair, just an item of clarification. Maybe I'm not seeing the same meeting notes you're talking about. I see notes for November 18th.

CHAIRMAN HARTIG: Uh-huh. (Affirmative)

UNIDENTIFIED SPEAKER: I thought you said August.

CHAIRMAN HARTIG: Oh, I'm sorry. November 18th.

You're right.

UNIDENTIFIED SPEAKER: Oh, thank you.

MR. O'CONNOR: He said August? I'd better wake up.

UNIDENTIFIED SPEAKER: Yeah.

MR. O'CONNOR: Yeah. Okay. Thanks.

CHAIRMAN HARTIG: Okay. Any other corrections or additions to the November 18, 2009 notes?

(No audible responses)

CHAIRMAN HARTIG: They're approved then. Okay. So I guess we'll go on to public comment. Do we have anybody signed up for public comment?

UNIDENTIFIED SPEAKER: I don't -- I don't think she's set up to do that. Are you?

UNIDENTIFIED SPEAKER: Sure.

UNIDENTIFIED SPEAKER: I don't see anything.

CHAIRMAN HARTIG: Anybody in the -- Anchorage, in the room here, want to make any public comments? Anybody on the phone want to make any comments to the trustees?

(No audible responses)

UNIDENTIFIED SPEAKER: Could be a fast meeting.

CHAIRMAN HARTIG: I guess not. Okay. We'll go on to the Executive Director's report.

MS. HSIEH: As we -- I just wanted to thank -- PAC members came yesterday and had dinner with the trustees and had a joint -- had a PAC meeting this morning at which the trustees

were present. A lot of helpful discussion. I wanted to thank the PAC members and Stacy, the chairperson, for helping make that happen. And that's it. Thank you.

CHAIRMAN HARTIG: That was a short report.

MS. HSIEH: Would you like a longer one?

CHAIRMAN HARTIG: Well, I don't know.

MS. HSIEH: Okay. Well, today, at today's meeting, you'll be hearing from Craig O'Connor about the lingering oil report and also Laurel Jennings from NOAA. The restoration plan from 1994 has been in need of a NEPA update. NOAA is embarking upon that. And concurrent with that, the Trustee Council is embarking on a sort of elongated scoping process with public meetings in six communities that is outlined in the NEPA notice of intent which will be introduced by Laurel Jennings later and will be available on our website as well. So we've been very intent on assisting NOAA with that process and look forward to receiving public comment over the spring in the six community meetings.

CHAIRMAN HARTIG: Okay. Thank you. The next item on the agenda is proposed modifications to the PAC, the Public Advisory Committee charter, which gets re-upped for the 2010-2012 time period. We had some discussion at that -- here this morning at the PAC meeting, and that was very helpful, I know, to all the trustees and we appreciate all the PAC members' input on that at the meeting and going forward on

this. It is down here as an action item. Is there anybody that wants to make a motion at this point? Otherwise we can defer it to the next meeting. We don't have to take action at this meeting, as I understand it, and give us more time for input and discussion.

MR. LLOYD: Yeah, Mr. Chairman, I think we'd benefit from a bit more time to consider and hear input on the issue.

MR. TILLERY: Mr. Chairman. Just because there may be some people who are here at the Trustee Council meeting that weren't here at the PAC meeting earlier, I wonder if it would be useful to have Mr. Mutter at least kind of go through what the proposed changes are briefly now.

CHAIRMAN HARTIG: Yeah, that would be a good idea because -- yeah, Doug, if you could come up here to the mic -- it is something that we would have to take up, as I understand it, by June 2010 in order to make the deadline for when the committee re-ups.

MR. MUTTER: I'm Doug Mutter, Department of the Interior. I'm the designated federal official for your public advisory committee, which we manage under the Federal Advisory Committee Act, or FACA. And the FACA groups are set up to sunset every two years, so you need to do a renewal of your charter, and October of 2010 is the time frame that you'd need to submit a renewed charter for that. We've also set up the membership of the Public Advisory Committee to follow that two-

year program, so you would be redoing your membership this summer in the same time frame. And it usually takes a couple of months to get through the process at Washington DC because the Secretary of the Interior is the person that signs the charter for this group because he's the official DOI trustee. So that's why the June time frame is important to decide what you want to do with the charter then.

I've tweaked it a little bit based on GSA's guidance on how charters are supposed to be put together. We added one section on record keeping, otherwise it's the same, it's just reorganized a little. The part that's up in the air right now is how many members and what interests do you want them to represent. Currently there's 15; the proposal was to cut that down to eight. And you can do 15, eight or somewhere in-between or add more if you want. That's up to you guys to decide. But June would be the appropriate time frame to take action on the charter and then I can get it processed.

CHAIRMAN HARTIG: Any questions from the trustees?

MR. ELTON: Yes, Mr. Chair.

CHAIRMAN HARTIG: Yeah, Kim.

MR. ELTON: I would just note something else that Doug mentioned in the PAC meeting that I think may -- we may want to put on this record too is you might want to talk about the email that you just received about qualification for membership or the disqualification for membership referring to lobbyists.

MR. MUTTER: Right. Yeah. One of the new instructions from the administration is to add this language regarding FACA membership, and it says, quote, the Obama administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees or councils, end quote. So that will be part of the consideration when you're looking for members and I want to make sure we include that on our federal register notice.

CHAIRMAN HARTIG: Any other questions?

(No audible responses)

CHAIRMAN HARTIG: Okay. Thanks, Doug. So it looks like we'll -- this will be an item for (indiscernible - cough) at a future meeting and we'll make a decision in June or before June. Okay. Next agenda item for today is the NOAA lingering oil report. I know we got a very good report at the PAC meeting. I don't know that you need to repeat the whole thing if you don't want to, Craig, but.....

