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**EXXON VALDEZ OIL SPILL SETTLEMENT  
Trustee Council**

**Egan Civic & Conference Center  
Space 4  
555 West Fifth Avenue  
Anchorage, Alaska  
February 10, 1992  
3:30 o'clock p.m.**

**IN ATTENDANCE:**

|  |   |
|--|---|
| State of Alaska  | <b>MR. CHARLES COLE</b><br>Attorney General<br>Council Meeting Chairman   |
| State of Alaska Department<br>of Environmental<br>Conservation | <b>Mr. JOHN SANDOR</b><br>Commission                                      |
| Alaska Department of Fish<br>and Game                          | <b>MR. CARL ROSIER</b><br>Commissioner                                    |
| USDA Forest Service  | <b>MR. MICHAEL BARTON</b><br><b>MR. DAVE GIBBONS</b><br>Regional Forester |
| National Oceanic<br>Atmospheric Administration                 | <b>MR. STEVEN PENNOYER</b><br>Regional Director                           |
| United States Department<br>of the Interior                    | <b>MR. CURTIS McVEE</b><br>Special Assistant to the<br>Secretary          |

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P R O C E E D I N G S

MR. PENNOYER: ..... Barton, Regional Forest Service Regional Forester, representing the U.S. Department of Agriculture; Mr. Carl Rosier, Commissioner of the Alaska Department of Fish & Game; Mr. Charles Cole, Attorney General of the State of Alaska; John Sandor, Commissioner of the Alaska Department of Environmental Conservation, and I believe Curt McVee in Anchorage who's showing us (ph) representative of the Department of the Interior.

MR. McVEE: Yes, Steve, I'm here.

MR. PENNOYER: Also, a settlement Trustee Council meeting that was taking place February 5th and 6th in Anchorage was to finalize recommendations on damage assessment continuation and close-out studies of the 1992 season. And we had asked our chief scientist, Dr. Robert Spies, to give us his evaluation of the merits of continuing these various studies. We took extensive public testimony in Anchorage at the two days we had up there. We are also going to take these studies and along with the rest of our decisions, send them out to public review before finalizing the program for the 1992 season.

We have a meeting on February 27th and 28th in Anchorage where we'll look at the restoration monitoring and the restoration implementation projects; and again, those will become part of the package that will go out to public review. Our time is limited tonight, it was not my intention to have a

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1 public review session at this particular part of the meeting.

2 If Council members have anything to add to that, and  
3 then perhaps we can get started going down through our list of  
4 projects. Does anybody wish to comment? Curt, you have to  
5 hear my cues because I can't see you nod.

6 MR. McVEE: I have no comments.

7 MR. PENNOYER: Okay. Fine. Then, perhaps we could go  
8 ahead and get started. If you recall, we had two lists of --  
9 two pages of project listings to do with damage assessment; one  
10 was labeled continuation and as well as being provided with  
11 back-up information, there are about 11 projects on the  
12 continuation sheet. And then under close-out, we have a very  
13 substantial number of projects, I didn't add them up, there are  
14 probably 30 or more projects for close-out.

15 Dr. Spies, are you ready to give us some -- lead us  
16 through this process and your thinking on it?

17 DR. SPIES: Yes. I have just recently faxed to the  
18 Trustee Council a relatively substantial memo that summarizes  
19 what I've done. I'm not sure if you all have it available to  
20 you but that has gone out within the last hour.

21 MR. PENNOYER: I don't know who it was faxed to (ph)  
22 but none of us have a copy of it.

23 DR. SPIES: Okay. It has gone out within the last hour  
24 to the fax numbers supplied to me by Rebecca Winns (ph);  
25 nonetheless, I think we could proceed to discuss what I've done

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1 in general terms and perhaps your staff will provide those  
2 documents to you quickly. Is there a fax number that I could  
3 have here that would reach at least the -- all the Trustees in  
4 Juneau in one place?

5 MR. PENNOYER: Yes. 465-0 -- hold on a half a second,  
6 we're getting it. I came to the Trustee Council from the  
7 teleconferencing group and we are asked to please use the  
8 microphone habitats (ph) and speak very directly into the  
9 microphone. Apparently, there was a lot of break up in our  
10 transmission at the last meeting, so I'll just pass that on  
11 while we're waiting.

12 MR. BARTON: Were we going to have also a review of the  
13 recovery monitoring?

14 UNIDENTIFIED SPEAKER: Mr. Chairman.

15 MR. PENNOYER: We didn't ask Dr. Spies to do that at  
16 this session, that was supposed to be the subject, I thought,  
17 of the 27th and 28th because the workload involved, he had  
18 indicated he wanted to take more time with those projects. So,  
19 my understanding for this meeting was we agreed on the damage  
20 assessment close-out and continuation. Does anybody have that  
21 number? Here it comes. The number, Bob, is  
22 465-3444, and if you can -- 907 of course, if you can send that  
23 right now, we'll have it before the meeting goes on too much  
24 longer.

25 DR. SPIES: Okay. It's on it's way.

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1 MR. McVEE: Mr. Chairman, Steve, this is Curt.

2 DR. SPIES: Describing the general terms that I've done  
3 for the evaluation of the close-out and continuation  
4 (indiscernible - telephone cutout) .....

5 MR. McVEE: Mr. Chairman, this is McVee. Yeah.  
6 Mr. Chairman, this is Curt McVee.

7 DR. SPIES: I made some judgment as to the series  
8 (indiscernible - telephone cutout). What I've done this is  
9 presented the Trustees with a series of options, seven options  
10 in all, that will provide them with a choice based on the  
11 degree of injury.

12 And the first option would be to finish all the damage  
13 assessments studies. The second option would be to finish only  
14 those studies with potentials for demonstrating injury. The  
15 third option would be to finish studies that we are sure will  
16 demonstrate some significant injury -- lethal effect through  
17 some (indiscernible) or population (ph) effects such as we saw  
18 in otters and birds. The fourth would deal only with those  
19 studies demonstrating anything more serious than adult  
20 mortality, that would include adult mortality, population  
21 declines of various kinds. The fifth would be to finish those  
22 studies demonstrating significant population decline and  
23 chronic population decline. The sixth would finish those  
24 studies demonstrating only population decline, chronic  
25 population decline. And the seventh would be those studies

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1 that would be needed for restoration actions beside restoration  
2 monitoring.

3 And what I have done then is under each of those  
4 options in a spreadsheet that will be coming with the memo is  
5 identify which studies would fall into each of those options.  
6 Now there is a series of studies that deal with the fate of  
7 petroleum in the environment, and I have noted those in the  
8 options. I think, in some cases, it'll be important to have  
9 that supporting information that's available from those studies  
10 in order to interpret the data -- the biological data from the  
11 injury studies themselves. And those will fall out according  
12 to which options they support.

13 Just to give you a brief summary of where this whole  
14 thing came out in terms of budget, because I understand that  
15 the budgetary considerations are primary here. If one  
16 completes all studies as proposed, the cost of course would be  
17 5.2 -- 5.1 -- 5.2 million dollars. If one takes Option 2  
18 there's a slight reduction to about 5.16. Option 3, which  
19 would be any significant injury would be 4.92. Option 4, which  
20 would deal only with those studies that have anything more  
21 (indiscernible) -- adult mortality or anything more serious  
22 would be 4.36. Option 5 was significant populations declines  
23 that have been measured by way of census (ph), for instance,  
24 that option would include studies that would total about 3.85  
25 or 3.9 million. And chronic population declines would b e

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1 3.56. And the link to upland habitat, which would, in fact, be  
2 provided only by one or two studies, particularly the sea ducks  
3 and the Marble merlet (ph) studies, the proposed budget for  
4 that would be \$38,000.00.

5 Now, I must say that the thing that drives this  
6 analysis, the one study that makes the largest affect on this  
7 is the coastal habitat study and its proposed close-out cost of  
8 2.95 million dollars is the single largest study.

9 MR. COLE: I've got to say (ph) -- Dr. Spies, this is  
10 Charlie Cole. Why does it drive all of these studies?

11 DR. SPIES: Well it doesn't drive all the studies but  
12 it's the biggest consideration if one is trying to come to  
13 grips with a budget. If the Trustee Council wishes to see a  
14 smaller budget, you can affect the largest change with that --  
15 with some kind of savings in the coastal habitat study.

16 MR. COLE: All right. Thank you.

17 MR. PENNOYER: Bob, a couple of questions. First, you  
18 mentioned 5.2 million, but actually is that -- that's just for  
19 close-out? And that's -- you're dealing with close-out by  
20 itself not continuation at this stage?

21 DR. SPIES: Dealing with close-out first and then with  
22 continuation studies second.

23 MR. PENNOYER: Okay. Thank you. And would you repeat  
24 what Item 5 was, Option 5?

25 DR. SPIES: That would be studies that have

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1 demonstrated significant population loss, and what I mean here  
2 is any kind of census.

3 MR. PENNOYER: Well, then how did that differ from 6?

4 DR. SPIES: That would be the chronic population,  
5 that's where there's been a loss and the loss is continuing.

6 MR. PENNOYER: Okay.

7 MR. McVEE: Bob, this is Curt McVee in Anchorage, we've  
8 got a fax number.

9 DR. SPIES: Okay.

10 MR. McVEE: The number is 562-4376.

11 DR. SPIES: I'll have Barbara send that up right now.

12 MR. McVEE: Thank you. Thank you.

13 MR. PENNOYER: Bob, I didn't hear one other category of  
14 things. Many of these close-out studies, and maybe they're not  
15 worth spending much time on, are not major amounts of money but  
16 rather are finalizing a report to tell you exactly what type of  
17 damage occurred and didn't occur. And that seems to me to be -  
18 - I'm thinking (ph) in terms of tying up and telling the world  
19 what really happened in our view on this Spill. As you go  
20 through, if you're doing project by project, you might identify  
21 that, too, because some of these are just to tie up the final  
22 report.

23 DR. SPIES: I'll try to. If you want to proceed,  
24 Steve, by going through them one by one, I'll try to the best  
25 of my ability to give you some opinion in each case as to

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1 whether there's -- whether it's just report-wide (ph) or  
2 analysis. I'm not sure I can do that in every case without a  
3 little bit more preparation.

4 MR. PENNOYER: Okay. Well how would you suggest we  
5 proceed so we can understand what you've done here? I know  
6 what the totals are but I don't know what we'd gain or lose by  
7 doing the various levels (ph) that you've suggested as part of  
8 the options.

9 MR. COLE: Mr. Chairman.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: I have a suggestion, why don't we go down  
12 the close-out list and put a number on our papers which  
13 corresponds to the close-out options opposite each proposal.  
14 We can do that, then that would be a start. Like for inst- --  
15 for example, in the close-out Number AW-1 (ph) Surface Oil  
16 Maps, what category would that come under, 1 through 7, for  
17 example?

18 DR. SPIES: That is a study of the fate of the oil that  
19 is needed to complete the sea otter study, and the sea otters  
20 are -- as far as we know, they've got a chronic population  
21 decline, so I put that up under the Option 6.

22 The fax from my office to Juneau has been completed 15  
23 to 20 seconds ago, so that should be available shortly to you.

24 MR. PENNOYER: That's fine. Can we see from what  
25 you've done from the fax or shall we go down -- as Mr. Cole

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1 suggested down the list?

2 DR. SPIES: If the fax is there, it will be -- Table 1  
3 will have it in it, and Table 1 has the number of the studies  
4 is short title (ph) in the request as per the memo from the  
5 last Trustee Council meeting, and it also has the ranking of  
6 seriousness of injury. I note whether it's a study of fate of  
7 oil that's needed to support some of the other damage  
8 assessment studies. And then it remarks which of the options  
9 each of the studies would fall under.

10 MR. COLE: I've got some questions.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: Mr. Chairman, Charlie Cole again. One of my  
13 concerns is a ranking of these studies based upon those  
14 projects which would support a restoration project, is that  
15 what's only in Number 7?

16 DR. SPIES: Yes. And it specifically links to upland  
17 habitat. I think in many cases we already know the injury  
18 pretty well, so we can proceed with some restoration without  
19 completions of the final study report.

20 CONFERENCE OPERATOR: Excuse me, this is the Conference  
21 Operator (indiscernible) .....

22 DR. SPIES: That is the only criteria, that it  
23 identifies the seriousness of injury; I think we know that for  
24 most resources now. But if you want to have a strong  
25 rationale, for instance, for the acquisition of timber rights,

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1 one would want to have the results, for instance, from the  
2 Marble merlet study and the sea duck study, in the case of  
3 Harlequin ducks which use a stream-side habitat away from the  
4 Sound, perhaps also with river otters; although, I think that  
5 that study's been pretty much complete. Those three studies  
6 would give you that link, and that's a very small option of  
7 course in terms of the dollar figures.

8 MR. PENNOYER: Well I guess I'm confused then. We have  
9 recovery monitoring projects coming up pretty soon that are  
10 takeoffs on what we know about damage assessment, then we have  
11 restoration implementation projects that are further iteration  
12 of that. It seems to me sort of a sequence. Are you saying  
13 basically that without (indiscernible - telephone cutout) --  
14 was and sort of verbalize it and go on from there  
15 (indiscernible).

16 DR. SPIES: Well I meant Mr. Cole's question to  
17 implicate what -- real actions and restoration, not necessarily  
18 just the imp- -- just the restoration monitoring. To implement  
19 all the restoration monitoring, I think you'll need to bring a  
20 logical close to the damage assessment studies that would  
21 support that. Does that answer your question?

