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**EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD**  
Simpson Building  
645 "G" Street  
Anchorage, Alaska  
July 20, 1992  
10:00 o'clock a.m.

**IN TELECONFERENCE ATTENDANCE:**

**From Anchorage, Alaska:**

State of Alaska	<b>MR. CHARLES COLE</b> Attorney General
State of Alaska Department of Environmental Conservation	<b>MR. JOHN SANDOR</b> Commissioner Council Meeting Chairman
Alaska Department of Fish and Game	<b>MR. CARL ROSIER</b> Commissioner <b>MR. JEROME MONTAGUE</b>
United States Department of the Interior	<b>MR. CURTIS McVEE</b> Special Assistant to the Secretary

**From Juneau, Alaska:**

National Marine Fishery Service	<b>MR. STEVEN PENNOYER</b> Director  <b>MR. MICHAEL BARTON</b>
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P R O C E E D I N G S

1  
2 (On record)

3 MR. McVEE: This is a continuation of the July 20  
4 meeting of the Trustee Council. Unless there are, I guess,  
5 some objections, or another volunteer, I will continue to chair  
6 the meeting. Is that all right with folks in general?

7 MR. BARTON: Yes.

8 MR. PENNOYER: Yes.

9 MR. McVEE: We have two members on the Trustee Council  
10 which are in Juneau, Forest Service Mike Barton and  
11 Steve Pennoyer of NOAA. And the other Trustee Council members  
12 are represented here, representing Commissioner Rosier is  
13 Jerome Montague; we have Attorney General Cole and  
14 Commissioner Sandor, and myself, Curt McVee.

15 Dave Gibbons, is there any announcements that you wish  
16 to make at this time before we go into the agenda?

17 DR. GIBBONS: Yeah, I guess I'd like to say that we  
18 should include on the Agenda a public comment period at the end  
19 of the session.

20 MR. McVEE: A public comment period at the end of the  
21 session, okay. Well, I think, speaking for Commissioner Sandor  
22 and I object to that because the public comment period has been  
23 set in the agenda or hearing between 1:00 and 2:00 p.m. today,  
24 and I think people probably plan on that. Inserted earlier  
25 would likely deprive them of any opportunity to make their

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1 comments. I think we should adhere with the schedule as  
2 publicly announced, 1:00 and 2:00.

3 John, do you agree?

4 MR. SANDOR: Yes.

5 MR. McVEE: Jerome? Juneau, Mike or Steve.

6 MR. BARTON: That will be fine.

7 MR. PENNOYER: Go ahead.

8 MR. McVEE: He said go ahead? Okay. There will be a  
9 public comment period as shown on the Agenda for 1:00 and 2:00  
10 o'clock this afternoon.

11 Dave, was there anything else?

12 DR. GIBBONS: No, that's all I had.

13 MR. McVEE: You have the Agenda before your. Are there  
14 any additions or changes to the Agenda? I think, John, you had  
15 one thought.

16 MR. SANDOR: Yes. Item 3, after the 1993 Project  
17 discussion on Restoration, I propose a discussion of the  
18 process of identifying critical habitat for acquisition. I did  
19 query the staff regarding this, and I think this needs to be,  
20 just very briefly summarized. So I would propose adding as  
21 Item 3, discussion of the process of identifying critical  
22 habitat for acquisition.

23 MR. McVEE: Do you plan on doing that this morning?

24 MR. SANDOR: Either this morning or immediately  
25 preceding the public comment period at 1:00.

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1 MR. ROSIER: Is staff prepared to do that?

2 MR. COLE: Mr. Chairman.

3 MR. McVEE: Yes, Mr. Cole.

4 MR. COLE: I would like to be present during that  
5 discussion. I may not be able to be here until approximately  
6 1:10, so for what it's worth.

7 MR. McVEE: Okay. We'll schedule that so Mr. Cole can  
8 be present during that discussion.

9 Juneau, any comments on the additional agenda items?

10 MR. PENNOYER: No, Curt, I had one more item I'd like  
11 to just discuss for a minute or two at some point here.

12 MR. McVEE: Well, let's just get note of it, Steve, and  
13 then we can put it on the agenda. What is it?

14 MR. PENNOYER: Financial Operating Procedures. We,  
15 apparently, have agreement on most items except the appendices,  
16 and I want to discuss the appropriateness of approving the  
17 overall Financial Operating Procedures, even if we have an  
18 appendix or two that's still under discussion, so we are  
19 operating under some guidelines.