MR. O'CONNOR: Well, I love to hear myself talk, but I will -- just very, very briefly. We -- as I had committed at the last council meeting, or suggested, that the council put together that the council put together a composite report of where we stand with regard to the studies that are ongoing with lingering oil so that as we make decisions to move forward we understand exactly where we are. That was done, that report was prepared over the -- since the last meeting, over the last

two months, and I want to recognize the efforts of a couple of our contractors, particularly Jacqui Michel and Dan Esler who worked very aggressively and -- in putting this summary report together, or what is the appendix, and then we put -- I put together the summary of that, that I presented this morning.

The -- I guess in a nutshell things are looking better; things are looking worse. It depends on what you're looking at. Right now we have a number of studies that are still underway that are looking particularly at the sub-lethal impacts of lingering oil on otters and on harlequin ducks. Hopefully we're going to have results of those studies coming to us here in the not too distant future. We are seeing some upward trends in the population level of harlequins, particularly in sea otters as well, in the lingering oil areas. We have a good sense to where oil likely is based upon some of the modeling we've done. We have a good sense that the problem with regard to lingering oil is the fact that we are not seeing biodegradation because of the absence of adequate oxygen being introduced into where that oil is encapsulated. We know the oil can be biodegraded, the question is how to go about doing it. We have engaged in a couple of studies, field studies on introducing oxygen and other nutrients into the oil pockets, but we have more work to do in that regard. We're learning a lot and we're feeling better. We should have a lot more answers over the course of the next year to year and a half.

We'll be continuing some of the studies, which I mention in my conclusion and recommendations, to get a firm handle on what exactly the impact is on the biological resources, particularly at the sub-lethal level. And that's where we stand. And it's in your packets. The appendix portion is 40 pages that synthesized all of the studies to date. And then I did a little overview for public consumption of that, so that's it.

CHAIRMAN HARTIG: I certainly appreciate NOAA taking the lead in putting that together. Thanks to all the people that worked on it.

MR. O'CONNOR: Thank you. Oh, and I want -- just before Laurel starts on the next agenda topic, I want to make a point. Our staff is phenomenal and we have tasked them, we have -- we, meaning NOAA, me -- over the course of the holiday season. And whether it's the preparation of this report or the notice of intent that we're going to chat about in a moment, they did a remarkable job. And I ruined our Executive Director's vacation. She worked every single day to help with the product that we're going to talk about in a minute. It's just -- it's amazing. So the fact that they even let me back in the building is surprising, but they've done a great job.

CHAIRMAN HARTIG: Well, it's really pulled a lot together, both the NOI and the lingering oil report. So, yeah, thanks to NOAA and.....

MR. O'CONNOR: Yeah.

CHAIRMAN HARTIG:everyone that assisted on that and Elise. It brought a lot together so that now we have something to work with going into 2010 and getting everybody on the same page.

MR. O'CONNOR: Yeah.

CHAIRMAN HARTIG: Very helpful. Any questions for NOAA, for Craig, for -- on lingering oil?

(No audible responses)

CHAIRMAN HARTIG: I didn't want to cut this discussion short knowing that some people on the phone may not have been listening in on the PAC meeting, but if there's any questions from anybody on the phone on the lingering oil report at this point?

(No audible responses)

CHAIRMAN HARTIG: It doesn't sound like it. Okay. Well, I guess we'll then go to the NEPA notice of intent. Laurel. There she is.

MR. O'CONNOR: I'll give 25 words on that while Laurel is coming up to the table. One of the things that the council had discussed I guess at the last meeting and during the course of our retreat was the requirement that we go forward with an update to the existing programmatic environmental impact statement that was developed and signed off on in 1994, which is our restoration plan which we've been functioning under for the last 20 years, or so it seems. The federal requirement is

that those be updated every five years. And in federal government time, five years, 20 years, they're pretty similar. So we're going to do it now and we're doing it as part of the outreach, the communication that the council wants to engage as we look forward into the future with the construct for the Trustee Council operations and likely the winding down of the Exxon Valdez Trustee efforts as we've known them for the last 20 years. So we're blending those two together and over the course of the last month, month and a half, we have put together what Laurel is going to talk us through, which is the notice of intent to go forward with the preparation of the supplemental environmental impact statement, which will be to update what we already have in place, the environmental impact statement done in '94, and blending in that process as an indication of what the Trustee Council wants to do in the future. We're going to be going -- we have put together that document, which is going to be up for the Trustee Council's approval today, which you would then be requesting that NOAA go forward with the appropriate publication of that document and the further work on the supplemental environmental impact statement. And with that, Laurel, if you want to explain the process, where we are, where we're going and how it works.

MS. JENNINGS: Okay.

MR. O'CONNOR: Please.

MS. JENNINGS: Hi everybody. Most of you just heard me

○ speak but I'll refresh you again. My name is Laurel Jennings, I work for NOAA and I am one of the people involved in the NEPA process. I'm going to help shepard this particular paperwork through. And again, I'm not working alone, I've had incredible help already and expect to still receive even more help in the future, so thank you ahead of time for all of your contributions.

○ The NEPA process has a couple of milestones. We -- we're working on a fast pace for this particular government agency, so we're meeting our first milestone today, hopefully, or this week, which is the publication and release of the notice of intent. That document, if approved and signed, will go into the federal register where it will be made public, and we will start a 30-day clock -- and actually a longer clock of public comments, opportunities for individuals to comment through six public meetings, through the website, through email and also through phone messaging and handwritten notes, as a way to help inform the Trustee Council on the scale, the scope and all possible comments from this notice of intent.

○ So once that happens, like I said, we'll have six public meetings starting in February. Three will happen the week of February 15th. Three more will happen the week of March 15th. Those meetings will be listening sessions. The Trustee Council is encouraged to participate in all of them but I understand the schedules are tight so it would be great to

see as many as possible.