22 MR. PENNOYER: Well it does sort of. I guess we  
23 haven't yet decided whether certain forms of restoration might  
24 actually be management programs that would better enable us to  
25 manage around possible damage assessment or for particular

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1 stocks. And I don't know how you do that based on, again, sort  
2 of a verbal summary of damages. It still seems to me that we  
3 have some obligations to finalize these damage assessment  
4 projects. I don't know if that means continuation or umpteen  
5 (ph) amount of money, but it seems to me a lot of these are --  
6 close-out studies are just that; they're to close out our  
7 assessment of what happened in the Exxon Valdez Oil Spill.

8 And you're no -- in other words, you're simply  
9 responding to the one question. For something as specific as  
10 habitat acquisition there is one or two studies in the close-  
11 out that would help us on that?

12 DR. SPIES: Yes. That's correct.

13 MR. COLE: Mr. Chairman.

14 MR. PENNOYER: Mr. Cole.

15 MR. COLE: What does close-out mean? Does this mean  
16 this is the last year for any of these studies and there will  
17 not be the necessity for a similar study next year? Or is  
18 this they're just finishing one study this year and then we  
19 will have another study of the injury to rock fish next year  
20 because it would be well to know it next year as well as '89,  
21 '90 and '91? So what does close-out mean?

22 MR. PENNOYER: Do you want to try it?

23 DR. SPIES: Do you want me to answer that,  
24 Mr. Pennoyer, (indiscernible - interrupted) .....

25 MR. PENNOYER: Well Mr. Barton is tugging at the

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1 microphone, I'm wondering if he has something to say.

2 MR. BARTON: I thought that this was the final activity  
3 for this partic- -- for these particular projects. If we  
4 decide to fund, for example, AW-1 of \$15,000.00 that's it,  
5 we're done after that \$15,000.00. The other option is not give  
6 it 15,000 (indiscernible - telephone cutout) -- by giving them  
7 a 15 thou- -- giving that project the \$15,000.00 would bring it  
8 to some sort of logical conclusion.

9 MR. PENNOYER: Dr. Spies, do you want to comment on  
10 that?

11 DR. SPIES: Yes. This essentially is finishing the  
12 damage assessment studies and it's mostly data analysis and  
13 report writing for most of these. There is some further sample  
14 analysis and there is, I believe no fieldwork in any of these.  
15 It's essentially dealing with what we have in terms of  
16 analysis, of samples and analysis of data and writing of  
17 reports.

18 MR. BARTON: But in fact, if nothing changes, this  
19 would be the last year for that activity, is that correct?

20 DR. SPIES: Yes. Except in those cases where the  
21 populations are further studied under the restoration  
22 monitoring programs, and those would be fewer than those listed  
23 here.

24 MR. PENNOYER: In other words, in some case where you  
25 close out the damage assessment that results (ph) as there may

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1 still be some type of chronic or continuing injury going on,  
2 and then you would go, perhaps, to recovery monitoring and see  
3 if, in fact, the resource is recovery or it's changing for the  
4 worse?

5 DR. SPIES: Yes. And then there's also -- not to  
6 confuse things (ph), but there's also the damage assessment  
7 continuation options. The -- there's been a few -- in the case  
8 of a few studies, it has been recommended that further damage  
9 assessment type studies do on.

10 MR. COLE: Could we i- -- Mr. Chairman.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: Dr. Spies, could we itemize those so we know  
13 what we're dealing with? My concern is that we'll approve  
14 these close-outs so as to wind up in a full fashion these  
15 studies which are not yet completed. Next year  
16 (indiscernible - telephone cutout) come to us, commendation  
17 (ph), further say, for example, herring study in FS-11, for  
18 example. I mean that's what I would like some assurance of.  
19 That this is truly the end, that it is not next year again and  
20 said well we would like to know what's happening here. Now can  
21 someone give me that assurance?

22 MR. BARTON: Well that's my understanding of what the  
23 intent is.

24 MR. PENNOYER: I guess my understanding of the intent  
25 is that this closes out a damage assessment process. If you're

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1 going to either through recovery monitoring or studies under  
2 restoration implementation -- for example, herring appears  
3 under restoration implementation, I'm not sure that study is  
4 building (ph) herring racks or improving the management of  
5 herring in response a suspected injury.

6           So those are subsequent decisions. The first decision  
7 is are you going to close out (indiscernible - telephone  
8 cutout) I think on the 27th and 28th or whether we would allow  
9 any type of recovery monitoring which might also be on the same  
10 resource.

11           MR. COLE: Well Mr. Chairman.

12           MR. PENNOYER: Mr. Cole.

13           MR. COLE: It's not just the decision on the 28th that  
14 troubles me. I am concerned about next year being presented  
15 with proposals to say we really need to study herring injury in  
16 1993. So, you know, just putting another label on it, changing  
17 it from the name of the study from close-out to restoration  
18 monitoring, s far I am concerned doesn't quite address the  
19 problem.

20           What I need comfort about is that if we close out these  
21 studies, I mean that's the end of injury study to these various  
22 species. (Indiscernible - telephone cutout) but somehow it  
23 does to me. If it's -- the result is well we'll just have  
24 another study to monitor injury to herring or see what the  
25 water quality is next year and then the next year that we must

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1 tie these to some form of restoration at some point other than  
2 simply studies. This is the thing that continues to trouble  
3 me.

4 DR. SPIES: I think that it's difficult to assure  
5 Mr. Cole about the outcome of each of these resources in the  
6 study scheme without going into what's proposed for restoration  
7 programs next year, specifically the monitoring aspects of  
8 restoration. And I have done a preliminary analysis on that,  
9 and that's actually in Table 3, and whether we get around to  
10 doing that or not is difficult to say if we'll have enough time  
11 to get there today. But .....

12 MR. PENNOYER: Our assumption now that there would be  
13 no more damage assessment done on the close-out, and that, in  
14 fact, that is our intent. If somebody comes back and wants to  
15 continue damage assessment or if we don't agree with the  
16 recovery monitoring aspect, if there is one, we're not going to  
17 come back and do that. I mean we close it out, done, unless  
18 for some reason we find some unsuspected change in the resource  
19 in the future that we wanted to look at. But otherwise, I  
20 assume damage assessment is closed out.

21 Mr. Barton.

22 MR. BARTON: Well first of all, I think we can define  
23 it however we want to. (Indiscernible - telephone cutout).  
24 But that raises another question in mind that I'm puzzled by  
25 we're going to discuss the close-out studies and continuation

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1 studies today, recovery monitoring for these seven (ph). I'm  
2 puzzled by why we have a proposal to finance this project and  
3 close it out (indiscernible - telephone cutout) -- project then  
4 will come up on the 27th financing to open it up. The one that  
5 caught my eye specifically is Project B-2 (ph) in comparing  
6 that to Project R-13.

7 (Pause)

8 MR. BARTON: To my simple mind (ph) it -- why do we  
9 close it out and then start it up? Why don't we just -- if we  
10 want to start it up, start it up, why do we need to spend  
11 \$60,000.00 to close it out when we then start it up?

12 MR. McVEE: Mr. Chairman. Yeah. This is Curt.

13 MR. PENNOYER: Curt.

14 MR. McVEE: Yeah. Let me have Carol address that,  
15 explain why there's two of those.

16 MS. GORBIES: This is Carol Gorbies with the Fish &  
17 Wildlife Service. This is an example of a study that we are  
18 proposing to continue under Restoration; however, we have three  
19 years of data; it's a very complex study, several hundred birds  
20 and mammal species were looked at in the course of these boat  
21 surveys over many transacts (ph) throughout Prince William  
22 Sound. We've done preliminary progress reports each year, but  
23 in the mode that we were in, those progress reports were  
24 focused on providing the lawyers with the kind of information  
25 they wanted.

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1           We feel it's very important to spend some more time  
2 with this study to finish the statistical analysis and to pull  
3 all of that data together into a form that would be usable for  
4 the Restoration program. For instance, we collected a lot of  
5 information on species of birds that we will target in  
6 restoration, and we'd like that information to be not just  
7 sitting in a stack of computer data but to be available for the  
8 Restoration managers as well.

9           We will propose the study goes on in additional years,  
10 whether it's this year or next year or alternate years has yet  
11 to be determined by you. And the reason we will continue -- or  
12 the reason we will request that it be continued is because we  
13 think that it's a good tool for monitoring the recovery of many  
14 bird species.

15           MR. COLE: Mr. Chairman.

16           MR. PENNOYER: Mr. Cole.

17           MR. COLE: See, I think this gets to the heart of the  
18 problem. I see it we're facing (ph) that we want to simply  
19 (ph) monitor the recovery, tools that will enable us to restore  
20 the damaged resources; that's the reason I think we must have a  
21 link between these studies and certainly continued studies, and  
22 a method of restoring the damaged species or stock. That's  
23 what gives me the trouble. But a lot of these studies it's  
24 nice to know the nature and extent of injuries and continue to  
25 study it year after year. But our assignment under the Federal

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1 Statutes and the Settlement is to restore these resources. And  
2 we must, as I see it, have a substantial link between the  
3 (indiscernible - telephone cutout) which we know determined by  
4 studies and three years of studies and our restoration project.  
5 And I think that our assignment is to get on with the  
6 restoration.

7 MR. PENNOYER: Mr. Rosier.

8 MR. ROSIER: Thank you, Mr. Chairman. I would like to  
9 say that, you know, at least my understanding of what close-out  
10 is it was pretty much as it's been explained. (Indiscernible -  
11 telephone cutout) particular studies. Once we have, in fact,  
12 completed the analysis on some of these, who knows what we're  
13 left with (ph). So in order to put (indiscernible - telephone  
14 cutout) best about what's going to follow on this in the way of  
15 in tying these directly to the work I think is contingent upon  
16 what, in fact, shows up in some final analysis in the close-out  
17 that we're talking about on these particular projects.

18 So to say that we're not going to study herring, we're  
19 not going to study -- at this point I think is a bit premature  
20 because we don't know for sure what we've got. Assessments of  
21 damage, we've heard from Dr. Spies at the Anchorage meeting  
22 that what his general assessment was in Anchorage. But  
23 certainly, it seems necessary to me to, in fact, move on with  
24 these understanding that they are close-out on this. We get a  
25 shot as a Council of reviewing the other projects that come

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1 before us on this. And it would seem to be that our advisors  
2 should (indiscernible - background coughing) to be able to make  
3 the linkage -- restoration, if that's the desire of the  
4 Council.

5 So it just seems to me that this is -- this to me is a  
6 fairly straightforward action as far as close-out is concerned.

7 MR. PENNOYER: Commissioner Sandor.

8 MR. SANDOR: Dr. Spies, I've taken the time to read  
9 through the narrative in your fax and the whole presentation,  
10 and I must say that in the three day period of time you've  
11 (indiscernible - telephone cutout). The specific question with  
12 regard to the first paragraph on Page 2. You make the point,  
13 as you've already explained to us, that in that first paragraph  
14 on Page 2 you point out that the adoption of one of these  
15 options is not satisfactory you would have two recommendations  
16 for further refining the damage assessment budget; first,  
17 conduct a detailed audit of the proposed costs associated with  
18 each of these programs to the goal of eliminating unnecessary  
19 duplicate expenditures. Specific (ph) examination of the  
20 largest program, comprehensive coastal habitat program, to  
21 identify cost savings that may be implemented without losing  
22 information on potentially important injuries equipped with the  
23 help (ph) of one or two -- one or more of the peer reviewers  
24 undertake the latter evaluation.

25 That coastal habitat program I presume is CH-1A the

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1 comprehensive assessment of coastal habitat, USFS (ph)  
2 2,950,000, which as you pointed out earlier is the -- is, you  
3 know, the primary program. I guess the question is -- and I  
4 guess I'm -- I'd like to -- my own mind is focused on this, and  
5 the question is how long would it take to actually do that  
6 second item, conduct a specific examination of this largest  
7 program to make certain that we're not losing information on  
8 potentially important injuries?

9 That's my bottom line, I don't want to lose potentially  
10 important injuries. And if we had that, that would really be  
11 helpful. How long would it take to do that?

12 DR. SPIES: I estimated that I could complete that  
13 evaluation by the end of this month.

14 MR. SANDOR: Well, Mr. Chairman, it seems to me that  
15 for that one item, at least, that we should remain -- that we  
16 should not take action on that until the end of the month. The  
17 other projects I think we could go through on a point by point  
18 basis, but I would not be comfortable (indiscernible -  
19 telephone cutout) the project without the kind of analysis that  
20 Dr. Spies said they could make by the end of the month.

21 MR. BARTON: I welcome that further evaluation also,  
22 first as a contract with the University of Alaska, and I would  
23 think any help Dr. Spies could give us (indiscernible -  
24 telephone cutout) cost effective (indiscernible - telephone  
25 cutout).

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1 MR. PENNOYER: Further discussion of the proposal to  
2 take an evaluation by Dr. Spies before preceding with coastal  
3 habitat?

4 Dr. Spies, I imagine then you mean by our meeting on  
5 the 27th or 28th you could do that?

6 DR. SPIES: Yes. I think I can get it done by then.

7 MR. PENNOYER: Okay. Is there further discussion or  
8 questions of either Mr. Barton or Dr. Spies on the coastal  
9 habitat motion and delay consideration of this until the end of  
10 the month when Dr. Spies and appropriate peer reviewer has a  
11 chance to undertake a further evaluation of the project?

12 MR. ROSIER: Yeah.

13 MR. PENNOYER: Mr. Rosier.

14 MR. ROSIER: Thank you. I guess the question I would  
15 have, perhaps, the Staff in on this; is there anything that's  
16 associated with this project that's again on the bid issue as  
17 of March 1 or .....

18 MR. PENNOYER: Mr. Gibbons. Would you use the  
19 microphone, please.

20 MR. GIBBONS: Yes. This is Dave Gibbons. That project  
21 -- the contract for that project right now terminates at the  
22 end of this month. There's about 70 plus people involved in  
23 that project at the University of Alaska. And so we would need  
24 them some kind of assurance that at some level the project  
25 would continue so they don't go to -- in the process right now

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1 of starting laying off a lot of people associated with the  
2 project.