20 MR. McVEE: Okay. We'll put that on. I have one item,  
21 just, I think, summing the -- I don't know if it really needs  
22 to be an agenda item, but it has to do with the cleanup costs  
23 that I want to talk about for a moment, if that's all right  
24 with everyone.

25 MR. PENNOYER: We didn't hear what it was, Curt. We

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1 just heard there was one additional item. Can you try it  
2 again?

3 MR. McVEE: Okay. It's the cleanup costs, the costs  
4 that were incurred this year by Exxon.

5 MR. PENNOYER: Okay at our end.

6 MR. McVEE: Okay. We've got three additional agenda  
7 items in; the discussion of the process of identifying critical  
8 habitat; and then the Financial Operating Procedures; and the  
9 cleanup costs be added to the Agenda. Anything else?

10 MR. COLE: Mr. Chairman.

11 MR. McVEE: Yes, Mr. Cole.

12 MR. COLE: The reason I wanted to be present during the  
13 agenda item proposed by Commissioner Sandor is largely prompted  
14 by this letter of July 17th from the Alaska Center for the  
15 Environment which states, in general, that in the wake of  
16 Governor Hickel's unconscionable veto of the land acquisition  
17 monies, he urges the Trustees to seize the moment and proceed  
18 along that line, and then he asks us to act at the July 20  
19 meeting and he points out that even the Attorney General has  
20 recommended acquisition of Katchemak Bay consistent with the  
21 settlement, and I wanted to be here to defend my position in  
22 that regard.

23 Thank you.

24 MR. McVEE: Would there be any problem of taking that  
25 up first? Would the Trustee Council members have any problems

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1 doing that? We understand that you have a new commitment, if  
2 we were to discuss that issue of critical habitats, move that  
3 forward on the agenda.

4 MR. COLE: It's fine with me.

5 MR. BARTON: That's fine down here. You bet.

6 MR. McVEE: Okay. Let's move that forward then, just  
7 change sequence before we get into the Public Advisory Group  
8 Membership and discuss the process of identifying critical  
9 habitat.

10 Are there any other recommendations on the agenda,  
11 items or sequence?

12 MR. PENNOYER: Well, just under Other, I'd like some  
13 discussion on the next meeting.

14 MR. McVEE: I didn't .....

15 MR. PENNOYER: I suppose you'll have another  
16 discussion.

17 MR. McVEE: Oh, the discussion of the next meeting  
18 schedule?

19 MR. PENNOYER: Yeah.

20 MR. McVEE: Okay.

21 MR. PENNOYER: Make sure all are on board for it.

22 MR. McVEE: Okay, that will be the final item, is the  
23 schedule for the next meeting. Okay, are we ready to proceed  
24 with this discussion of the process of identifying critical  
25 habitats?

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1 Do you want to lead that off, John?

2 MR. SANDOR: Yes, Mr. Chairman. The reason I asked  
3 that this item be added to the agenda is because of the process  
4 and experience that we had in looking at potential acquisitions  
5 under the State budget/capital budget, formerly HB 411, that  
6 was incorporated in the capital budget, and I wanted to use  
7 this as an illustration of the importance of moving ahead with  
8 this process, specifically, in looking at the threatened areas  
9 for harvest at Eyak Lake, at Cordova.

10 I specifically made quite an effort to examine the  
11 merits of that proposal because I was in a position of advising  
12 the Governor on whether or not those lands that were threatened  
13 for harvest were -- you know, merited consideration. And I use  
14 this illustration to, I guess, pass on to the Restoration Team  
15 itself of what, at least I as a Trustee and, I hope,  
16 collectively the Trustees, should have in the way of this  
17 process of identifying critical habitat, both with an on-site  
18 visit of Eyak Lake area at Cordova and in checking with both  
19 Department of Fish & Game and Fish & Wildlife Service.