Once the comment period is closed we will incorporate all comments together into a scoping report which will be available to you to further inform you as we go through the EIS process. The next stage will be a draft supplemental EIS. That document will hopefully come out in the spring of this year. I don't have an exact date yet because there's a lot of work still ahead of us. But once that document comes out, we will give the public again a 45 day comment period where they can again submit comments through the same avenues. Finally we will come to a final supplemental EIS. That document will be the end product of all of this work -- or one of the end products. And again that will be released for review in the federal register, through other venues, and then a record of decision, the ROD will come out. And then finally, after that, action could take place. So those are the milestones ahead of us. Again, we're trying to move through this pretty rapidly, which means that I will need a lot of help and understanding as deadlines will quickly approach and we will march right through them, I hope.

So are there any questions? You guys have had an opportunity to look through the document and I've received a lot of comments from you. Were there any others at this time?

CHAIRMAN HARTIG: Just a clarification, Laurel.

MS. JENNINGS: Uh-huh.

CHAIRMAN HARTIG: So far, Craig, you need I guess the green light from the trustees, a motion today to -- that there's no objection to the form of the NOI as it is right now.

MR. O'CONNOR: Right. We need that because we have blended the two processes together. The Trustee Council activities and then the federal activity, which is doing the supplemental environmental impact statement. I'm not going anywhere saying anything until you guys say it's okay.

CHAIRMAN HARTIG: And before I ask for a motion, on the record of decision, would that be for NOAA or all three federal agencies for their decision on amending the plan, that's what the.....

MS. JENNINGS: All three.

CHAIRMAN HARTIG:ROD is?

MS. JENNINGS: All three agencies. All the federal agencies.

MR. O'CONNOR: Uh-huh. That was the way it was originally and that's what we would intend to do. We have the other two federal agencies, being DOI and AG, working with us as -- and we invited all of the trustee agencies on the state side to be cooperating agencies with us.

CHAIRMAN HARTIG: Yeah.

MR. O'CONNOR: This is a group process and -- but at the end the official document that's been signed off on is the

ROD from the supplemental environmental impact statement, is signed by the three federal agencies.

CHAIRMAN HARTIG: Okay. I'll ask for a motion and then we'll get into discussion. Do you have a preliminary question first, Kim, or.....

MR. ELTON: Well, I -- just a comment. I mean, I feel the need to put this on the record. I really appreciate the work that Laurel and NOAA has done, and one of the things that I appreciate the most is they went far beyond what is basically necessary in the public process. They didn't go overboard, but they didn't -- I mean, they picked a route that involves the public to a much greater degree than is legally required and I just appreciate that.

CHAIRMAN HARTIG: Steve, did you have a comment?

MR. ZEMKE: I guess one of the things that might be included in -- after the record of decision, I guess there's the '94 restoration plan. (Indiscernible - throat clearing) be looking at a new restoration plan written as based upon the record of decision.

CHAIRMAN HARTIG: I would be surprised because most of what is being proposed is for future action that's consistent with the existing '94 plan.

MR. ZEMKE: Okay. Thank you.

CHAIRMAN HARTIG: So we're looking for a motion from the trustees concurring in the NOI, which we all have a draft

here in front of us today, being given to NOAA to go ahead and go out and give public notice.

MR. LLOYD: I'll move that, Mr. Chairman.

MR. ELTON: Second.

CHAIRMAN HARTIG: Thank you. Any other discussion on that? Anything else you need from us? That's it? Vote on the motion?

MS. JENNINGS: Yeah.

CHAIRMAN HARTIG: Okay.

MS. JENNINGS: All right. Thank you.

CHAIRMAN HARTIG: No other disc -- we got to take a vote here. No other discussion? Okay. All those in favor, say aye.

IN UNISON: Aye.

CHAIRMAN HARTIG: Any objections?

(No audible responses)

CHAIRMAN HARTIG: Okay. The motion passes. Any other discussion we want to have at this point on the NOI or the NEPA process?

MR. LLOYD: Well, I guess I do have a question. In the previous EIS, was there the question posed to the state agencies to be cooperating agencies back then? And do you know if they did that?

MS. JENNINGS: I believe it was but a lot of the people I've asked have not been a part of the group as long as.....

MR. LLOYD: Right.

MS. JENNINGS:that time frame. So the understanding is yes, but I don't have all of that.....

MR. LLOYD: Do you remember, Craig?

MR. TILLERY: I don't recall if we were. I don't -- I couldn't tell you if we were.

MR. ZEMKE: I think they were not formal signators. They weren't.....

MR. TILLERY: They weren't signators.....

MR. LLOYD: No, cooperating agencies.

MS. JENNINGS: Right.

MR. LLOYD: Yeah.

MS. JENNINGS: Right.

MR. ZEMKE: I think in probably the record of decision there was a probably discussion.

MR. O'CONNOR: Of course if you don't want to be, give me a call. We'll talk it over.

MS. HSIEH: I think there's some -- Carol Fries or Jen Kohout -- Carol Fries may be able to help you answer that question.

MS. FRIES: There was an offer for the Department of Law (indiscernible - away from microphone) agency and Jen was doing that. I do not know if that document was signed and sent back.

MR. ZEMKE: No, we're talking about 1994.

MS. FRIES: Oh, I'm sorry. I misunderstood.

MR. LLOYD: Yeah, it was trying to judge the request that we're all looking at right now and whether or not that's a departure.....

MS. JENNINGS: Historically.

MR. LLOYD:or something parallel to what had been done.

CHAIRMAN HARTIG: My understanding, if you're a cooperating agency, then we'd just have more of a role in something that you put together, the draft EIS, if there's something that falls within a particular expertise to that agency, they're available for the lead agency to consult with and you have a little more opportunity to provide input, but it's not a huge burden.

MR. O'CONNOR: It's actually going to be nothing more than we would expect you to be doing anyway as trustee.

CHAIRMAN HARTIG: Right.