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: Dr. Spies, can you give us that assurance?  
6 I've read this proposal. The thing that troubles  
7 (indiscernible - telephone cutout) troubles (indiscernible -  
8 telephone cutout).

9 DR. SPIES: Mr. Chairman.

10 (Pause)

11 DR. SPIES: Mr. Chairman?

12 MR. PENNOYER: Bob Spies, go ahead.

13 DR. SPIES: Yeah. Mr. Cole's comments were quite  
14 broken up over the telephone line, I heard something about a  
15 reassurance but I didn't hear much more of the rest of the --  
16 his question or comment.

17 MR. COLE: They aren't worth repeating.

18 MR. PENNOYER: Actually (indiscernible - telephone  
19 cutout) -- completed with the project or didn't make a decision  
20 on any continuation 'til March 1st it was going to be very  
21 disruptive. So the question was of Dr. Spies in your review do  
22 you see that there would be continuation at some level; is this  
23 project important enough at some level, even if it's refined or  
24 changed or whatever, that it would be continued?

25 DR. SPIES: Well I think so, we're going to need to

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1 continue it somewhat, but the Trustee Council may want to  
2 consider some partial funding for several months or -- I don't  
3 know what you -- what options are available to you. But in my  
4 mind it's likely that we're going to want to continue this in  
5 some form through the next year.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: Dr. Spies, I was just going to say when I  
9 look at the budget for 227,000 and it includes laboratory space  
10 for two labs, I'd like you to take a careful look at what the  
11 cost breakout for those two labs is -- we're in that category.

12 MR. PENNOYER: Mr. Barton.

13 MR. BARTON: Yes. When that project was originally  
14 conceived, it provided the linkage to a number of other  
15 projects. And it was an effort to eliminate duplication within  
16 those projects. But I think at this point in time what we have  
17 now is the cataloging and analysis of a large number of samples  
18 from previous field studies. Is that not right, Dave? And  
19 then the subsequent evaluation and report.

20 We've talked conceptually that perhaps not all those  
21 samples need to be analyzed at this point in time. And I think  
22 that Dr. Spies could give us any insights as to his opinion of  
23 that, it would be very helpful. I would urge, though, that  
24 Dr. Spies -- that you work with the individual who has been  
25 acting as the contracting officer, representative, or liaison

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1 or whatever with the University as you put together your  
2 approach to this effort. I think the University will be more  
3 comfortable for one thing, and for another, you might get some  
4 insights as to areas of improvement.

5 DR. SPIES: Okay. I can make two comments with regard  
6 to Mr. Barton's statements. First of all, he's right, there is  
7 possibly some categorization and ranking of the importance of  
8 the various goals. And in fact, we had a meeting in  
9 Anchorage -- excuse me -- in Fairbanks last summer and did some  
10 prioritization (ph) according to sub-habitat and according to  
11 the time that the samples were collected because they have been  
12 sampling twice a field season and we get a agreed on consensus  
13 as far as what samples should be analyzed first. And taking --  
14 that would certainly be the start of a way to prioritize those  
15 remaining samples and some judgment as to where we could cut  
16 things off.

17 Secondly, I would certainly welcome any help I could  
18 get in this. It's a very complex, large study. It's got a  
19 very complex budget, a lot of different tasks. So, I would  
20 welcome the help of anybody that could provide information on  
21 (indiscernible - telephone cutout) on the budgetary aspects of  
22 it because the aspects I haven't been closely associated with  
23 in my review of this program.

24 MR. PENNOYER: Well then I guess I can assume -- do I  
25 have any objections to the motion as made regarding coastal

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1 habitat? I guess I can assume that that has been deferred now  
2 until our meeting on the 27th, at which time you will report  
3 back with a detailed review of the projects and components and  
4 a recommendation on its continuation and at what level. And  
5 you will work with the Restoration Team and the contracting  
6 office -- or from the Forest Service to do that.

7 (Indiscernible - telephone cutout) close-out. Perhaps  
8 we can do now is just go down through the list, one project at  
9 a time and see if there are any comments. Now, my assumption  
10 is looking just generally at your list of rankings, or option  
11 list, that one is sort of just do everything. And then from --  
12 well, particularly above 3, there are various types of injuries  
13 you're concerned about, population decline, chronic injuries,  
14 restoration actions. But you've got a number of Xs next to  
15 each one of these projects and perhaps we can just go down  
16 through them one at a time. We've got about an hour and 15  
17 minutes left and I'd really like to get down through this list  
18 if we can. So maybe taking one project at a time you could  
19 just briefly comment on whether it fits in your option and we  
20 could ask question.

21 MR. COLE: Mr. Chairman. Could you explain this  
22 (indiscernible) table to find where your recommendation is  
23 found (ph).

24 (Pause)

25 MR. COLE: Dr. Spies, this is Charlie Cole. Is there

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1 anyplace on Table 1 where we can find your recommendation with  
2 respect to each of these proposed projects?

3 DR. SPIES: No. I explained my response in terms of  
4 various kinds of options the Trustee Council could make with  
5 regard to the whole package and that's summarized at the bottom  
6 with seven different options. And then I have not made  
7 particular recommendations one way or the other on each study.

8 MR. COLE: Are you prepared to do that today?

9 DR. SPIES: I'm prepared to tell you what the  
10 implications of canceling a particular project would be.

11 MR. COLE: Well, I'm not sure how to take that. Is  
12 that .....

13 MR. PENNOYER: Go ahead and tell us whether you think  
14 we're being unfair because the question comes, of course,  
15 whether it's a policy call on the type of thing you may lose if  
16 you don't it or it's just strictly a science call. And I don't  
17 -- so, you know, if you're hesitant, maybe as you get to each  
18 project you can kind of describe where it fits in the options  
19 and we can ask you that question.

20 DR. SPIES: Certainly. I have tried to leave the  
21 policy decisions up to the Trustee Council. I offered  
22 (indiscernible - interrupted) .....

23 MR. PENNOYER: Well, we may still put you a little more  
24 on the spot than you want to be but maybe we should do it one  
25 project at a time. Mr. Barton.

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1 MR. BARTON: I have two comments. One, Bob, I think we  
2 the Trustee Council all understand that the final decisions on  
3 these -- each of these projects and the entire package are the  
4 responsibility of the Council. And we would welcome any help  
5 and advice you might have. But I'm sure -- you need to  
6 understand as we do, and I'm sure you do, that that  
7 responsibility is a responsibility of the Council and it's not  
8 your responsibility, but we do appreciate all the help.

9 And the second point -- or question I have. If you  
10 look at your Table 1, for example, there is no -- well look at  
11 ST-1A. You have Xs out through Option 5, does that mean then  
12 if we would select Option 6 that that would be it, there would  
13 be no more activity and no more dollars devoted to that  
14 project, that we would essentially just wash it down the drain  
15 today; is that correct?

16 DR. SPIES: Right.

17 MR. BARTON: Okay.

18 MR. PENNOYER: There are different notations here, we  
19 may want to ask about those. And like I say, there may be  
20 other reasons, such as just finalizing and tying up of  
21 projects.

22 DR. SPIES: Yeah. This looks at the whole collection  
23 in kind of one dimension. I mean there's some other comments  
24 that .....

25 MR. PENNOYER: Well I guess my point, Bob, is I'd like

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1 (ph) to get to those varices as we hit each individual project.  
2 But why don't we start down the list because we do have to get  
3 through this. And the first one is surface oil maps for  
4 \$15,000.00, DEC, and you've got six Xs on it.

5 DR. SPIES: Right. That program is going forth to  
6 finalize damage assessment for the otter program in particular  
7 and for some of the bird programs because it's going to deal  
8 with all the DEC data of oil on water. And we need that  
9 because the NOAA maps -- NOAA has ma- -- outputs or the models,  
10 it is not sufficient by itself and in some cases may contradict  
11 what we know from DEC maps, so we need to finish those maps.

12 MR. PENNOYER: Questions on AW-1? Do you want to  
13 proceed then? Yes, Mr. Sandor.

14 MR. SANDOR: Well I guess the point of your procedure  
15 or process -- well why don't we simply act on these if we can  
16 as we go by on a one by one basis? And I would move approval  
17 of this one.

18 MR. McVEE: Mr. Chairman.

19 MR. PENNOYER: Mr. McVee.

20 MR. McVEE: Yes.

21 MR. PENNOYER: I don't have a second on Mr. Sandor's  
22 motion yet. It's been moved and seconded. Is there comment?  
23 Mr. McVee.

24 MR. McVEE: Yes. If we're going to start to take  
25 action on these, I guess I might mention because that there has

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1 not been time probably for the reports from the NEPA (ph)  
2 Subcommittee to get to everyone today, but there's -- I have  
3 before me a document that was prepared by Ken Rice, this has  
4 not gone before the RT. But basically this document that says  
5 that they have conducted a review and that the damage  
6 assessment continuation and close-out studies on these lists  
7 have been determined that they should be categorically exempt  
8 from the requirements of NEPA and in accordance with the  
9 appropriate regulations. And it says there are no  
10 extraordinary circumstances that would trigger a need for an  
11 environmental impact statement for those few projects requiring  
12 field work this year.

13 That's the recommendation of the NEPA Subcommittee but  
14 it has not had action by the RT. I guess we have a motion on  
15 the floor but before we take action on that motion I think that  
16 we should, you know, pro- -- or sanction the committee report  
17 so that we have something for the record.

18 MR. PENNOYER: Perhaps we could take action on this one  
19 motion since it's here and then go on and do that next. Is  
20 there any objection to the approval of AW-1, recognizing to go  
21 out to public review, it's not (indiscernible - telephone  
22 cutout) -- it may occasion (ph) some internal -- or interim  
23 expenditure that still has to go out to public review.

24 Commissioner Sandor.

25 MR. SANDOR: Yeah, Mr. Chairman. I think that is well

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1 made that this goes out now for public review and the approval  
2 is for it to go out for public review.

3 MR. PENNOYER: That's correct. We do understand and  
4 commented at the last meeting that there may be some interim  
5 expenditures for early starting project and we're going to get  
6 a report on what those might be at our next meeting, as I  
7 understand it.

8 MR. McVEE: Yeah, Mr. Chairman.

9 MR. PENNOYER: Green light, go (ph). Yes, Mr. McVee.

10 MR. McVEE: Yeah. I guess my only problem with taking  
11 action before we just formalize this NEPA record is just a  
12 procedural problem so that we do things in the right sequence.  
13 And I probably should have brought this up earlier but I didn't  
14 know what our procedure was going to be before we got here.

15 MR. PENNOYER: Do we have -- do I have a motion  
16 (indiscernible - telephone cutout) .....

17 MR. SANDOR: As the maker (ph) of the motion  
18 incorporates this approval of that Rice Report -- acceptance of  
19 that Rice Report as a precondition to this and any other  
20 approvals made this evening.

21 MR. PENNOYER: Mr. Barton.

22 MR. BARTON: Second. Agree. I'm not sure. I'm a  
23 little .....

24 MR. ROSIER: I second.

25 MR. PENNOYER: Mr. Rosier, does the second agree?

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1 MR. BARTON: All right.

2 MR. ROSIER: (Indiscernible - telephone cutout).

3 MR. BARTON: I have a question when Mr. Rosier  
4 (indiscernible - telephone cutout) .....

5 MR. ROSIER: The second certainly agrees with the  
6 modified motion.

7 MR. McVEE: We're having a little trouble hearing Mike  
8 particularly.

9 MR. PENNOYER: Mr. Barton.

10 (Pause)

11 MR. PENNOYER: ..... sign-off after public review.  
12 Some of these projects have to be in the field in March. There  
13 will be some expenditures, so I assume that it is appropriate  
14 to go ahead with Mr. Rice's report. Is there any objection  
15 incorporating the total motion as agreed to by the maker of the  
16 motion and the second? The motion was to go ahead and approve  
17 AW-1 but with consideration of Mr. Rice's report and adoption  
18 of it. It's a preliminary review, it's shows the damage  
19 assessment, damage continuation studies would qualify for  
20 categorical exemption under NEPA not therefore requiring an  
21 environmental impact statement.

22 Okay. Fine, thank you very much. We have approved  
23 AW-1. Again, Restoration Team, my assumption is that at the  
24 next meeting we are going to get some report on what interim  
25 expenditures might be between the time that these are

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1 tentatively approved for public review and the time we actually  
2 come back and make the final approval in May or whenever that's  
3 going to be.

4 Hello. So continuing down the list, the next one is  
5 injury to subtidal (ph) sediments, \$100,000.00; you've got five  
6 Xs.

7 DR. SPIES: Yes. This is -- it falls somewhat in the  
8 category of a fate (ph) although I did not mark it on my table  
9 as such but it's -- it measures the concentrations of  
10 hydrocarbons in sediments and is related to some of the  
11 injuries that have been described for the -- under the shell of  
12 (ph) subtidal studies and others. And it deals with  
13 essentially the changes of populations -- supports that level  
14 of effort. And my recommendation would be to complete this  
15 study.

16 MR. PENNOYER: Are there questions or comments?  
17 Mr. Cole.

18 MR. COLE: Dr. Spies, is any more fieldwork required to  
19 complete this study?

20 DR. SPIES: No.

21 MR. COLE: I read the supporting documentation entitled  
22 Project Classification (ph) and I couldn't tell whether more  
23 samples were required.

24 DR. SPIES: Yeah. Unfortunately, the way the verbs are  
25 used there it's open to question as to what's going on. I

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1 think as far as I know for all these studies there is not  
2 further fieldwork. These are just analyses of the samples in-  
3 hand, doing the statistical analysis as well and then reporting  
4 the results.