20 We discovered that, one, there are trumpeter swans on  
21 Eyak Lake; two, that there's a potential number of eagles that  
22 are in that area; also reported harlequin ducks on the lake at  
23 times.

24 And yet we discovered that, one, insofar as swans are  
25 concerned, the record reflects that really trumpeter swans are

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1 not -- and this was the information given really by word -- but  
2 it's important that we have scientific documentation of this,  
3 that there were really three swans that were held as a result  
4 of the Exxon Valdez, and we're not even sure those were  
5 trumpeters. Secondly, I did talk with a scientist on trumpeter  
6 swans, and just asked about the habitat that trumpeter swans  
7 require and need. And insofar as the Eyak Lake area is  
8 concerned, trumpeter swans do not utilize the uplands. I was  
9 told that it was imperative that the lake itself be protected,  
10 but when we see the species itself is not damaged by the Exxon  
11 Valdez Spill and thus is not qualified.

12           Secondly, insofar as the eagles are concerned that  
13 utilize that area, and this again is by word, that the buffer  
14 strips would apparently provide any protection if eagles were  
15 impacted significantly by the Oil Spill. So that was not a  
16 basis by which, you know, I could recommend that there was this  
17 linkage.

18           Thirdly, the harlequin ducks that are on the lake,  
19 there's no evidence of any nesting areas in the timber lands  
20 that are actually to be harvested. As a consequence -- well, I  
21 also found that, really, there was only about 600 acres  
22 eminently threatened for timber harvest, that is in the next  
23 fiscal --calendar year '93. And buffer strips provided in that  
24 instance -- well, it was really not really feasible to suggest  
25 that that area be protected.

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1           So we informed -- I personally informed the Eyak folks  
2 with whom I had contact, but, you know, there's just -- was not  
3 any evidence.

4           What I'm hoping, Mr. Chairman, and members of the  
5 Trustee Council, is that we can have, by our next meeting, and  
6 I'm talking with at least Mark Broderson, of our staff, the  
7 expectation is that we will have by our August 30 meeting, some  
8 very specific definitive recommendations on the criteria and  
9 the process by which critical habitat are identified. And  
10 because it's very apparent to me in the comments we've received  
11 from the public, both in writing and by phone calls and so  
12 forth, and testimony before this group, that this is a very  
13 critical item, and one of high interest.

14           So, I guess, in summary, Mr. Chairman, I would ask the  
15 members of the Restoration Team and Mr. Gibbons -- Dr. Gibbons  
16 if it is expected that at our next meeting, August 30, we will  
17 have specific criteria that critical habitat can be identified  
18 and essentially guides by which we can then make rational  
19 decisions. I guess that's the issue I wanted to lay on the  
20 table at this time.

21           MR. COLE: Mr. Chairman.

22           MR. McVEE: Yes, Mr. Cole.

23           MR. COLE: I would like to add my usual footnote. I  
24 want to say that the Trustees do not have unfettered will to  
25 select whatever timber they might personally wish to select for

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1 acquisition with Exxon Valdez monies. We all have our personal  
2 views, and some of us deeply felt personal views on that  
3 subject. But we are bound by the provisions of the Settlement  
4 Agreement, and in fact congressional legislation, and we are  
5 accountable as Trustees for our judgments, and I think that  
6 beneath Commissioner Sandor's remarks lies that concept, and  
7 what we must do, and to which I subscribe, is to take an  
8 inventory, if you will, of the habitat and the oil spill  
9 affected areas which meets the criteria, the federal law, and  
10 federal judgment, and then proceed rationally from that basis.

11 Thank you.

12 MR. McVEE: Thank you. Any other comments by Trustee  
13 Council members?

14 I guess I should let the record also show that Carl  
15 Rosier is present now, and has been for the last several  
16 minutes.

17 MR. PENNOYER: Mr. Chairman.

18 MR. McVEE: Yes, Steve.

19 MR. PENNOYER: Yeah. I'd like to second the need to  
20 address, in some fashion, areas which might really be critical  
21 and a critical threat to habitat that we do agree under our  
22 criteria, which we've not yet adopted, of course, that would  
23 meet our needs and should be addressed sooner rather than  
24 later.