UNIDENTIFIED SPEAKER: Right.

CHAIRMAN HARTIG: I don't see a problem from the DEC perspective, but I mean.....

MS. JENNINGS: And within the next week or so I'll be able to give you more specific time lines of when I expect some of these actions to take place, but it will still be a week or so before I have that ready.

MR. TILLERY: Can -- Mr. Chairman. Can we go ahead and

rely on these public meeting time lines that are in the draft?

MS. JENNINGS: Yes.

MR. TILLERY: At this point they're set in stone?

MS. JENNINGS: They're set and arranged. Yes.

MR. O'CONNOR: The desire was that we move fast. We're moving fast.

CHAIRMAN HARTIG: Well, with that, again, I'll echo Kim's comment that you guys did a superb job in putting this together and striking a good balance and offering lots of opportunities to engage the public in teasing up what the big issues are and giving a good historical background, you know, why we're viewing the issues the way we are now as trustees but that we really do want the public input. It's not cast in stone, it's a straw dog there for them to comment on and whatever, however they see fit, so.....

MR. O'CONNOR: But once again.....

CHAIRMAN HARTIG:looking forward to.....

MR. O'CONNOR:that lady right there is the one who had the laboring oversight.

CHAIRMAN HARTIG: Yeah.

MS. HSIEH: I had the whistle and the flags.

CHAIRMAN HARTIG: Well, we do appreciate you.

MR. O'CONNOR: We owe her a ski trip to Salt Lake and a beach visit to Newport.

CHAIRMAN HARTIG: The snow is not that good right about

now. It's better later in the season. Okay.

MS. JENNINGS: Anything else?

CHAIRMAN HARTIG: Thanks, Laurel.

MS. JENNINGS: All right. Thank you.

CHAIRMAN HARTIG: Okay. Going to agenda item 8, habitat acquisitions. Carol, do you want to join us?

MS. FRIES: My name is Carol Fries from the Alaska Department of Natural Resources. Before you today are some small parcel nominations that have recently come forward. I'd like to go over those, but if you were interested, I'd be happy to give you a brief update on the status of parcels that have recently closed and others, probably at the end, that we've been working on. Just for informational purposes, we were able to close the Russell-Long parcel that you approved several years ago in March of 2008. It's a three acre parcel fronting on the Kenai River adjacent to the Soldotna Visitor's Center. It's a very popular area and in July, with the assistance of Rocky Mountain Elk Foundation, American Land Conservancy, BLM and a variety of other entities we were able to close the Shuyak and Uganik parcels on North Afognak. That protected approximately 4000 acres just to the south and to the east -- to the east of the refuge and just south of lands that were previously purchased by the Exxon Valdez Oil Spill Trustee Council. And that's an informational item that is related to the Ouzinkie parcel that we're going to talk about today.

We've recently received quite a few small parcel nominations. Two small parcels down on the Kenai, a proposal from Lesnoi for conservation easements on Kodiak, and at this point we've -- and we've also received a nomination for the Coal Creek parcel and the Ouzinkie parcel that are in your packet. The other small parcels are not -- the other parcel packages are not ready yet for your consideration but they will likely come back before -- they'll come before you at a future meeting.

The Coal Creek parcel is comprised of two lots that are immediately adjacent to the previously purchased Kenai 19 parcel, which was also called Coal Creek. It was purchased by the council in 1997 and unfortunately at that time we were able -- unable to include the two lots that are being offered to us at this point in time. The two lots, the parcel that we're looking at now has the same attributes as the parcel that was previously purchased. It has resource values particularly because of the tidally influenced marsh on the property. And we would like to move forward with due diligence activities related -- relative to this parcel just using existing funds. So we're not asking for any additional funds, we're just bringing this to your attention and we would like to move forward, further assessing the parcel. Does anyone have any questions regarding the Coal Creek parcel?

CHAIRMAN HARTIG: Yeah, Craig.

MR. TILLERY: So do I correctly understand that the two lots on either side of the creek or Kenai nine -- Kenai 19.....

MS. FRIES: Correct.

MR. TILLERY:those will be purchased on both sides of the creek.....

MS. FRIES: Correct.

MR. TILLERY:and the abandoned part of the road to us?

MS. FRIES: That I believe still exists, but I would have to double check on that.

MR. TILLERY: You're talking about.....

MS. FRIES: This taft.

MR. TILLERY: No, this thing.

MS. FRIES: Oh, right. Yes.

MR. TILLERY: Okay. And so this one then gets picked up, four and five, complete coverage of the wetlands around the (indiscernible).

MS. FRIES: Right. On -- yes, on the ocean side of the road there another parcel, or another lot that was part of that subdivision that it's on. The landward side of the road, and that's not in the mix. And the Kenai Peninsula Borough also has a nice map illu -- wetlands delineation map which I thought might be of interest.

MR. ZEMKE: So where Coal Creek goes west of lot 4, or that blue easement that kind of goes along the creek, that --

is that still in private ownership then?

MS. FRIES: Excuse me? Which.....

MR. ZEMKE: This.

MS. FRIES: That's -- they're just illustrating the creek.

MR. ZEMKE: Okay.

MS. FRIES: That's -- these -- basically these are the Kenai Peninsula Borough's parceled boundaries.

MR. ZEMKE: Okay.

MS. FRIES: So what we would like to do at this point is proceed with a review of the title, an appraisal, and then evaluate where we are in terms of acceptance on the part of the landowner.

MR. ZEMKE: If that went through, do you know about when it would come back before the council for approval for expending funds for purchase?

MS. FRIES: My guess, it would -- I would like to have it back before the council in July or August. I think that may be optimistic. That would be my goal. You can't -- I mean, we can't do a hazmat. I think an appraiser would like to see the parcel without snow cover, but we need to -- we'd like to get the process moving forward.

CHAIRMAN HARTIG: Any other questions? Carol, the value of lots 4 and 5 is primarily for wetlands habitat? Or.....