5 (Pause)

6 MR. SANDOR: ..... Restoration Team members that are  
7 here is that, in fact, the case that there's no additional  
8 fieldwork required in all of these projects (ph)?

9 (Indiscernible - telephone cutout)

10 MR. SANDOR: So let me just identify even at this point  
11 when we get to that point the ones that will require additional  
12 fieldwork.

13 MR. PENNOYER: I'm having a little trouble wondering  
14 what close-out means if additional fieldwork is required this  
15 year. So if we were to close out next year to write the  
16 report. Anyway, we'll get into that as we get to each one.

17 MR. MONTAGUE: (Indiscernible - telephone cutout) .....

18 MR. PENNOYER: You'll have to come up to the microphone  
19 if you want to -- Mr. Montague.

20 MR. MONTAGUE: All -- this is Jerome Montague with the  
21 Department of Fish & Game. All the close-out projects were  
22 intended for the amounts -- total cost through the completion  
23 of a final report. So there is nothing in the close-out column  
24 that we anticipate needing funding next year.

25 MR. PENNOYER: Okay. Thank you. Any further

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1 discussion of ST-1A injury to subtidal sediments? Do I have a  
2 motion of some kind? Mr. Rosier.

3 MR. ROSIER: I would move approval of ST-1A.

4 MR. PENNOYER: Is there a second?

5 MR. BARTON: Second.

6 MR. PENNOYER: Is there further discussion? Is there  
7 any objection to approval of ST-1A to go out to public review?

8 MR. McVEE: No objection.

9 MR. PENNOYER: ST-1B, hydrocarbon mineralization.

10 DR. SPIES: This is the study of the activity of  
11 hydrocarbon degrading bacteria in bottom sediments. And it  
12 gives a good indication of the presence of oil. It's been  
13 another component of understanding the fate of the oil and  
14 something about its possible rate of breakdown. It does not  
15 support injury very well, although I've given it three Xs here.  
16 It's a small amount of money, I would recommend its completion.

17 MR. PENNOYER: Are there questions for Dr. Spies or  
18 others? Mr. Cole.

19 MR. COLE: I will move that we proceed with this  
20 project.

21 MR. SANDOR: Second.

22 MR. PENNOYER: Is there a second? Mr. Sandor. Any  
23 further discussion? Any objection.

24 MR. McVEE: No objection.

25 MR. PENNOYER: Then hydrocarbon mineralization, ST-1B

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1 is approved to go out to public review. ST-2A shallow water  
2 communities, \$125,000.00.

3 DR. SPIES: This is a study that examines the shallow  
4 water communities particularly in the Erl grass (ph) areas in  
5 bays. Our knowledge of the injury is from 1990 samples only.  
6 And my understanding of this proposal is to complete analysis  
7 of 1991 samples mainly. And it has documented some population  
8 changes, and I've given it five Xs here.

9 (Pause)

10 MR. PENNOYER: I don't hear anybody asking Dr. Spies  
11 the fateful question. Any other questions on the budget detail  
12 or the purpose of this study?

13 Dr. Spies, do you think this study is essential then to  
14 document injuries?

15 DR. SPIES: Well, we've got one year of injury  
16 documented, it's a question of whether we need the second year  
17 or not. Let us know whether we're planning the same sort of  
18 thing in the second year or not.

19 MR. PENNOYER: So this is further field studies then?

20 DR. SPIES: No. It's analysis of samples that have  
21 been collected but have not been analyzed.

22 MR. PENNOYER: I see. Okay. Fine, thank you.

23 MR. COLE: ..... recommendation.

24 DR. SPIES: Excuse me, I didn't hear that. Was that --  
25 did Charlie Cole ask me for my recommendation?

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1 MR. COLE: Yes, sir.

2 MR. PENNOYER: Yes, Bob, that's correct.

3 DR. SPIES: That's a hard to call to make because it  
4 may not add that much to it; on the other hand, we only have  
5 one year of studies -- one year of information indicating a  
6 injury. So I'm kind of neutral on this, I could go either way.

7 (Pause)

8 MR. PENNOYER: Objection (ph)?

9 MR. COLE: Can I ask .....

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: ..... Commissioner Rosier, what is your  
12 thought on this, Commissioner?

13 MR. ROSIER: Well I'm kind of like our chief scientist  
14 here on this, I'm a little bit hesitant here. We have no  
15 analysis on the first year's data at all?

16 DR. SPIES: No, we do. We have a pretty good analysis  
17 by Steve Jewitt (ph) and Tom Jenings on this data. And we've  
18 got some changes in populations of animals, particularly crabs  
19 and anthrodods (ph) and some other animals. There's some  
20 uncertainty connected with some of the injury that's been  
21 identified, we don't know how much (indiscernible) playing in  
22 some of these differences between oiled/unoiled areas. But I  
23 think in my mind on the whole it's documented some injuries.  
24 The question is whether we need the second year or not.

25 MR. COLE: I have a question.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: Had you finished, Commissioner?

3 MR. ROSIER: Yes.

4 MR. COLE: Well you see a study is -- it compliments in  
5 a sense, does it not, ST-2A, shallow communities, this is deep  
6 water. Don't those -- I mean should we draw a distinction  
7 between the two?

8 DR. SPIES: I was discussing -- my comments are  
9 directed at ST-2A, perhaps because of the breakup I'm a bit  
10 confused here.

11 MR. PENNOYER: The question, Bob, was are ST-2A and 2B  
12 related closely, you can't do one without the other? ST-2B,  
13 for example, you've only got two Xs next to it. Do we need to  
14 treat these in some aggregate?

15 DR. SPIES: I don't think it's wise because there is  
16 some questions about 2B. There's been a rather thorough  
17 analysis of the data but the reviewers have raised some serious  
18 questions about the interpretation. We don't know to what  
19 extent hydrocarbons got to the hundred meters of which this  
20 study was mainly carried out so far. And I think we -- the  
21 investigator needs to spend some more time analyzing the data,  
22 and he's waiting for some hydrocarbon data.

23 So in a sense, some of the money here would be usefully  
24 spent on further analysis of the data; however, further  
25 analysis samples would -- I would suggest waiting to see until

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1 we have a more thorough analysis of the data and a further  
2 review by the peer reviewers. That's in the case of ST-2B.

3 MR. PENNOYER: Your answer is we should take them  
4 separately then? Okay. Back to ST-2A, further comment or  
5 discussion?

6 MR. SANDOR: Mr. Chairman, I would move to defer all  
7 action on 2A so that we can reflect on this between now and our  
8 meeting on the 27th.

9 MR. PENNOYER: Any further discussion on this item?  
10 Effects of deferral? Nobody seems to have an effects of  
11 deferral. So Mr. Gibbons, did you want to say something?

12 MR. GIBBONS: Again, this is the University of Alaska  
13 study. I'm not as familiar with this one as I was the coastal  
14 habitat, but I know they have samples from 1991. And they have  
15 some sorters working in a lab, I don't know how many sorters  
16 they have, but there are people sorting samples from '91 data  
17 on this one. Their contract I would assume would run out  
18 March 1st.

19 MR. FRAKER: Dave, this is Mark Fraker (ph) here. The  
20 contract period runs out on 30 April.

21 UNIDENTIFIED SPEAKER: Mark .....

22 MR. PENNOYER: Well then we're March 1st (ph).

23 UNIDENTIFIED SPEAKER: Can you address the consequences  
24 of deferral on that, Mark?

25 MR. FRAKER: Well deferral until what time?

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1 MR. PENNOYER: Until our February 27th meeting, a  
2 decision (ph).

3 MR. FRAKER: It's probably less critical in this case  
4 since they are ongoing with their work until the 30th of April.  
5 I might point out that of course the effort that has been taken  
6 to collect samples has already been expended, so the samples  
7 are in-hand, now it's a matter of analyzing those samples.

8 MR. PENNOYER: I think that might be good commentary  
9 for the 27th. We do have a motion for -- Mr. Montague, did you  
10 want to make another comment?

11 MR. MONTAGUE: Mark was correct on the contract close-  
12 out on that but our funding is through a reimbursable services  
13 agreement with DEC, and it explicitly states that there will  
14 not be funding beyond the oil year that isn't approved by the  
15 Council. So despite the fact that their contract is open, we  
16 couldn't make payments on it after March 1st (ph).

17 MR. McVEE: Mr. Chairman, this is Curt.

18 MR. PENNOYER: Curt, go ahead.

19 MR. McVEE: Yeah. Does anyone know what kind of an  
20 investment we've got in collecting those samples to this point?  
21 Mark, do you have that?

22 MR. COLE: And could someone also answer how many  
23 samples are we talking about here? I would like to know that.  
24 And also, is work going on on those samplings now?

25 MR. FRAKER: This is Mark Fraker. The sampling is not

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1 going on now, that was done during the last summer's field  
2 season. Analysis of those samples is going on. And as far as  
3 the number of samples and the amount of money already invested  
4 in the project, I don't have a ready answer for either of  
5 those.

6 MR. PENNOYER: I'm not sure I heard what the impact of  
7 the deferral until February 27th was. It seems like it's  
8 potentially significant but I don't know that I actually heard  
9 an effect on the project.

10 (Pause)

11 MR. PENNOYER: Mark -- Mr. Sandor, first.

12 MR. SANDOR: I'm trying to choose my words carefully.  
13 This illustrates a problem; see, we're operating without  
14 adequate information even on this particular point. And I find  
15 it difficult to believe that today the 10th to the 27th until  
16 we get this additional information is going to have that  
17 significant of a consequence. And as I said in Anchorage the  
18 last -- it's disturbing to me, and I don't want to sound  
19 callous that we're making decisions on whether or not pink  
20 slips are issued on, you know, the end of the month or whatever  
21 else.

22 As we go through these, I would really prefer if we  
23 address the issue of whether or not the information that the  
24 studies are needed, in fact, meet the scientific objectives.  
25 And so impact on people is a problem. There can be a short-

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1 term extension given but we've got to meet the two week notice.  
2 And since this requirement -- the contract itself runs 'til  
3 April 30 it seems to me then it's a matter of administrative  
4 prerogative to extend, in fact, two weeks or whatever else.  
5 But if we put the issue of potential adverse impact on  
6 employees, which may or may not even be the case, we throw this  
7 analysis off the track and it's disturbing.

8           So I think it's -- some are not to be addressing this  
9 other issue (ph). And if in fact, there's a potential  
10 violation of contracting, the administrative services people  
11 should have a mechanism in-place to extend their contracts for  
12 two weeks or whatever else so that there isn't any problem  
13 between now and the 30th.

14           Thank you.

15           MR. PENNOYER: Mr. Barton.

16           MR. BARTON: Well I agree with Mr. Sandor, I think we  
17 ought to look at these projects on their merits and then sort  
18 out whatever damage they may have created after we get done  
19 looking at them on their merits. You know, we could take care  
20 of the pink slip problem by agreeing that we will allow hourly  
21 phase down on those that we want to eliminate.

22           MR. PENNOYER: Is the proposal that we -- that I hear  
23 being made that we adopt some type of interim funding this  
24 until we get past the February 27th period, and if so, what  
25 would it be? Or that we authorize contract negotiators to

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1 authorize whatever minimum amount is necessary for the two week  
2 period after the 1st? Mr. Sandor.

3 MR. SANDOR: You said it. That we authorize our  
4 administrative services people to take whatever action is  
5 necessary to meet minimum contractual requirements and  
6 appropriate personnel -- professional personnel management.

7 MR. BARTON: We're talking right now about ST-2A, but I  
8 assume that your comment was aimed at all the rest of those  
9 studies; do you incorporate that into the motion that was made?

10 MR. PENNOYER: I'm sorry, all the rest of the studies  
11 even the ones we disapprove and decide shouldn't go forward?

12 UNIDENTIFIED SPEAKER: Um-hum.

13 MR. PENNOYER: Yeah. I see what you're saying, yes,  
14 correct.

15 MR. BARTON: The mover agreed (ph) to that, does the  
16 second?

17 MR. MONTAGUE: Yes.

18 MR. PENNOYER: Mr. Montague, you had a comment?

19 MR. MONTAGUE: Yes. To date we didn't come here  
20 expecting to have to provide that information. But I think I  
21 can off-the-cuff it that it was probably on the order of seven  
22 or 800,000, maybe a million dollars. And that this amount  
23 asked here, the loss of deferral for a year, now the loss of  
24 deferral to February 27th is significant. The loss of deferral  
25 for a year would mean that we wouldn't have a document

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1 expressing the results of that project.

2 MR. PENNOYER: I heard the motion to not include  
3 deferral for a year but simply deferral until February 27th for  
4 a final decision with the motion being that contract  
5 negotiators and personnel people would take care of whatever we  
6 had to do to cover the interim period of time from  
7 February 27th until we actually take a final decision.

8 So, is there any objection to the motion to defer  
9 ST-2A to February 27th on that basis, understanding there may  
10 be interim expenditures that we'll have to (indiscernible -  
11 telephone cutout) .....

12 Mr. Cole.

13 MR. COLE: Mr. Chairman. Is it my understanding that  
14 something will be done with respect to this proposed study  
15 between now and February 28th; and if so, what?

16 MR. PENNOYER: Mr. Sandor.

17 MR. SANDOR: Well my presumption is is that the action  
18 continues on these projects as defined in the pink book in our  
19 previous contract running, in fact, from April 30th. The  
20 action here of deferring this to February 27th, our next  
21 Trustee Council meeting, is to give us the opportunity to  
22 (indiscernible) closely at these projects that are deferred  
23 until that time and make a more reasoned and sound judgment as  
24 to what action we finally take.