25 We talked about this before and the need that -- to see

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1 if all this spectrum of coming up with a plan and a more  
2 considerate look at the criteria is going to take us a while.  
3 We don't have public comment back yet on the criteria. But it  
4 does seem that we should have mechanism whereby we can float  
5 real urgent situations to the top of our -- the (indiscernible)  
6 and take a look at them. And so I, too, am hoping that we hear  
7 that by August we'll have some way to try and address any  
8 "emergency situations."

9 And I would like to hear from the staff to that fact  
10 that it's going to occur.

11 MR. McVEE: Is staff prepared to make comment on  
12 progress?

13 DR. GIBBONS: Mr. Chairman.

14 MR. McVEE: Yes.

15 DR. GIBBONS: This is Dave Gibbons. If I can give you  
16 kind of a status of where we are to date and where we're headed  
17 with it. At the direction of the last Trustee Council meeting,  
18 on June 29th, the Habitat Protection Group has met several  
19 times, and we're moving forward with an inventory of eminent  
20 threat, we're moving forward with an inventory of data  
21 collection also to get at the very thing that you're  
22 referencing. And we hope by the 31st to have information  
23 available to us to identify parcels that are eminently  
24 threatened to a point where we weren't going to apply the  
25 threshold criteria. That's still out -- we'll be going out for

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1 public comment here. I dropped off the supplement to the  
2 framework this morning to the printers, and we'll get that out  
3 as quickly as possible. But we are moving to collect the  
4 information that is available on parcels that were submitted  
5 for 1993, ideas for eminent threat.

6 MR. McVEE: Dr. Gibbons, I guess the concern I would  
7 have is you're giving priority to areas that are scheduled for  
8 eminent -- or harvest within the next year, specifically. Is  
9 that part of the plan or proposal?

10 DR. GIBBONS: Yes, that's correct. The first step  
11 we're taking is to identify the parcels that are eminently  
12 threatened.

13 MR. COLE: Do you want to comment on that? If you  
14 don't, I do.

15 MR. McVEE: Mr. Cole.

16 MR. COLE: Mr. Chairman. I want to say, Dr. Gibbons,  
17 that we just be very cautious about giving high priority to  
18 habitat which is "eminently threatened" by logging or other  
19 activities which are threatening to the habitat because I think  
20 we must guard against giving priority necessarily to those  
21 areas or we will be inundated with threats to log, and I also  
22 think that we must be very careful if we acquiesce in the  
23 acquisition of habitat under threat to log partially, that the  
24 following year we will have placed before us a "threat" to log  
25 the contiguous acreage. So we must be very careful that we not

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1 give "undue" priority to what may be labeled habitat which is  
2 under eminent threat.

3 Thank you.

4 MR. McVEE: Thank you.

5 MR. PENNOYER: Mr. Chairman.

6 MR. McVEE: Yes, Steve.

7 MR. PENNOYER: Yeah, I certainly didn't mean to imply  
8 by my remarks that we automatically would take any of these  
9 items or parcels and assume that we are going to put our  
10 resources into that and in some way preclude future choices by  
11 doing so. And I would hope until we actually have a plan and  
12 look at this in a broader spectrum that we would not be doing  
13 all that much. And, in fact, most of our expenditures and  
14 plans -- planned expenditures would come after we have public  
15 review of criteria, and after we have an inventory of a plan  
16 overall on how we wanted to proceed.

17 It was more from the idea of the fact there was out  
18 there something that was critical, and not just general threat  
19 of logging or development of some kind, but critical habitat  
20 that we would consider critical and could easily see what's  
21 critical to the recovery or continuation of some species we are  
22 concerned about, and that we not preclude looking at that type  
23 of opportunity.

24 I certainly didn't assume that by August 31st  
25 automatically anything that was identified as possibly being

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1 developed was going to become a priority for acquisition of  
2 some kind. It was more just a census of what was there so we  
3 could make the decision on whether it wa a priority.