MS. FRIES: Wetlands habitat and cultural resources.

If you look at the description of the parcel there is some significant evidence of early Russian structures on the parcel. And actually the University of Alaska, an archeologist at the University of Alaska has done some work on the site. They have a high level of interest in the potential historical significance of the parcel.

CHAIRMAN HARTIG: Yeah, I was just wondering on that, since -- on lots 4 and 5 being in a subdivision, having the road, which I assume is on the uplands, basically on the upland side of the lots, whether there's any interference with the flows there, you know, and over time there, wetlands habitat, whether there's -- it will remain wetlands or, you know, what we see there today in terms of flows will be there as the subdivision develops or whether we are really protecting this land over the long haul by just buying these two lots.

MS. FRIES: Well, I think part of what purchasing these two lots does is also protect the investment that we made previously in the parcels immediately below them. In other words, that are between those two lots and the Kasilof. Part of the marsh, a significant part of the marsh -- or a significant portion of these two lots is marsh and that marsh is contiguous to the marsh that you've already purchased.

CHAIRMAN HARTIG: And we expect it to stay a marsh?

MS. FRIES: Yeah, I think we do.

CHAIRMAN HARTIG: Any questions? Okay. So.....

MS. FRIES: Okay.

CHAIRMAN HARTIG:do you need a motion then to continue with the due diligence on this? To use -- I guess we need a motion to use.....

MS. FRIES: Yeah.

CHAIRMAN HARTIG:existing funds for due diligence efforts associated with the Coal Creek parcel. Or do you want to take all these at once?

MR. TILLERY: You know, there's a significant between I think this one small parcel versus this very large Ouzinkie.....

CHAIRMAN HARTIG: Let's take one at a time then.

MR. TILLERY: Mr. Chairman, I would so move that we approve the use of the existing funds for following through on appraisals and other due diligence activities.

CHAIRMAN HARTIG: For lots -- for.....

MR. TILLERY: Coal Creek lots 4 and 5.

CHAIRMAN HARTIG: Oh, Coal Creek, yeah.

MS. FRIES: Okay.

CHAIRMAN HARTIG: Do we have a second?

MR. ELTON: Second.

UNIDENTIFIED SPEAKER: Second.

CHAIRMAN HARTIG: Okay. Any other discussion on the motion? I think we lost Craig. It has to be a hundred percent

consensus on these things.

MS. FRIES: Do you want me to.....

CHAIRMAN HARTIG: Why don't you go to the next one.

MS. FRIES:start on the next one and then
we'll.....

CHAIRMAN HARTIG: And then come back to the motion.

MS. FRIES:come back? Okay. The Ouzinkie parcel was recently nominated following several months of discussions with the Fish and Wildlife Service, the state, Rocky Mountain Elk Foundation, and the American Land Conservancy. And Ouzinkie has confirmed their willingness to participate in the EVOS habitat protection program by submitting a nomination form and entering into an option agreement with Rocky Mountain Elk Foundation and American Land Conservancy. The partners that have been working on Northern Afognak wish to continue discussions with Ouzinkie and initiate due diligence efforts utilizing funds that have already been directed to Rocky Mountain Elk Foundation for due diligence efforts on Northern Afognak. So there's -- we're not asking for any additional funds. We would just like to continue discussions with Ouzinkie and as warranted take steps to move forward with title review and an appraisal. It should be noted that some of the Ouzinkie lands were included in the Trustee Council Resolution 03-01, which was adopted by the council in November of 2002. And if you look at the map that's associated with the Ouzinkie

parcel, at this point in time we are focused on Ouzinkie phase one, which is approximately 7200 acres. It is immediately adjacent to the Shuyak and Uganik parcels that were closed in July. While it has been logged, the area is similar and provides continuity to the area that has already been protected. It is adjacent to the refuge and adjacent to existing protected lands. The -- I think the benefits accrue to resources and services that are similar to those that have benefitted from the protection of parcels 2A, 2B, 3A, 3B, and the other additional lands that are highlighted in blue and dark green on Northern Afognak. Does anyone have any questions? Again, we're not asking for funds at this point in time.

CHAIRMAN HARTIG: Craig.

MR. TILLERY: Can you explain exactly how you pulled out of Ouzinkie phase one and how its habitat values relate to the habitat values in the remaining Ouzinkie?

MS. FRIES: What we were looking for in trying to identify the first phase, it required considering concerns articulated by Ouzinkie. The state and the Fish and Wildlife Service were looking for -- what we wanted to do was make sure that what we were pursuing was contiguous to what we had already secured. And to some degree the boundary of that parcel satisfies Ouzinkie's concerns. I think they have a concern about high-grading certain areas. It provides a

contiguous configuration and I can't say that the resource values of this particular outline are better say then a box on the southern portion. I don't think we were in a position where we could have created a phase that was further to the east. Does that.....

MR. TILLERY: Mr. Chairman. I guess my -- what I was getting at was I'm assuming that Ouzinkie did not want us to do a phased approach that had us high-grading. But is it also fair to say that we're not low-grading?

MS. FRIES: Yeah, I think that's correct.

MR. TILLERY: This is kind of a.....

MS. FRIES: That's correct.

MR. TILLERY:reasonable compromise of (indiscernible) and it does obviously fit our purposes by being contiguous.

MS. FRIES: Correct.

MR. ZEMKE: A couple of questions.

MS. FRIES: Uh-huh.

MR. ZEMKE: One is on the other Ouzinkie lands, do you know about how many acres that entails? It looks like.....

MS. FRIES: It's large.

MR. ZEMKE:20,000 or so.

MS. FRIES: Yeah, I'd say we're -- at least, yeah.

MR. ZEMKE: On the Shuyak, on the 3A parcel, do you know what the appraisal was per acre on that?