25 MR. COLE: Mr. Chairman.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: I guess Commissioner Sandor, the thrust of  
3 my question was is someone (indiscernible) be designated to  
4 provide us with further information about this type of study or  
5 this specific study between now and the 28th?

6 MR. PENNOYER: Mr. Sandor.

7 MR. SANDOR: My understanding there is that the  
8 Restoration Team leader will make the necessary assignments to  
9 get whatever information that -- by this Trustee Council at  
10 today's meeting and have that information provided the members  
11 of -- in advance of that February 27 meeting.

12 MR. PENNOYER: Mr. Cole, does that respond to your  
13 question?

14 MR. COLE: Yes, sir.

15 MR. PENNOYER: Is there any objection to the motion?  
16 ST-2A is deferred then pending further study to the  
17 February 27th meeting (indiscernible - interrupted) .....

18 MR. MONTAGUE: Mr. Chairman.

19 MR. PENNOYER: Mr. Montague.

20 MR. MONTAGUE: Is there additional information that the  
21 Council wishes on this project that we are to provide in the  
22 interim?

23 MR. PENNOYER: Mr. Montague, you were asked, as I  
24 recall for one thing, the amount spent to date, what's lost, in  
25 fact, if we don't do it for a second year instead of just one

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1 year. More specifically, perhaps knowing the concern, you  
2 could come with a presentation on what we've gained from the  
3 project so far versus what we will lose if we don't do a second  
4 year analysis.

5 Mr. Cole.

6 MR. COLE: Dr. Montague, I think, you know, what is  
7 troubling me with respect to this study is we don't have  
8 recommendation either by the chief scientist or Commissioner  
9 Rosier that we should go ahead with it. And I think what I'd  
10 like to see is whether we can get a firmer, you might say,  
11 commitment either from the chief scientist or Commissioner  
12 Rosier at that time as to whether we should go ahead. If they  
13 can't recommend it firmly, then I don't think it would be well  
14 to go ahead with it.

15 MR. PENNOYER: Further discussion of this motion? Is  
16 there any objection to the motion? All right. ST-2A then has  
17 been deferred. We'll go on to ST-2B, deep water benthos (ph),  
18 \$80,000.00, two Xs. Dr. Spies.

19 DR. SPIES: Yes. As I said before, and I'll try to be  
20 as brief as possible, this -- the results of this study need  
21 further analysis and further consideration of interpretation  
22 with further peer review; and therefore, I would recommend that  
23 that at least be done and that any further sample analysis for  
24 1991, for example, be deferred until the completion and full  
25 interpretation of the 1990 results have been completed and

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1 accepted by the peer reviewers.

2 MR. PENNOYER: Dr. Spies, however, if we vote any money  
3 to this is that type of evaluation going to take place?

4 DR. SPIES: What I'm suggesting is that you somehow  
5 split this, and I can't tell you off the top of my head how to  
6 do this, but you somehow split the budget so that the damage  
7 assessment portion of this is completed; the report is  
8 completed (indiscernible - telephone cutout) -- further  
9 analysis of '91 samples, which I am assuming is included in  
10 this \$80,000.00 budget. So it's going to some fraction of  
11 \$80,000.00 that I am recommending be expended.

12 MR. PENNOYER: So then you're recommending that some  
13 time again in this interim period you come meet with the  
14 project leaders and Restoration Team and in fact break the  
15 budget down along the lines that you've specified?

16 DR. SPIES: Yes.

17 MR. PENNOYER: Questions of Dr. Spies? Agency?  
18 Mr. Barton.

19 MR. BARTON: Does the Agency have some estimate of what  
20 it would take to do what Dr. Spies suggests?

21 MR. PENNOYER: Mr. Montague.

22 (Pause)

23 MR. PENNOYER: Mr. Fraker.

24 MR. MONTAGUE: Mark Fraker, did you hear the question?

25 MR. FRAKER: I did. I'm not sure offhand how to answer

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1 it. I would guess somewhere on the order of \$10,000.00 or less  
2 to accomplish the review and sort of the reconciliation of  
3 the -- some of the criticisms of peer reviewers.

4 MR. PENNOYER: Mr. Barton.

5 MR. BARTON: And at that point then we would make a  
6 decision as to -- upon completion of that, the idea is then  
7 that we would make a decision on whether we want it  
8 further (ph)?

9 MR. PENNOYER: Dr. Spies.

10 DR. SPIES: Well I don't want to get into recommending  
11 procedure, but somehow you've got to allow for the possibility  
12 that the further analysis of data will support a conclusion of  
13 injury here and perhaps justify further expenditures for the  
14 analysis of the '91 samples. However, I'm not prepared to  
15 recommend the whole amount to you at the present time because  
16 it's unsure in my mind whether the results of the '91 analysis  
17 can be, in fact, interpreted as indicating injury to the deep  
18 water benthos at this time.

19 MR. PENNOYER: Mr. Barton.

20 MR. BARTON: I'd move that we fund this project,  
21 ST-2B, at the level of \$10,000.00, give or take a little.

22 UNIDENTIFIED SPEAKER: Second.

23 MR. PENNOYER: Moved and seconded ST-2B be funded at  
24 the level of \$10,000.00 presumably to do the analysis to see if  
25 the balance of the proposed studies should be carried out. Any

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1 further discussion? Is there any objection? Thank you.

2 Let's go on to ST-3A then, bile (ph) availability and  
3 transport of hydrocarbons, \$29,300.00, four Xs and a fate with  
4 a cross. Go ahead, Bob.

5 DR. SPIES: This is a NOAA study that has analyzed the  
6 accumulation of hydrocarbons by mussels. And it fits into the  
7 total picture of understanding the fate of hydrocarbons in the  
8 water and water quality. And I'm recommending that this be  
9 completed.

10 MR. PENNOYER: Questions of Dr. Spies?  
11 (Indiscernible - telephone cutout) .....

12 MR. SANDOR: I move acceptance of this.

13 UNIDENTIFIED SPEAKER: Second.

14 MR. PENNOYER: Moved and seconded to accept ST-3A. Any  
15 further discussion? Is there any objection?

16 MR. McVEE: No objection.

17 MR. PENNOYER: Thank you. Curt, I can't see you but I  
18 assume when I say there's any objection you will chime in if  
19 there is one. So I didn't mean to pass you up -- pass you by.

20 MR. McVEE: I will.

21 MR. PENNOYER: 3B bile availability and trans- -- same  
22 title, 6,700 and the same notations and four Xs. Dr. Spies.

23 DR. SPIES: Yes. This study looks at the hydrocarbons  
24 accumulated in subtidal sediment traps (ph) and provides  
25 information that's complimentary to the data on accumulation of

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1 hydrocarbons by mussels. There are sediment traps out there  
2 and this cost includes the retrieval of sediment traps that are  
3 already in the field at this time. In other words, the traps  
4 that are over wear (ph) that give us some idea of mobilization  
5 of hydrocarbons in -- off beaches and so forth. And I would  
6 recommend that you go forward with this; although, my  
7 recommendation would not be perhaps as strong as some of the  
8 others but I would recommend going forward with those.

9 MR. PENNOYER: Questions of Dr. Spies? Agency?

10 MR. COLE: Commissioner.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: I'd like to ask Commissioner Sandor, since I  
13 see this is a DEC study, would you be looking forward to want  
14 to run a similar study to this next year?

15 (Pause)

16 MR. SANDOR: ..... (indiscernible - telephone cutout) -  
17 - I guess with Dr. Spies' recommendation, Mr. Chairman, even  
18 though it may not be as strong as earlier recommendations, I  
19 would believe that this project should be approved. But again,  
20 I'm told -- I have the understanding that all of these close-  
21 outs -- are close-outs. And I noticed, in fact, in the  
22 narrative Dr. Spies, in fact, in the next to the last paragraph  
23 on Page 3 of his memo points out, quote: Most of the damage  
24 assessment studies proposed for close-out are essentially  
25 studies that were not completely timely and within budget.

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1 This raised questions as to whether the restoration project  
2 proposed for '92 will actually be finished with the resources  
3 requested.

4 I think my trusted representative on the Restoration  
5 Team will help assure that this project will be done this year.  
6 I move approval of this project.

7 UNIDENTIFIED SPEAKER: Second.

8 MR. PENNOYER: It's been moved and seconded to approve  
9 this project. Is there further discussion? Mr. Cole, do you  
10 have a further question?

11 MR. COLE: No, sir.

12 MR. PENNOYER: ST-3B, is there any objection to  
13 approval of its continuation?

14 MR. McVEE: No objection.

15 UNIDENTIFIED SPEAKER: I move the approval (ph).

16 MR. PENNOYER: Get our terminology straight here.  
17 Okay. Thank you.

18 The next study is ST-6, injury to rock fish,  
19 \$15,000.00.

20 DR. SPIES: I recommend that this study close-out.  
21 There's a number of samples that have yet to be analyzed and  
22 date to be analyzed. And there was a few dead rock fish found  
23 after the Spill that we think were killed by the Spill, there  
24 was evidence from 1990 samples that the rock fish were exposed  
25 to hydrocarbons in their environment. The analys- -- the

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1 completion of this study would include both analysis of --  
2 further analysis of hydrocarbons and exposure and also analysis  
3 of sublethal -- just the pathological effects potentially  
4 induced by the oil. It's a small amount of money, I therefore  
5 recommend that we complete this study. We don't really know  
6 what we have yet.

7 MR. PENNOYER: Further comment or question?

8 (Pause)

9 UNIDENTIFIED SPEAKER: Second.

10 MR. PENNOYER: It's moved and seconded that we fund the  
11 injury to rock fish study of \$15,000.00. Is there further  
12 discussion? Any objection?

13 MR. McVEE: No objection.

14 MR. PENNOYER: The next injured dimorsal (ph) fish,  
15 66,100, it says two fate plus a star across (ph) plus two Xs,  
16 you're going to have to explain that one to me, Bob.

17 DR. SPIES: I'll try. There is little in the way of  
18 injury indicated here, there is some -- these are mainly bottom  
19 fish like flounder. There's certainly some very good data  
20 that's coming out of analysis of hydrocarbons in their bile  
21 (ph) that help us understand how hydrocarbons in the subtidal  
22 area may be continued to be bile available to fish or not and  
23 how that is going down. So that's very interesting data and it  
24 puts a broader perspective in terms of the fate of the  
25 hydrocarbons and that explains my comment about fate. But they

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1 haven't really found much in the way of injury so far, mainly  
2 it's been examination of effects on reproductive parameters and  
3 just a pathological examination of other tissues such as gills.  
4 There have been some preliminary indication of an injury to  
5 gills.

6 I think that this sort of data is valuable to have, but  
7 I don't know what's involved in that \$66,000.00 figure. It  
8 seems a bit high to me at the present time, I don't know  
9 exactly what's involved in completing this study except that  
10 there is quite a bit of biological data to interpret here.  
11 I've got -- I'm fairly weak on -- I would like to see this  
12 completed but I'm fairly weak on assuring you that it's  
13 strongly related to potential injury.

14 MR. PENNOYER: Bob, can you comment on the need for  
15 this to actu- -- I know we've done a lot of dimorsal fish work  
16 to try and determine whether injury occurred. (Indiscernible -  
17 telephone cutout) like you exactly what's required to really  
18 (ph) close that out. Is this sample analysis or is it just  
19 closing out the data loop and writing the final report? And if  
20 so, does this help tie together the question of whether  
21 dimorsal fish in a spill like this are injured in a subarctic  
22 environment.

23 Byron Morris, do you want to comment on that, perhaps?  
24 You'll have to come up to the microphone. Bob, do you want to  
25 go first?

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1 DR. SPIES: I'll let Byron comment first.

2 MR. MORRIS: Yes. This study is for the Environmental  
3 Conservation Division, and as I look at their detailed budget  
4 for close-out it's approximately a month or a tenth of the  
5 year's time for a team of various people's salary, which adds  
6 up to approximately 59,000 of the total cost of the study.  
7 Their approach has been to study oil spills and other (ph)  
8 contaminants in a variety of areas including type (ph)  
9 environments to understand these type of effects. So I  
10 understand this is just to devote these people to the final  
11 analysis and interpretation of the data that they have on-hand.

12 MR. PENNOYER: The question is but if this is not  
13 funded, do we then end up with no report on all the work we've  
14 done on dimorsal fishes or where are we at?

15 MR. MORRIS: You would get no final report on this  
16 project.

17 MR. PENNOYER: Bob, do you want to try anymore?

18 DR. SPIES: I kind of leave it up to the Council to  
19 make the decision of whether I need this one or not. I'd  
20 like -- from a purely scientific point of view I think it's  
21 important to have this data to understand the Spill.

22 MR. COLE: Dr. Spies, this is Charlie Cole. What does  
23 it do for the restoration process?

24 DR. SPIES: Well as far as direct restoration I think  
25 that most scientists would agree with me there's probably not

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1 too much that could frankly (ph) be done on this environment of  
2 these particular fish. However, I would prefer to see some  
3 very, very limited sampling of dimorsal fish perhaps  
4 intermittently over the next several years to see if the  
5 hydrocarbons are still available to the bottom dwelling fish in  
6 the Spill so we can get a picture generally of what's going on  
7 with hydrocarbons and the bile availability of they  
8 hydrocarbons in the Sound. But -- does that answer your  
9 question?

10 MR. COLE: No.

11 MR. PENNOYER: Not totally.

12 UNIDENTIFIED SPEAKER: Yeah.

13 MR. PENNOYER: I know again we've done a lot of work on  
14 looking at it to see if, in fact, the bottom fish were injured,  
15 even if we didn't know for sure how we were going to deal with  
16 it, we felt (ph) we had to know the injury. And I don't know  
17 if we've closed that loop out yet or not. If the reports that  
18 have been done already close that loop or if this 66,000 is  
19 necessary to do it.