4 MR. BARTON: Mr. Chairman.

5 MR. McVEE: Yes, Barton.

6 MR. BARTON: Yes. It seems to me the eminent threat  
7 analysis procedure that Dr. Gibbons laid out deals adequately  
8 with the problem. I think there's flexibility available to us  
9 if we see something of more urgency than that; I think there  
10 are a number of tools available. So, I'm not concerned that  
11 we're pre-empting the future options. I think that we do need  
12 to look at this very carefully and in total context.

13 Now, in perspective, these are pretty significant  
14 decisions, and I agree that we need to get on and identify  
15 critical habitat names, get that inventory completed so we'll  
16 have that. That's one of the first steps. But I believe that  
17 we're proceeding, as Dr. Gibbons outlined, in a satisfactory  
18 manner, you know. I think that we can accommodate any true  
19 threats and deal with those, and at the same time act  
20 responsibly.

21 MR. COLE: Would somebody summarize what he said?

22 MS. RUTHERFORD: I think -- Mr. Chair?

23 MR. McVEE: Yes, Marty.

24 MS. RUTHERFORD: I think what he was saying is that  
25 he's satisfied that the eminent threat criteria and process, as

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1 laid out, will not -- it won't put us in the position of just  
2 responding to any threat that comes along, that we're actually  
3 overlaying that with critical habitat analysis and that that  
4 will protect us. I think what he's saying is he's satisfied  
5 with the process, that's it's going to lead where you want us  
6 to lead.

7 MR. McVEE: Mike, we only heard, I guess, part of what  
8 you had said. Marty, who was closer to the speaker, tried to  
9 summarize. I don't know whether you could hear what she .....

10 MR. COLE: Could we turn those things around?

11 (Off record comments)

12 MR. BARTON: Marty did very well. Thank you, Marty.

13 MR. SANDOR: I wanted to make one additional point, and  
14 that is -- and I think the lesson learned in this examination  
15 of the Eyak Lake land, in the areas that were scheduled for  
16 "harvest" which was something like over 10,000 acres, that in  
17 fact were under contract, it turns out that only 600 acres were  
18 "in the harvest plan for '93."

19 Anyway, we also discovered that -- of course they had  
20 the buffer strips -- recognizing that for other areas not  
21 related -- for other reasons not related to the Oil Spill, you  
22 know, there is substantial merit in having that Eyak Lake area  
23 protected. So, we -- that is both the state and federal  
24 governments, are now looking at opportunities for exchanges of  
25 lands and cutting rights as an option for protecting those

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1 areas for entirely different reasons. And it's important that  
2 the public and we as government officials understand that there  
3 are various strategies for achieving objectives that may or may  
4 not even be related to the Exxon Valdez Oil Spill itself.

5 So, anyway, I'm satisfied, I guess, with the discussion  
6 that one, critical habitats are being identified, the  
7 criteria -- that this will be presented at our August 30  
8 meeting, and that, Mr. Chairman, satisfies at least the  
9 information that I was seeking with the request just be added  
10 as an agenda item.

11 MR. COLE: May I make one last comment?

12 MR. McVEE: Yes. Mr. Cole.

13 MR. COLE: If we're not careful about the eminent  
14 threat in the logging, we will be like the dog chasing its  
15 tail, and we will be going around annually in this fashion. So  
16 we have to be, I think, on guard against that and start first  
17 with critical habitat, and then make an effort to develop a  
18 priority for the acquisition of critical habitat.

19 Thank you.

20 MS. RUTHERFORD: Mr. Chair.

21 MR. McVEE: Yes, Marty.

22 MS. RUTHERFORD: Could I just point out that that  
23 meeting is scheduled currently for August 31st. The 30th is a  
24 Sunday.

25 MR. McVEE: Okay.

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1 MR. BARTON: We couldn't hear that, Mr. Chairman.

2 MR. McVEE: What Marty said is that meeting is  
3 scheduled to have the presentation on the critical habitats  
4 schedule for August 31st. And we will get that down and there  
5 will be a little bit more discussion on that at the end of the  
6 agenda when we talk about meetings.