MS. FRIES: I would say it averaged at between 900 and 1000 per acre.

MR. ZEMKE: Would you expect the phase one lands to be in that similar ballpark?

MS. FRIES: It think that there may be some areas of that that may reach that value. I think that those acres to a very large extent have been logged, so I think what you're going to see is a reduction in the price per acre.

MR. ZEMKE: Okay. And has Ouzinkie Corporation talked about the rest of the lands, that they're willing sellers on that portion also or.....

MS. FRIES: Yes.

MR. ZEMKE:given the right conditions, of course.

MS. FRIES: Well, of course, given the right conditions, but yes, I believe that Rocky Mountain Elk Foundation and American Land Conservancy's option agreement covers the entire Ouzinkie holdings outlined in red. However, because obviously this is a significant number of acres and because of Ouzinkie's concerns, it's going to have to be approached in a phased approach. We've also applied for a Forest Legacy grant and will make significant efforts to secure other funding, because I think we all realize that it's -- the magnitude of this is more than can be dealt with by one funding source.

CHAIRMAN HARTIG: Anything else, Steve?

MR. ZEMKE: No, that's it.

CHAIRMAN HARTIG: Carol, if I remember right, we were hoping that someday we'd be able to link up the east and the west parcels we've acquired. Is there still hope of doing that? It doesn't look like, you know, even with adding the other Ouzinkie lands that we'll quite get there.

MS. FRIES: We hope to. We haven't given up.

CHAIRMAN HARTIG: But I just wondered, you know.....

MS. FRIES: I don't Rocky Mountain Elk Foundation or American Land Conservancy have either. But.....

CHAIRMAN HARTIG: I'm just worried that by phasing it if the last phase is the critical piece and we won't be in a very good bargaining position.

MS. FRIES: Well, I think -- I'm not quite sure how to answer that because I think the more players that come to the table, the more competition you've introduced into the process. The other thing that may be worth noting, I think that from the perspective of some of the grant funding sources the -- I think you're probably concerned about the remaining yellow up in this particular area. I think those.....

CHAIRMAN HARTIG: I mean, from a resource value standpoint, maybe we don't really care that much, you know, other than public use, you know, it would obviously be nice to link it up.

MS. FRIES: In here, I think here the resource values

are also significant. I think these parcels are probably more likely to secure, for instance, National Coastal Wetlands funding. I think they would be good candidates for Forest Legacy funding. But I think there are going to -- additional discussions with those landowners will have to -- would have to take place and I think there are efforts underway but I think that's -- it's going to take a little -- a little time.

CHAIRMAN HARTIG: But in then lands that we're looking at acquiring now, whether it's Ouzinkie phase one or other Ouzinkie lands, their values are not dependent on us eventually getting all the land and connecting everything up. If we look at those lands independently, they're still high value.

MS. FRIES: I think they are of value because you're creating -- or it's -- you're securing blocks of habitat that are contiguous to protected areas. You're also protecting the resources. I would, if I -- you know, if I had to render an opinion, I would say that probably this -- the resource values here are probably higher than here. But I still think this is a valuable piece to at least initiate due diligence efforts on and see where it leads us. There is -- I mean, with -- I think Steve kind of got to the issue of relative value, and I think that's something that will come into play, particularly.....

CHAIRMAN HARTIG: And is -- the lands that -- all of the lands that we're interested in acquiring in the area over time, are those all Ouzinkie lands or is there some other

landowner in there?

MS. FRIES: There's another landowner in there. In other words, all in the red boxes is.....

CHAIRMAN HARTIG: Are Ouzinkie and then to the right.....

MS. FRIES:Ouzinkie.

CHAIRMAN HARTIG:would be -- the part to be east would be other.....

MS. FRIES: To the east, right, is another landowner.

CHAIRMAN HARTIG: Okay. Questions? Craig.

MR. TILLERY: Carol, I think you indicated that some of the Ouzinkie lands were part of a previous resolution?

MS. FRIES: Yeah, not the Ouzinkie lands here, but.....

MR. TILLERY: Oh, okay.

MS. FRIES:this particular area.

MR. TILLERY: So none of these Ouzinkie lands come within the 10 million dollars that the Trustee Council approved?

MS. FRIES: No. They -- this area was within the 10.4 that the council approved in 2002.

MR. TILLERY: Nothing that's in phase one?

MS. FRIES: No.

CHAIRMAN HARTIG: We have one motion that's still here but maybe we can go ahead and get a motion on this one and take one after the other. So is there a motion to authorize Carol

to move forward with due diligence on this additional Ouzinkie parcel?

MR. LLOYD: Did you really want two motions on the table at the same time?

CHAIRMAN HARTIG: I don't care..

(Laughter)

MR. LLOYD: Procedurally, is that even allowed?

CHAIRMAN HARTIG: Well, we can go ahead and vote on the first one and get it out -- get done with it. We had an earlier motion, Craig, when you were out of the room briefly to authorize staff, Carol to move forward with due diligence on the little Coal Creek parcel, two parcels there that are adjacent to lands previously acquired. It wouldn't take any additional authorization of funds. It can be done with the existing funds at this point, authorization to go forward with due diligence on those two Coal Creek parcels. And we had a motion and a second and we're ready to vote.

MR. O'CONNOR: When I left?

CHAIRMAN HARTIG: You left. We didn't take that as a boycott, so -- but we're ready unless there's -- you have any other questions or want any.....

MR. O'CONNOR: No, I was cool with it.

CHAIRMAN HARTIG: Okay. All those in favor of the Coal Creek motion, please say aye.

IN UNISON: Aye.

CHAIRMAN HARTIG: Any opposed?

(No audible responses)

CHAIRMAN HARTIG: That motion passes. So I'll ask for a similar motion relating to the Ouzinkie -- is it just Page 1 or is it -- or do you want me to.....