20 Byron, maybe if we can't answer that question here,  
21 we'll have to come back and answer it at the next session. I  
22 don't have the answer to it off the top of my head. So it's  
23 sort of how important is this to close out the work on dimorsal  
24 fish.

25 DR. SPIES: I might make one comment here that might

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1 save some money, and this is a professional judgment on my  
2 part. I've done studies on effects of contaminants on  
3 reproduction of bottom fish. And my judgment, and this is just  
4 strictly my judgment, it's unlikely that we'll see an affect on  
5 the reproduction of these bottom fish from the Spill. And it  
6 would therefore be my recommendation that we would delete that  
7 part of the study that give the reproductive effects.

8 I believe that there is some analysis of hormones in  
9 blood and so forth that would be included in this final figure,  
10 but that's -- I'm just going on my recollection because I don't  
11 have the detailed study plan in front of me.

12 UNIDENTIFIED SPEAKER: Do we know .....

13 MR. PENNOYER: So we don't know then how much that  
14 might be of the total? Ask that question, what's lost if we  
15 wait to ask those questions and come back on the 27th?

16 MR. MORRIS: I think that would be satisfactory.

17 MR. PENNOYER: (Indiscernible - telephone cutout) some  
18 kind.

19 UNIDENTIFIED SPEAKER: I would move deferral to  
20 February 27th.

21 UNIDENTIFIED SPEAKER: Second.

22 MR. PENNOYER: Is there further discussion of this.  
23 Byron, do you understand the (indiscernible - telephone cutout)  
24 and the assignment?

25 MR. MORRIS: Yes, I do.

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1 MR. PENNOYER: Any further discussion of this? Is  
2 there any objection to the motion?

3 MR. McVEE: The motion is to defer, Steve?

4 MR. PENNOYER: The motion is to defer until the 27th,  
5 with the understanding that we're going to look at -- with  
6 Dr. Spies' help, look at the subsections of this that night not  
7 have to be pursued versus the need to close out this study  
8 and -- and put a cap on it.

9 MR. McVEE: No objection.

10 MR. PENNOYER: Mr. Cole?

11 MR. COLE: Well, now if one looks at where we're going,  
12 I think we're just in a sense almost wasting our time here. We  
13 ought to just approve all studies and, you know, get on with  
14 it. If you look at category one, that's 5,180,000. Category  
15 two is 5,165,000. And if it's a matter essentially of policy,  
16 we accept everything in -- in category two and above as we seem  
17 to be heading, we ought to just save all the time and strain  
18 and emotional drain and, you know, just approve these. I mean,  
19 because it's obvious I think, isn't it, that -- that even when  
20 we get a category two study, approve it. You know, we ought to  
21 just approve them all and be done with it. We're only  
22 \$15,000.00 between category -- well, all -- all studies and  
23 those in category number two. And in fact only about, you  
24 know, \$180,000.00 between categories one, two and three. I  
25 think it's just something to think about. I think .....

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1 MR. PENNOYER: Mr. Cole, since it's 25 to six, we may  
2 not be far off from that requirement anyhow, but I guess we  
3 have at least in -- talked about reductions in these. I don't  
4 what the reductions going to be in ST-7. Maybe it will be a  
5 \$10,000.00 proposal. But I -- yeah, Mr. Barton?

6 MR. BARTON: I think we keep losing sight of the fact  
7 that all we're doing is approving these to go out for public  
8 review. And -- and then -- let me finish here. I frankly  
9 have no problem with sending all of these out for public  
10 review. Once we get that review, then we start some  
11 discussion, that's entirely appropriate. Anyway, .....

12 MR. COLE: Mr. Chairman?

13 MR. PENNOYER: Mr. Cole?

14 MR. COLE: I move we send all of the projects out to  
15 public review.

16 MR. BARTON: Second.

17 MR. PENNOYER: Mr. Cole, the previous (indiscernible)?

18 MR. PENNOYER: Yes.

19 MR. McVEE: We -- we didn't hear that in Anchorage.

20 MR. PENNOYER: (Indiscernible) again? Curt, was that  
21 you?

22 MR. McVEE: Yes. Someone was speaking I think in  
23 Juneau. We couldn't year.

24 MR. PENNOYER: The motion was to send all these  
25 projects out to public review, including the ones that we

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1 initially took action on to reduce or defer. And that's the  
2 motion. It's been seconded, it's now being discussed.

3 MR. McVEE: Yeah. I guess in our previous discussions  
4 that it seemed to me like that we're -- we were proposing that,  
5 you know, we -- we'd close the loop on the close-out projects,  
6 and that -- you know, that we'd go ahead and -- and  
7 disapprove or approve and then they'd, you know, be included in  
8 the -- in the framework document, but that if we go for public  
9 review, I think we've got some timeframe problems unless we do  
10 it on a -- on a pretty short -- a short timeframe.

11 MR. PENNOYER: Well, my understanding of the motion  
12 would be we would approve them to go out to public review and  
13 therefore accepting interim expenditures between March and May  
14 .....

15 MR. McVEE: Okay.

16 MR. PENNOYER: ..... for these projects, even ones we  
17 might have turned down.

18 MR. McVEE: Okay.

19 MR. PENNOYER: Mr. Sandor?

20 MR. SANDOR: Yeah. I object to the -- the motion and  
21 cannot accept it, unless there's an understanding that we will  
22 have the scientific information that we requested from  
23 Dr. Spies.

24 MR. PENNOYER: Mr. Sandor, we haven't requested it on  
25 some of these projects, but you mean specifically on coastal

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1 habitat?

2 MR. SANDOR: Yes, especially on coastal habitat, but  
3 any others as well. I think this perhaps may be beneficial in  
4 giving them more time, but I think this clearly illustrates  
5 that, you know, if we had it to do over again, we would have  
6 had I think peer review and -- and Dr. Spies' review of all  
7 these projects. And I understand the reasons why that wasn't  
8 done, but I would not want to forego that opportunity.

9 MR. PENNOYER: Mr. Sandor, I think we have identified  
10 additional questions we've got, but I believe they did have  
11 peer review by the Restoration Team with peers. I don't know  
12 about each individual project, and obviously Mr. Spies -- Dr.  
13 Spies has indicated few, that he would have done more, you  
14 know, given time.

15 Mr. Cole?

16 MR. COLE: With the consent of the second, I would like  
17 to make it clear that the coastal habitat review be excluded  
18 from the motion. I think that \$3 million, which is more than  
19 half of the total proposed projects could properly be looked at  
20 as we discussed earlier.

21 We're talking about these others, and, Commissioner  
22 Sandor, I would -- I would like to say, you know, there's no  
23 use going through these, I mean, this debate when essentially  
24 all we do is discuss it and then approve it, even the category  
25 two numbers. And we're not really getting any place, and we

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1 just as well get the whole public review instead of trying to  
2 save 20 or 30,000 and we just -- just as well send them all  
3 out to the public and have their review and -- and then make  
4 some hard calls.

5 MR. PENNOYER: Mr. Barton and then Mr. Rosier.

6 MR. BARTON: We've probably spent as much money as  
7 we've saved so far in reviewing these things.

8 I -- I certainly agree to the examination of the  
9 coastal habitat study for cost effectiveness, but it's a spendy  
10 project, (indiscernible) we examine.

11 MR. PENNOYER: Mr. Rosier?

12 MR. ROSIER: Thank you, Mr. Chairman. Yes, I -- I  
13 think that -- that my colleague on my immediate left here is  
14 correct. We've probably spent more than we've saved here so  
15 far today on this. And I would agree, I think that we should  
16 send these out to the public. I think that they're going to  
17 make some additional demands on our chief scientist here on  
18 this, and this -- this will give him some additional time. He  
19 may appreciate the -- the opportunity for the public to review  
20 these as well. I think that's an important element here, and I  
21 -- I would certainly hope so.

22 MR. PENNOYER: Mr. Sandor?

23 MR. SANDOR: (Indiscernible) we will then continue  
24 excluding the coastal habitat. With the exception of that,  
25 the others would be continued, is that right?

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1 MR. PENNOYER: Mr. Barton?

2 MR. BARTON: I want to be clear that I understand.

3 What I -- I under- -- understood was that the coastal habitat  
4 project would fall into the same category as all the rest, but  
5 would be scrutinized. In other words, we would not stop the  
6 coastal habitat project, but it would continue as all the rest  
7 of the projects that are authorized to continue. But it would  
8 be subjected to this -- this scrutiny by Dr. Spies and  
9 whatever.

10 MR. PENNOYER: A clarification of Mr. Barton. Does  
11 that mean that it would continue on until May or that we would  
12 have some of that scrutiny between now and February 27th?

13 MR. BARTON: Well, I would hope we would get the --  
14 Dr. Spies would be able to do that before February 27th. But  
15 I do -- I do think it would fall into the same general trust  
16 as all the projects, but that this specific scrutiny that we're  
17 talking about for this project would be completed by the 27th  
18 of May -- or, I mean, the 27th of February, I'm sorry.

19 MR. PENNOYER: Mr. Rosier?

20 MR. ROSIER: Mr. Chairman, if I might, how many dollars  
21 have we spent on this coastal habitat study, total dollars?

22 MR. GIBBONS: Mr. Chair?

23 MR. PENNOYER: Mr. Gibbons?

24 MR. GIBBONS: This -- this has been -- we spent  
25 \$17 million on this study in 1989, 1990 and 1991. So it's --

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1 it's, like Mr. Barton said, it's a big ticket item. There's a  
2 lot of information here, and so it -- when you look in  
3 comparison, it's -- perhaps it's not, you know, -- we -- we can  
4 do the detail by the -- by the 27th. A problem with this is  
5 the contract expires March 1st, and so I would hope that if --  
6 if we're going to do that, that the Trustee Council would give  
7 us some time so we can extend that contract for some period of  
8 time.

9 MR. PENNOYER: I believe the motion included the  
10 concept that we would extend it in whatever nec- -- way  
11 necessary so you don't have a two-week evil (ph), so we make  
12 our decision on February 27th, you're not faced with a two-week  
13 layoff period or something. The extension, contract and  
14 personnel people would be extended to the amount necessary to  
15 not get us in trouble between the time the decision is made  
16 and whenever, you know, you get it in place, two-week period.

17 MR. McVEE: Yeah. Mr. Chairman, this is Curt.

18 MR. PENNOYER: Curt.

19 MR. McVEE: When we do this, would we want to instruct  
20 the RT to develop an interim -- interim budget then, the kind  
21 of expenses or the costs that -- that will be associated, you  
22 know, to fund these projects for some interim period?

23 MR. PENNOYER: Well, Mr. McVee, I -- I was going to  
24 make a few comments at the end here, and I think that's  
25 entirely appropriate. We've been through this list, and I

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1 understand people's frustration with the slowness of process  
2 and the fact we haven't just wholesale eliminated a lot of  
3 projects, but we have in fact at this point put off expenditure  
4 of 125,000, eliminated potentially 70,000 and deferred  
5 expenditure of 66,000, so in reality we're looking at about  
6 180, 200 and -- a quarter million dollars that we have either  
7 said you're not going to continue until we make a decision  
8 later, or -- and no other expenditures, or we've cut it back.  
9 And I'm bothered a little bit by what we've agreed to here, in  
10 extension of this whole list through May. I think it would be  
11 entirely appropriate if the Restoration Team by the February  
12 27th meeting could come back to us and give us some fiscal  
13 indication of what a deferral until a May final cut-off  
14 decision date on these means. I agree the time we could have  
15 in looking at these probably the better, and we certainly don't  
16 have the time tonight to finish the list. So maybe given  
17 everything, that's the best course, but I -- I would totally  
18 agree, and if -- hopefully the maker of the motion would agree  
19 with that type of -- type of analysis so we could see in  
20 February and have identified by project which ones might be big  
21 ticket items. Maybe some of them could be completely done, or  
22 mostly done by May, so we ought to have a look at that and  
23 understand what we've done at that point.

24 Is that acceptable? At least could we get that type of  
25 report so on February 27th, we can revisit this decision to

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1 that point at least?

2 MR. COLE: Would you mind saying specifically what  
3 (indiscernible)?

4 MR. PENNOYER: Specifically what I think Mr. McVee was  
5 suggesting, that on February -- the Restoration Team give us  
6 some accounting of what part of these project expenditures will  
7 have occurred by the time we make a final decision after it  
8 comes back from public review in May, understanding that when  
9 we -- we sent these to public review, we've understood that  
10 there would have to be expenditures in the interim on some of  
11 these projects. I don't know which ones are more or less  
12 spendy, or which ones we may want to make a different decision  
13 on.

14 For example, the 66,000 on injury to commercial fish,  
15 the 2-X one, maybe it doesn't make any difference if we don't  
16 expend anything until May on that one. On the other hand, maybe  
17 it -- we could spend a lot less -- a large amount of that  
18 expenditure is slated, and as Dr. Spies said, he thought part  
19 of that study could probably be eliminated. And I don't know  
20 what part, but maybe half or more of it.

21 So as an interim thing, 'cause we can't do it tonight  
22 anyway, and we're going to have to not be able (ph) to cut  
23 people off on March 1st. This is an interim measure, but I  
24 think I would like to see by the end of the month at least some  
25 concept of what type of expenditure was going to occur on these

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1 projects in that interim, and I think we actually had  
2 requested that once before anyhow.