7 MR. BARTON: Thank you.

8 MR. McVEE: Is there any further discussion either here  
9 or in Juneau on this issue? Are we ready to move .....

10 MR. PENNOYER: No, that's fine.

11 MR. McVEE: What was that?

12 MR. PENNOYER: No, that's fine.

13 MR. McVEE: Okay. We'll move on then.

14 MR. PENNOYER: I'm comfortable with where you are.

15 MR. McVEE: We're ready to move on then to the agenda  
16 item of Determination of Public Advisory Group Membership.

17 I'd like to preface our deliberations on dealing with  
18 the Advisory Board with some discussion and a presentation on a  
19 couple issues that have come up, and I would categorize them  
20 first as the -- as a ethics issue on dealing with a public  
21 advisory group and membership, and then the second one is the  
22 concern about filing financial statements.

23 And this is something that's been researched over the  
24 last couple weeks, you know. Maybe it should have happened  
25 earlier, but a lot of things I think we get involved in take

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1 time to accomplish, and we maybe not get them on the schedule  
2 they should be on, but I'd like to have solicitor with the  
3 Department of the Interior talk about these two issues, and  
4 she's had -- she's looked into the requirements and had  
5 discussion with people who deal with the FACA issues in some  
6 depth, and we have some recommendations to make to resolve or  
7 to take us through this area.

8 So, with the permission of the Trustee members, Trustee  
9 Council, I'd like to have Regina Slaeter come forward and talk  
10 about these two issues for a few moments before we proceed with  
11 actions.

12 MS. SLAETER: Thank you. I've given everyone, I  
13 believe, a copy of a little handout, and there will be copies  
14 in the back for the public, and we did fax these to Juneau, to  
15 DEC, so hopefully -- did you receive them in Juneau?

16 MR. BARTON: Yes, we have.

17 MS. SLAETER: Okay. I'd like to start with what Curt  
18 mentioned as the second issue first because it's easier to deal  
19 with, and this is the concern about financial disclosure  
20 statements.

21 As a little bit of background, a federal advisory  
22 commission established under FACA has a possibility of having  
23 people on it who fit into two different categories. People can  
24 be representatives of another group or interest, or they can be  
25 appointed because of their own personal knowledge and

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1 expertise. In the commission that the trustees have been  
2 dealing with, we've talked in terms of 12 identified interest  
3 groups plus representatives of the public-at-large. You're  
4 talking in terms of appointing these people based on their  
5 knowledge and expertise, i.e., choosing the best representative  
6 based on the knowledge of the person.

7           The reason it's important to define where we're  
8 starting from with members is because if people are appointed  
9 to represent interests or groups, then they do not fall into  
10 any category of federal employee, they are not subject to the  
11 laws of conflict of interest statements of financial  
12 disclosures that apply to federal employees, if, however,  
13 people are appointed to serve in their personal capacity, then  
14 they are under a category called special government employees.

15  
16           Special government employees are subject to numerous  
17 laws and regulations which are summarized -- basically, I've  
18 attached pages from the Code of Federal Register, and must fill  
19 out a financial disclosure form, which are the last two pages.  
20 It's a general form which requires you to list all corporation  
21 companies in terms of which you have employment, basically list  
22 your financial interests, property holdings, and those forms  
23 would be available to the public upon written request.

24           Now, having sat through your meetings now for some six  
25 or nine months, it looks to me like what you're trying to do is

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1 appoint representatives. As I said, representatives then are  
2 representing the groups of interest. These are the 12 interest  
3 groups you mentioned and the public-at-large. These people  
4 would not be special government employees, if that's how you're  
5 appointing them.

6 The only glitch I see in the process is that the  
7 charter does not at this moment accurately reflect your  
8 intention to do this. I might -- I don't know if you can  
9 advise -- the charter was signed by GSA. What I'm proposing  
10 that you do is today pass a technical amendment to the charter.  
11 This amendment would not require another round of approval at  
12 GSA, it would be forwarded to the Secretary of Interior for his  
13 signature as the backup official on this.

14 This would clarify the record, making it very clear  
15 that the people you're appointing, you're appointing to be  
16 representatives of aquaculture, fishing interests, the other  
17 interests you've indicated, and then we wouldn't have to --  
18 then the discussion of financial disclosures and conflicts of  
19 interests becomes a moot point because you haven't appointed  
20 such a government employees; you've appointed representatives  
21 to best represent the views of the interest groups.