MS. FRIES: I think actually if you can -- one way of approaching this, if you can see your way clear to approve a motion to proceed with due diligence on the entire area, the appraisal could -- if we get to the point where we do an appraisal, it could encompass the entire area.

CHAIRMAN HARTIG: But you wouldn't need any additional funds for that at this point?

MS. FRIES: No. But.....

CHAIRMAN HARTIG: So it would be.....

MS. FRIES: But we would.....

CHAIRMAN HARTIG: But it would all be on Ouzinkie land?

MS. FRIES: Correct.

MR. O'CONNOR: I move what she wants.

CHAIRMAN HARTIG: Okay. As I understand the motion, it's to authorize that Carol, DNR or whoever, to go forward with additional due diligence which may include appraisal work on lands currently owned by Ouzinkie in areas that we've already acquired in the Perenosa Bay area.

MR. LLOYD: Second.

CHAIRMAN HARTIG: Any other discussion?

MS. FRIES: Can we add utilizing the previously authorized existing funds.

CHAIRMAN HARTIG: Yeah. And that.....

MS. FRIES: Okay.

CHAIRMAN HARTIG:was our understanding.....

MS. FRIES: Okay.

CHAIRMAN HARTIG:from the earlier discussion, that would be using the previously.....

MR. ZEMKE: Is that your understanding, Craig?

MR. O'CONNOR: Absolutely. Okay.

CHAIRMAN HARTIG:authorized existing fund -- balance of existing funds. Are you guys okay with the motion and the second?

MR. O'CONNOR: Absolutely. Yeah.

CHAIRMAN HARTIG: Okay. I guess some discussion. I guess it doesn't commit the Trustee Council.....

MS. FRIES: No.

CHAIRMAN HARTIG:for purchase of these lands and the purch -- I think one of the things we need to take a look at is the -- our notice of intent or taking a look at a strategic vision for the land. Certainly as Carol noted, that there's lots of Ouzinkie lands. There's some down on Kodiak and I'm sure there's other parcels there that the council probably needs to take a look at a strategic vision about which are the most conducive for meeting our restoration needs

through habitat protection. Any other discussion? All those in -- oh, Kim.

MR. ELTON: Well, just to follow up on what Steve was saying. I think that, you know, before we take the next step it would be interesting in knowing whether the acquisition -- if in fact we decide to go ahead with the acquisition of these lands -- whether we have then increased the cost of the next parcels to do the connection. I'm somewhat concerned that if the final goal is to connect that by purchasing these we raised the value of the remnant pieces.

CHAIRMAN HARTIG: I think you're hearing two concerns down the line. One is, is with a limited pot of money and kind of winding down all our different programs, including large parcel acquisition, is this where we want to put our dwindling resources. And then the other is, you know, what -- are we going to get to where we want to be with these lands, if it's better for getting everything in place and acting on it all at once.

MS. FRIES: I think -- I mean, it's -- there are a lot of -- it's a very dynamic situation and I'd be happy to discuss it at some point.

CHAIRMAN HARTIG: No other discussion. All those in favor say aye.

IN UNISON: Aye.

CHAIRMAN HARTIG: Any opposed?

(No audible responses)

CHAIRMAN HARTIG: The motion passes.

MS. FRIES: Okay.

CHAIRMAN HARTIG: Do we have another parcel?

MS. FRIES: We have a parcel that Fish and Wildlife Service is working on that is located on the Kenai Peninsula, Tustumena Lake and Nancy Walsh will be happy to discuss that with you. It is not in your packet. At this point -- I think Nancy probably can describe the parcel and brief you on that. And then the only other thing I would say, if you are interested and you have -- would like a very, very brief update on the other parcels that are still out there and that we're working on, I'll be happy to do that.

CHAIRMAN HARTIG: Okay. Yeah, I think that would be good. Why don't we plan on that.

MS. FRIES: Nancy.

MS. WALSH: My name is Nancy Walsh, I'm with US Fish and Wildlife Service, branch of operations. And we're talking about a parcel that was previously mentioned to the council. The purpose of today's discussion is just to remind the council that this is still a parcel of interest. It's a small parcel for just under five acres. It is within wilderness. It's on the shores of Tustumena Lake, which is the largest lake on the Kenai Peninsula. It's very rich in fisheries, wildlife, wilderness and historical values. There is a historic cabin on

the site, one of the Andrew Berg cabins which is -- would qualify for nomination for a historic site. It has not been nominated yet. Valuable fisheries area. Trumpeter swan come in the nesting habitat. Diversity of wildlife includes dall sheep, mountain goat, brown and black bears, moose, caribou, lynx, wolverine and bald eagles. And it is a popular gateway for wilderness hikers and hunters. We just wish to let the council know that this is a parcel of interest for the Fish and Wildlife Service. The landowners are willing sellers. We are working with them but we're not asking for funds at this time, just hopefully have your blessing to continue moving forward with this.

CHAIRMAN HARTIG: Any.....

MR. LLOYD: Where on the lake is it?

MS. WALSH: It's on the north -- it would be about halfway.

MR. LLOYD: Halfway on the length on the top chart?

MS. WALSH: Yes.

MR. LLOYD: Thanks.

CHAIRMAN HARTIG: Is it connected -- is there a road connection there or.....

MS. WALSH: No road.

CHAIRMAN HARTIG: Yeah.

MS. WALSH: No road. Access is by boat, float plane or snow mobile. There are a few other small private in-holdings

along the shore of the lake but not adjacent to this parcel.

MR. ZEMKE: If the Fish and Wildlife Service acquired it, would they maintain the cabin as a.....

MS. WALSH: Yes.

MR. ZEMKE:public use cabin or would it be as a historical structure or -- and is there a trail head that takes off from there and services the rest of the refuge lands?

MS. WALSH: They would like to develop a trail head, and it's my understanding that they would like to maintain the cabin as a historical site.