3 Mr. Cole?

4 MR. COLE: Mr. Chairman, well, I agree, but like I said  
5 last Thursday, it doesn't take a Ouija Board to see where we're  
6 heading. It's virtually going to be impossible to cut off any  
7 of these proposed studies, because when we come to May, we will  
8 be told, well, "We have so much money invested in this already  
9 since February 1, that it would be a total loss to -- to cut  
10 off the study now. It will only take another week or two or a  
11 month or whatever to finish it up," most of them, so, you know,  
12 it's -- it's just -- I say we ought to face now what we're  
13 doing, and when we can't even cut out these studies here which  
14 are -- only fall into category two, and -- and at that stage,  
15 say, well, maybe we better defer them, then I think we're just  
16 not getting any place, and as Mr. Barton said, spending more  
17 money holding these meetings, than we're doing, then we just as  
18 well take advantage of the public input since we're not cutting  
19 out anything. That's the reason I made the motion. But where  
20 we're going in May, it's fully predictable. So if we can't do  
21 anything tonight or on the 28th, we just as well fold the tent  
22 and say, you know, all these projects are going to be closed  
23 out and -- and that's that. Maybe I'm -- my bifocals are not  
24 focused, but I think that's the -- the way it is.

25 MR. PENNOYER: Is there further comment or discussion

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1 on this motion? The concept (ph), the Restoration Team will  
2 give us some kind of accounting, and go forward and accept the  
3 whole list without modification except in the case of coastal  
4 habitat (indiscernible) motion. Including the full amount on  
5 deep water bathos? No further comment.

6 Mr. Barton?

7 MR. BARTON: Well, I would presume that we would all  
8 act in good faith, that any of these studies that don't need to  
9 be cranked on March 1 and could wait until May, will wait until  
10 May. We're all honorable people as (indiscernible) not rash.  
11 A number of these studies that could possibly be completed  
12 between March 1 and May 1, or whenever it is in May. And I  
13 would hope that we would not do that unless it was necessary.  
14 But there's some of these studies that are small amounts of  
15 money. In a couple of months, you'd expend that and complete  
16 the project. I would hope that if it didn't -- that didn't  
17 need to be, it wouldn't be, and that we would have the  
18 opportunity to hear what the public had to say and to exercise  
19 some of our own judgment on thee studies, so -- you know, if we  
20 all act in good faith and as reasonable human beings, I think  
21 we can make the best of a bad situation I guess is what I'm  
22 saying.

23 MR. PENNOYER: Is there any further comment? Mr.  
24 Sandor?

25 MR. SANDOR: Not on this motion, no, which I

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1 (indiscernible) support. But I do have a problem or question  
2 before we adjourn.

3 MR. PENNOYER: We haven't dealt with damage assessment  
4 continuation yet unless that's also -- that wasn't that covered  
5 by the motion, or is it? Mr. Rosier?

6 MR. ROSIER: I would just ask a point of clarification  
7 here. Between now and the 27th, will Dr. Spies then be  
8 interacting with the Restoration Team or is he acting  
9 independently, or how are we -- how are we structuring the  
10 activities between now and the 27th?

11 MR. PENNOYER: What I heard in the motion, now correct  
12 me if I'm wrong, is that basically he -- he was dealing with  
13 the coastal habitat study, but I'm not sure that given the  
14 basis of the motion he's dealing with anything else with. The  
15 instructions on coastal habit I thought were fairly clear.

16 And that, of course, Dr. Spies, we haven't gotten to  
17 continuation or -- or res- -- or recovery yet. I mean,  
18 restoration yet, and we need to deal with those, at least and  
19 where we think we're going with them by the 27th.

20 Is there any objection to the motion? Hearing none,  
21 that's how we will -- Mr. Cole?

22 MR. COLE: Well, I -- I just want to say, you know,  
23 underlying the motion is these numbers at the bottom under the  
24 options, you see, and really not very much flexibility  
25 different in those -- the cost of the options, of exercising

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1 options, you know, one through six in any event, and certainly  
2 I don't think we would ever actually take out option seven. So  
3 therefore it seems best that we just -- other than the  
4 University of Alaska, put these out to the public and as Mr.  
5 Barton says see what best we can do between now and May and  
6 hope for some savings and exercise of good judgment along the  
7 way.

8 MR. PENNOYER: Thank you. Is there any further  
9 discussion on this motion? Is there any objection to it? It's  
10 adopted.

11 Can we go on then and talk about what we're going to do  
12 with damage assessment continuation options? Mr. Gibbons?

13 MR. GIBBONS: I just wanted to make one point. There  
14 may be a misconception by the Trustee Council on what's  
15 occurred on the damage assessment studies. There has been  
16 thorough peer review of all the damage assessment studies, both  
17 the continuation and the close out. This was -- the peer  
18 reviewers were brought in, reviewed extensively with the chief  
19 scientist, so these -- this portion of the program has been  
20 thoroughly peer reviewed and has moved through that process.  
21 And I -- I just thought I heard that there was a comment that  
22 perhaps that had not occurred.

23 MR. PENNOYER: Mr. Gibbons, does that include the  
24 continuation stu- -- damage assessment continuation as well?

25 MR. GIBBONS: That's correct.

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1 DR. SPIES: Mr. Chairman, I just might mention that the  
2 peer reviewers have commented just on the scientific content of  
3 the proposals and have -- have not in general commented on the  
4 size of the budget request.

5 MR. PENNOYER: Okay. Thank you. How about the damage  
6 assessment continuation options in the last five minutes we've  
7 got here. Does anybody want to talk about \$3 million, that  
8 category? Mr. Cole?

9 MR. COLE: Mr. Chair. Did I (indiscernible) from  
10 Dr. Spies' comment that (indiscernible) be in a position to  
11 furnish with evaluation with the cost proposals of these  
12 continuation studies?

13 MR. PENNOYER: Bob, are you going to answer that? Are  
14 you into budgeting?

15 DR. SPIES: That's a -- that makes the task a lot more  
16 complex and time consuming for my part. I would certainly --  
17 would welcome the -- forming a team with the Restoration Team  
18 to get this -- this accomplished, if that's what the Trustee  
19 Counsel wishes, consideration of this. We could as we have in  
20 the first group of studies go through and with -- maybe with  
21 taking the commercial fish, we may want to consider whether we  
22 need the reproductive work any longer, and -- and we could  
23 adjust the budget perhaps in that way, and that way get into  
24 the content of each proposal rather than either taking the  
25 whole thing as proposed with the total request, or rejecting

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1 it. Perhaps we can come back to you with a modified cost and  
2 scope, but I -- I don't feel I've got time between now and the  
3 end of the month as an individual to make all those sorts of  
4 judgments in -- without working with the Restoration Team.

5 MR. McVEE: Mr. Chair, this is Curt.

6 MR. PENNOYER: Mr. McVee.

7 MR. McVEE: I just got a note here, it says "if  
8 necessary, the teleconference might be extended past six," but  
9 we'd have to let the operator know if that is the desire of the  
10 Council, but it could be extended. It can go till 8:00  
11 o'clock.

12 MR. PENNOYER: Well, we've already discussed amongst  
13 the Trustee Council members (indiscernible), I'll have to ask  
14 individual members what their feelings are. We were originally  
15 told it was terminating at six.

16 UNIDENTIFIED: Yeah, I think they've got a commitment  
17 at 6:15 and .....

18 MR. PENNOYER: I think the sense is we'll go for  
19 another 15 minutes, at least try to tie up our direction on  
20 these other packages of projects and instructions of what we  
21 expect in February -- at the February 27th meeting. Is that  
22 okay?

23 Do you want -- can we go on then to damage assessment  
24 continuation options, the total of \$3,127,700.00? And again  
25 with options with X's on them. Do you wish to go through

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1 them, or do you wish to have the alternate proposal? How to  
2 handle these? (Indiscernible) here, vary from all studies,  
3 \$3,000,000.00. Item four, you go down to a million and a half,  
4 item seven, you're down to 184,000.

5 Mr. Sandor?

6 MR. SANDOR: Dr. Spies, I (indiscernible) kind of  
7 question on FS-27, the sockeye salmon over escapement project,  
8 and that -- that over escapement, the damage from that is -- is  
9 -- is from the Exxon Valdez singularly, or is that over  
10 escapement from other causes as well?

11 DR. SPIES: The over escapement was the third year of  
12 over escapement into the Kenai River, where the damage has been  
13 most efficiently documented. I think it's impossible to say at  
14 that time -- or at this time how much was due specifically to  
15 the '89 over escapement versus the two other years. It could  
16 well be a situation where the first years may have not made a  
17 difference to the production of smolt, and the third year could  
18 have been the -- the straw that broke the camel's back so to  
19 speak.

20 MR. SANDOR: Thank you.

21 MR. PENNOYER: Mr. Cole?

22 MR. COLE: I -- I have a question. I'm not sure about  
23 what we did in this last duration, a comment from what Dr.  
24 Spies was to do with respect to cost involved. Was -- was that  
25 directed just to the damage assessment continuation options?

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1 MR. PENNOYER: I don't know that we came to a specific  
2 instruction relative to costs involved on which projects except  
3 for coastal habitat right now as far as I -- I understood the  
4 only direction. Distinct direction Dr. Spies has at this  
5 moment is the coastal habitat. We still have to cover what  
6 we're going to do on restoration February 27th and any  
7 instructions we've got relative to that. And all of these  
8 other studies, continuation option -- my assumption is the  
9 damage assessment close out projects, we've accepted them  
10 except for coastal habitat until public review takes place. At  
11 least I thought that was -- and I -- Mr. Barton, maybe I'm  
12 wrong?

13 MR. BARTON: Well, I'm not sure again. I thought we  
14 agreed that Coastal habitat would go forward as all the others  
15 go forward, but subjected to specific scrutiny.

16 MR. PENNOYER: Well, I -- I thought that we never said  
17 we were going to stop it. We said we were .....

18 MR. BARTON: Okay.

19 MR. PENNOYER: ..... going to review it on the 27th  
20 and that it would go forward after, for some interim period of  
21 time people would have the assurance it was going to go  
22 forward. It's the only one though that might be at this time  
23 terminated before or major -- in a major way altered before the  
24 May date, because .....

25 MR. BARTON: Well, -- well, .....

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1 MR. PENNOYER: ..... before it goes to public review  
2 we're going to make some judgments on it.

3 MR. BARTON: Okay.

4 MR. PENNOYER: Mr. Cole?

5 MR. COLE: I had in mind that I thought this was what  
6 Dr. Spies was referring to, that he working with the  
7 Restoration Group would be able to give us an evaluation of the  
8 money which should be spent on the damage assessment  
9 continuation options? Was I -- was that anyone else's  
10 understanding?

11 DR. SPIES: I -- I believe it was the -- the damage  
12 assessment close-out options.

13 MR. COLE: All right. Well, that's what I wanted to --  
14 that's what I really had in mind, and that's what I would  
15 prefer, so I will so move in order to get that resolved, that  
16 we request Dr. Spies working either alone or with his peer  
17 reviewers or with the Restoration Team the earliest date  
18 furnish us with that type of evaluation.

19 MR. PENNOYER: Mr. Cole, how -- which suite of  
20 projects? All of them or just .....

21 MR. COLE: The close-out studies.

22 MR. PENNOYER: The ones we've just approved?

23 MR. COLE: Yes.

24 MR. PENNOYER: Okay.

25 MR. COLE: For public .....

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1 MR. PENNOYER: Public review?

2 MR. COLE: For public review. By that I have in mind  
3 is he -- he would -- we would be furnished with a more tailored  
4 valuation of those studies rather than -- rather than just say  
5 lump sum and approve say \$571,000.00, maybe he would say we  
6 could truncate this project somewhat and wind it up for a cost  
7 estimate of \$100,000.00. But .....

8 MR. PENNOYER: Now that motion is specific to just  
9 damage assessment close-out or to continuation and restoration  
10 monitoring and the whole business or .....?

11 MR. COLE: Well, that's the pleasure of the Council  
12 here. I .....

13 MR. PENNOYER: But you're doing it for close out.  
14 And -- and by when then?

15 MR. COLE: Well, when he can get it done. I think it  
16 would be slightly presumptuous for us to say, well, we'd like  
17 it by a certain date. He does say that it's a rather major  
18 undertaking.

19 UNIDENTIFIED: Major (indiscernible)

20 MR. PENNOYER: Specific to a decision prior to them  
21 going out to public review then?

22 MR. COLE: I doubt if he could complete that type of  
23 analysis and send it out to public review.

24 MR. PENNOYER: Okay. Is there a second? Is there  
25 further discussion?

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1 MR. McVEE: Yeah, I -- yeah, this is Curt. I'm not  
2 quite clear yet what -- what we're doing, that we're -- we're  
3 asking Dr. Spies for a project-by-project analysis that -- that  
4 will help us in a decision after public review? This won't be  
5 done before public review, so we'll have it after public review  
6 for our final cut?

7 MR. PENNOYER: That's my understanding of the motion.

8 MR. McVEE: Okay.

9 MR. COLE: Mr. Chairman?

10 MR. PENNOYER: Mr. Cole

11 MR. COLE: Curt -- Curt, here's what I have in mind is  
12 we're presented with these project proposals. And in a sense  
13 out decision is, you know, go or no go. And I -- I'm not sure  
14 that that -- that is the type of rough-cut decision that we  
15 should be making. Perhaps we should -- what I would like to  
16 know, whether it's possible to wind up some of these studies,  
17 say sampling instead of 1,000 of these samples, sample a  
18 hundred, .....

19 MR. McVEE: Uh-huh.

20 MR. COLE: ..... whether a statistical analysis of that  
21 size would be adequate and therefore instead of a study costing  
22 a half a million dollars, it could cost 125. I -- I would like  
23 to see that type of report or advice from -- to us.

24 MR. McVEE: Okay. That's helpful. Thanks.

25 MR. PENNOYER: Any further discussion on the motion?

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1 This is relative to damage assessment close-out. Any objection  
2 to the motion? Okay.