MR. O'CONNOR: These would not be oblig -- I'm sorry, Mr. Chair.

CHAIRMAN HARTIG: Oh, go ahead, Craig.

MR. O'CONNOR: These would not be obligations of the Trustee Council, we would merely fund the acquisition of the property. Everything else becomes the responsibility of.....

MS. WALSH: That's right.

MR. O'CONNOR:Fish and Wildlife.

MS. WALSH: That's correct. The Fish and Wildlife Service would take all responsibility for maintaining it.

MR. TILLERY: Mr. Chairman.

CHAIRMAN HARTIG: Yeah, Craig.

MR. TILLERY: I'm a little unclear what this is about or what this is.....

CHAIRMAN HARTIG: What the resource value is?

MR. TILLERY: Is this -- no, is this more than informational value? Are you -- are we being asked to approve the use of already budgeted -- in the generally budgeted funds for due diligence activities or is this simply an informational update?

MS. WALSH: Just an informational update.

CHAIRMAN HARTIG: Are there questions? Sounds like -- it doesn't sound like there's any action to take. I'm sure we'll be interested in hearing more.

MS. WALSH: Thank you for your time.

CHAIRMAN HARTIG: Thanks, Nancy. Okay. Carol.

MS. FRIES: Do you want -- okay.

CHAIRMAN HARTIG: Yeah, an update.

MS. FRIES: Okay. I will try to do this very quickly. The English Bay, the final closing of the English Bay package, if you remember the park service has been working on this. They were waiting until all of the selections and conveyances -- basically until English Bay's entitlement was resolved. The final phase of the English Bay package is moving forward. There is one issue that requires resolution. It focuses on a requirement that English Bay set aside \$500,000 for cultural resources work, and they are working through that. But otherwise the park service is prepared to close on that.

The Port Graham appraisal, which is a parcel that you previously authorized the park service to move forward on, was

submitted for review about a week ago and the parks service anticipates a turnaround of about 30 to 60 days for that review. And once that review is complete, if negotiations with the seller go well, the park service will likely bring that parcel back to the council for your consideration.

The Natives of Kodiak parcel on Afognak, the appraisal has been updated. Because grand funds are involved here also, that appraisal has been -- the updated appraisal has been submitted, reviewed and approved. The review appraiser has also reviewed some previous reviews that NOK submitted for consideration and those documents have been completed. The state is reviewing the appraiser and the contract reviewer appraiser's comments. Unfortunately, because of illness, that review hasn't yet been completed. So that's ongoing. The Best parcel, which is located in Safety Cove state marine park, just outside of Seward, the state is ready to close on that. We are waiting for final review by the Bureau of Land Management and I anticipate being able to close that by the end of the month.

The Valdez Duck Flats, the closing documents are with the Forest Service, waiting for solicitor review and approval. And once that is secured, we are ready to close on that. The Mutch and Jacobs parcels are two parcels that are located at Anchor Point. That was a project that was initiated by the Nature Conservancy utilizing National Coastal Wetlands grant funds. It's a relatively old grant. There were some legal

description and ownership issues associated with that that has delayed closing that parcel but I'm happy to say that we have resolved the legal description issues. We've resolved the ownership issues. The -- worked with the state surveyor, the realty staff, ADF&G and the Nature Conservancy and all parties are moving forward. We hope to close this as soon as possible after completion of the BLM site inspection and hazardous materials review. BLM will probably not be able to do their site inspection and hazmat review until after the snow flies, so I would like to close that parcel by July as well.

The Capjohn and Chokwak Native allotments are -- the Capjohn allotment, actually, we received draft documents from BIA in December. Those documents are with BLM for review. They -- the state has reviewed them. They will have to go back to BIA for revision, so I can't give you a closing date for that. The Chokwak Native allotment is -- the realty specialist at BIA needs to go back and contact all of the heirs, there are 10 heirs. He's been working on that for several months. He has now contacted more than half of the heirs and we keep hoping that that will move forward shortly.

Excuse me. The Old Harbor conservation easement, the negotiations regarding the language, terms and conditions of the easement continue and we hope to resolve that shortly also. Fish and Wildlife Service is in contact with Old Harbor's attorney and Fish and Wildlife Service and the state are

exchanging information. And that pretty much brings us to the conclusion of the status of the parcels that we're working on.

CHAIRMAN HARTIG: Any questions?

MR. O'CONNOR: What do you do in your spare time?

(Laughter)

MS. WALSH: Oh, I have some other fun ones, but I won't go into those right now.

CHAIRMAN HARTIG: Well, it sounds like great projects, Carol. Thanks again for all your dedicated work on it.

MS. FRIES: Thank you. I'm not sure how much progress sometimes we're making but.....

CHAIRMAN HARTIG: Oh, it sounds good to me.

MS. FRIES:we keep trying. So, does any -- okay.

CHAIRMAN HARTIG: Next on the agenda is an executive session. Do we have any need for an executive session?

MR. O'CONNOR: I don't think so. Not from my standing.

MR. TILLERY: I don't know of any reason.....

CHAIRMAN HARTIG: Anything else to come before the board?

(No audible responses)

CHAIRMAN HARTIG: Do we have a motion to adjourn?

MR. O'CONNOR: So moved.

MR. TILLERY: Second.

CHAIRMAN HARTIG: Any opposition?

(No audible responses)

C E R T I F I C A T E

UNITED STATES OF AMERICA)
) ss.
STATE OF ALASKA)

I, Salena A. Hile, Notary Public in and for the state of Alaska and reporter for Computer Matrix Court Reporters, LLC, do hereby certify:

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SIGNED AND CERTIFIED TO BY:

Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 09/16/10

CHAIRMAN HARTIG: Okay. We're adjourned. Thanks,
everyone.

MR. O'CONNOR: Thank you.

(Off record)

(Meeting Adjourned - 11:28 a.m.)

(END OF PROCEEDINGS)