3 Can we go on then to, and give instructions to  
4 Dr. Spies and the team, 'cause we certainly can't do projects  
5 tonight. Damage assessment continuation and what we expect  
6 to see on February 27th on the rest- -- recovery monitoring and  
7 the technical support and restoration implementation. Those are  
8 the categories left before us. Recovery, restoration projects  
9 and damage assessment continuation. Do we want specific  
10 instructions to the team, or can we -- or do we want to  
11 specifically approve these, or what action do we wish to take  
12 on that between now and the 27th? Mr. Barton?

13 MR. BARTON: Mr. Chairman, I move that we apply the  
14 same protocols and rationale to damage assessment continuation  
15 that we did to damage assessment close out.

16 UNIDENTIFIED: Second.

17 MR. PENNOYER: Okay. Moved and seconded that we  
18 basically sent the damage assessment continuation options out  
19 to public review with final decision to occur after that  
20 review, also given the fact that -- I suppose the same thing to  
21 the Restoration Team of reporting to us on what part of the  
22 funds might be expend- -- have to be expended between the March  
23 1st, or the public review, the March 1st date and the final  
24 approval. And Dr. Spies' assessment of -- of the projects and  
25 their costs. Mr. Rosier?

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1 MR. ROSIER: Yes. Mr. Cole talked about Dr. Spies  
2 working with the Restoration Team or peer reviewers or whatever  
3 to do these analyses on this. I guess from my perspective on  
4 this, it would seem to me that there had been a fair amount of  
5 activity that's gone on here within the -- the Restoration Team  
6 in reviewing these. I don't believe that Dr. Spies has in fact  
7 had the exposure to all of these projects. I think he  
8 indicated that to us at our last meeting. Certainly I would  
9 think that -- that the involvement of our Restoration Team as  
10 part of that review process is -- is an essential item.

11 MR. PENNOYER: And my assumption was the motion did  
12 include Dr. Spies working with the restoration team and/or peer  
13 reviewers as appropriate.

14 MR. McVEE: Mr. Chairman, this is Curt.

15 MR. PENNOYER: Mr. McVee?

16 MR. McVEE: Yes. I think last Thursday as I recall,  
17 and -- and Marty was just refreshing my memory on it, that we -  
18 - we did ask Dr. Spies to work with the RT on an analysis of  
19 the restoration implementation projects, those projects that we  
20 were going to -- were going to consider on the 27th. Is that  
21 right, Marty?

22 MS. RUTHERFORD: That's correct.

23 MR. McVEE: So we've still got that in -- in -- on Dr.  
24 Spies' agenda, and I was just thinking of -- of the -- the  
25 number of assignments that we're proposing that -- that he

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1 would fulfill within given timeframes.

2 MR. PENNOYER: Mr. Barton?

3 MR. BARTON: I think -- I think what we were asking Dr.  
4 Spies for in terms of his -- to advise, et cetera, cost  
5 effectiveness, was not before the 27th, except in the case of  
6 the coastal habitat study.

7 MR. McVEE: Okay.

8 MR. PENNOYER: Mr. Cole?

9 MR. COLE: Mr. Chairman, well, I agree with  
10 Commissioner Rosier, that I did not contemplate in the motion  
11 that -- that Dr. Spies would make these determinations without  
12 close liaison with the Restoration Team. I -- I threw in the  
13 peer reviewers into my motion, that he -- he might need a  
14 little help, and that it would be a large project for he alone  
15 to accomplish, and therefore I mentioned that. But it  
16 certainly was within the contemplation that he would not make  
17 any such recommendations without discussing them first with the  
18 Restoration Team and soliciting their views.

19 MR. PENNOYER: Okay. That's fine. So we have -- the  
20 motion is to send the damage assessment continuation options on  
21 out, approve them to go out to public review with the same  
22 caveats that we had on the damage assessment. In the interim,  
23 Dr. Spies will be looking at and recommending to us in -- in  
24 concert with the Restoration Team the appropriateness of the  
25 budgets and -- as well as conducting a general review of these

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1 projects (indiscernible).

2 Any further discussion of the motion? Is there any  
3 objection to the motion?

4 MR. McVEE: No objection.

5 MR. PENNOYER: All right. Can we go on then to -- we  
6 mentioned Dr. Spies was going to deal with the restoration  
7 implementation projects for us by the 27th. What about the  
8 recovery monitoring projects? Early in this discussion several  
9 people asked about the linkage between damage assessment close  
10 out, continuation and recovery monitoring. I still see  
11 projects with generally the same names in some of these areas,  
12 and also under restoration implementation.

13 MR. COLE: Mr. Chairman?

14 MR. PENNOYER: Mr. Cole?

15 MR. COLE: I move we disqualify all studies which Dr.  
16 Spies has recommended be disqualified: Number B-5, number R-  
17 17, number R-82, and number R-95.

18 MR. PENNOYER: Mr. Cole, B-5? Or R-5 do you mean, the  
19 brown bear monitoring?

20 MR. COLE: It -- it looks like it's B-5 to me, but  
21 .....

22 MR. PENNOYER: Oh, I see. It's on this other list,  
23 (indiscernible) .....

24 MR. COLE: (Indiscernible)

25 (Indiscernible discussion in Juneau)

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1 MR. PENNOYER: Yeah, anyway, okay. Which ones are  
2 those again, please? Would you repeat that? B-5?

3 MR. COLE: B-5, R-sev- -- B-5, brown bear monitoring,  
4 R-17, black oystercatcher restoration, R-22, killer whale  
5 monitoring, and R-95, river otter restoration. Grounds for my  
6 motion: That's exactly what we asked Dr. Spies to do. I'm  
7 satisfied with his judgment.

8 MR. PENNOYER: Mr. Barton?

9 MR. BARTON: (Indiscernible) to any of that,  
10 (indiscernible) restoration (indiscernible).

11 MR. COLE: I thought I'd leave that motion to you, Mr.  
12 Barton.

13 MR. McVEE: I didn't hear Mike.

14 MR. BARTON: I amend -- I move we amend the motion  
15 (indiscernible).

16 MR. McVEE: Is anybody -- I -- I can't -- I didn't get  
17 that. This is Curt. I -- we didn't hear that part.

18 MR. BARTON: ..... R-20, R-52, R-58, R-59, and R-106,  
19 also be disqualified.

20 MR. PENNOYER: Well, we've got about three minutes left  
21 to our self-appointed deadline.

22 DR. SPIES: My -- Mr. Chairman, might I make one  
23 comment? The -- and I know it's -- it's too late in the  
24 meeting to deal with this, but there -- in the far right-hand  
25 column is a notation that some of these studies that I have

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1 recommended disqualification for do involve certain judgment  
2 calls on policy by the Trustee Council. For instance, in the  
3 rockfish restoration plan, it's based on we don't really have  
4 much of an injury yet until we've completed the damage  
5 assessment study; however, it has been noted by the Department  
6 of Fish and Game that there's been an increase in rock fishing  
7 activities since the spill due to a shifting of fishing effort,  
8 probably as a result of spill, and they need to formulate a  
9 management plan for rock fish. And that is in my mind a  
10 secondary effect of the spill, and I think the Trustee Council  
11 would need to make some determination whether that would be  
12 allowable under the criteria that you're considering for  
13 whether the projects are qualified or not for further  
14 funding.

15 MR. PENNOYER: Mr. Rosier?

16 MR. ROSIER: Than you, Mr. Chairman. I would agree  
17 with the first part of the motion; however, the second part of  
18 it, the restoration planning I think would object to. We  
19 simply don't have the time, we've got two minutes to go here  
20 (indiscernible) think we need great deal more discussion  
21 (indiscernible) going into this at the present time  
22 (indiscernible).

23 MR. PENNOYER: I think that my standpoint, probably  
24 most of this I think (indiscernible) but again we had  
25 originally slated these for considered discussion on the 27th

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1 and 28th, and while those -- that -- the motion is a good base  
2 to build on, including Dr. Spies' comments, I practically  
3 would like to visit these individually before making up -- make  
4 a final decision in my mind, so I .....

5 MR. COLE: You object then, is that it?

6 MR. PENNOYER: I think I don't object to the concept,  
7 and I may not object to the motion when we get to it, but I  
8 kind of object to doing it in five minutes, yes.

9 MR. MONTAGUE: Mr. Chairman? May I -- may I add to  
10 that .....

11 MR. PENNOYER: Mr. Montague?

12 MR. MONTAGUE: ..... thought process? The Restoration  
13 Team intends to receive Dr. Spies' recommendations by the 17th  
14 on all the restoration projects, both implementation and  
15 recovery monitoring, to the -- then Restoration Team meet  
16 without Dr. Spies for a couple of days to digest his comments  
17 and then to meet with him on the 20th to come to a consolidated  
18 opinion on -- for the Restoration Team and the chief scientist  
19 on all those projects, so that on the 27th the chief scientist  
20 and the Restoration Team would have a consolidated presentation  
21 for the Council.

22 MR. BARTON: (Indiscernible) restoration,  
23 (indiscernible) recovery monitoring and restoration planning  
24 have taken (indiscernible).

25 MR. PENNOYER: And restoration implementation as well.

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1 MR. McVEE: Yeah. Mr. Chairman, this is Curt.

2 MR. PENNOYER: Mr. McVee?

3 MR. McVEE: Yes. I -- you know, we need to look at --  
4 at Dr. Spies' recommendation, because it's probably the best  
5 thing we've got so far in terms of trying to -- to, you know,  
6 take a cut at -- at this total program budget which I think  
7 we're all committed to -- to do something with, and -- but it  
8 seems like we're -- we've probably reached a point where we  
9 maybe can't give it the time and attention we need to now, so  
10 one possibility I guess would be to table the -- the motion and  
11 come back to -- to that on the 27th.

12 MR. PENNOYER: I -- I note that the motion included  
13 several studies Dr. Spies recommended to disqualify, but he has  
14 another column that's listed as "occasional," and I'm not sure  
15 whether occasional means next year .....

16 MR. McVEE: Yeah.

17 MR. PENNOYER: ..... or the following year, so, like  
18 murre restoration was discussed at the last meeting, and I  
19 thought we were going to get a report of the necessity of  
20 spending 571,000 this year on murre restoration, so -- is .....

21 DR. SPIES: That column was meant to say occasional  
22 monitoring and what -- what I could -- and -- and this is  
23 included as a comment in my memo, and again I apologize for  
24 getting it out so late in the day, but we were trying to  
25 present as complete a product as possible, but what we had in

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1 mind there is that there's in my mind some monitoring that  
2 should be done in the field of severely affected resources.  
3 The question is do we need to do it every year? And if how --  
4 how often do we need to do each resource in terms of what we  
5 know about its life history and its rate of recovery, and what  
6 we might lose by doing -- by losing one year's data.

7           The second thing is that if the -- the restor- -- if  
8 the Trustee Council has some fiscal plan in mind in terms of  
9 perhaps minimizing spending at some point early in program in  
10 order to achieve some other goals, that we could take that as  
11 guides and -- and design a program of monitoring that would  
12 phase in these different programs and try to do things in a  
13 cost effective way while at the same time keeping track of how  
14 these severely affected resources are recovering.

15           MR. PENNOYER: Well, Dr. Spies, are you going to be  
16 prepared to interact as was stated by the Restoration Team with  
17 them prior to the 27th and give us a more fully combined report  
18 at that time?

19           DR. SPIES: I'll do my best to do that, if that's the  
20 Trustee Council's wish.

21           MR. PENNOYER: Rather than deal with a vote on this  
22 motion, can we accept to table it until the 27th with those  
23 desires in mind, recognizing Dr. Spies' work and report is  
24 going to go to the Restoration Team, and we'll get a report  
25 back on it? Mr. Sandor?

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1 MR. SANDOR: Motion to table actually takes precedent  
2 over the other motion, so -- but -- but the intent obviously is  
3 to -- to question in fact what we've asked Dr. Spies to do. I  
4 mean, he's done his job very well. We just have run out of  
5 time. I think the -- I would support the motion to table with  
6 the understanding that we in fact have (indiscernible) these  
7 and intend to eliminate them unless there's justification for  
8 retaining them. And so I move -- or vote for the motion to  
9 table that.

10 MR. PENNOYER: Well, I think Dr. Spies has recommended  
11 disqualification. He said there may be other considerations  
12 for some form of continuation, but on the other hand -- other  
13 hand he has recommended that. And again under the occasional  
14 column, he hasn't recommended that we do those things every  
15 year, or maybe the next year. So .....

16 Is there any further discussion? I think we're  
17 probably off the net, aren't we?

18 MS. EVANS: No.

19 MR. McVEE: No, you're .....

20 MR. PENNOYER: Oh, good.

21 MR. McVEE: ..... you're still coming through in  
22 Anchorage.

23 MR. PENNOYER: (Indiscernible) anyway, Curt.

24 Is there further discussion of the motion to table?  
25 Oh, it takes precedence. Okay. Then it is tabled until the

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1 27th of February, and we will expect that type of combined  
2 report from the restoration team, and with Dr. Spies'  
3 assistance. You have his recommendations. Thank you.

4 Is there any further business for us tonight?  
5 Mr. Sandor?

6 MR. SANDOR: Well, I would ask unanimous consent of the  
7 Trustee Council to commend Dr. Spies for a remarkable analysis  
8 in -- in really a very short time.

9 MR. PENNOYER: We're all in total agreement. Thank you  
10 very much, Bob.

11 Okay. Then we're adjourned until the 27th in Anchorage  
12 at I believe it was 10:00 a.m. Adjourned. Thank you.

13 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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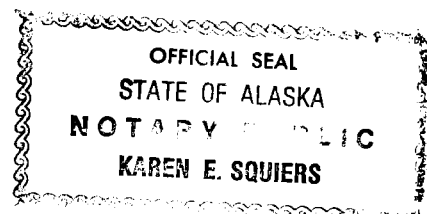
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