22 That's .....

23 MR. COLE: Mr. Chairman.

24 MR. McVEE: Yes, Mr. Cole.

25 MR. COLE: I have to leave in -- no long. What is the

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1 recommendation of the Department of Interior? I'm not sure  
2 that these people are really representing a particular group.  
3 Loosely, they are, but whether they are strictly, I have some  
4 questions about it.

5 MR. McVEE: I guess our recommendation would be that  
6 they represent -- they recognize as representing the -- a group  
7  
8 of .....

9 MS. SLAETER: An interest group.

10 MR. McVEE: ..... an interest group, a group of people  
11 that use public plans or use resources of the area.

12 Our recommendation would be to go for the charter  
13 amendment that eliminates the financial disclosure issue.

14 MR. COLE: Would you then nominate those people or  
15 appoint them today?

16 MR. McVEE: We've got one more matter I think we need  
17 to discuss before we would make that cut.

18 MS. SLAETER: I should point out, Attorney General  
19 Cole, that the representative capacity we're talking about is  
20 not a formal representative capacity. There is much guidance  
21 given by the government (indiscernible) office on -- you can be  
22 a representative of the public at large, for instance, which is  
23 not that easy.

24 MR. McVEE: Mr. Sandor.

25 MR. SANDOR: Mr. Chairman, I guess I would raise a

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1 question or a distinction between representing say a group like  
2 aquaculture and having an interest in a specific aquaculture  
3 facility, either personally or by representation as an officer  
4 of that corporation, whatever. And I thought that's what we  
5 were dealing with.

6 MS. SLAETER: That's the second part of it,  
7 Commissioner Sandor. The first part is a mere technicality,  
8 it's a bunch of regulations in a form, and you're either on one  
9 side of it or you're on the other. But whether you're a  
10 special government employee or not, you still should not  
11 participate where you have a direct conflict of interest, where  
12 you're dealing with a matter that would directly affect your  
13 financial well being, your family's well being. One of the  
14 guidance given by the Ethics Office deals with a situation  
15 which is very similar to what we have. They talk in terms of  
16 if you have science and academic proposals. Obviously, you're  
17 going to have to poll members of your advisory group from the  
18 science community. They're the only people around who can  
19 appropriately advise you, but there's an inherent conflict  
20 there because my university over your university or whatever.  
21 They said, well, you have to live with that conflict but you  
22 don't let the members vote on something that -- the direct  
23 proposal that would affect the pocketbook, i.e., the one  
24 submitted by their department or by their university. And here  
25 we're in a situation where we want people who are familiar with

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1 the Oil Spill. We want people who know the area. If we have  
2 that, we're going to have some built-in conflicts. There is no  
3 question of it, but we have to deal with it in the best way  
4 possible. One approach which I'm suggesting today is a draft  
5 letter that would be sent to the nominees where they're  
6 appointed, asking them to basically address possible direct  
7 conflicts so that you would know before you appointed people  
8 how many direct conflicts they had. You could still appoint  
9 them anyway but then you'd just know if they were going to  
10 refuse themselves from 90% of the vote or from 10% of the vote  
11 or every now and then, and you wouldn't be possibly appointing  
12 a committee where everybody on it had such a direct conflict on  
13 five or 10 different matters that their committee couldn't hold  
14 discussions. And that's the -- that's basically what I -- and  
15 there I'm talking about very specific direct -- your direct  
16 financial future depends on a kind of decision; your employer's  
17 financial future, your spouse's financial future, not just the  
18 fact that there is a potential conflict.

19           One of the things also that should be done is when the  
20 board -- group gets its walking orders is to make sure that  
21 there's an explanation given that it's proposed under the  
22 operating procedures for the PAG, that they would refuse  
23 themselves from direct conflicts. You want to focus on that  
24 because you don't want to prejudice the public process by  
25 building into it possibilities that people are working of

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1 private financial gain instead of giving you their best advice.

2 MR. McVEE: Yes, Mr. Cole.

3 MR. COLE: Mr. Chairman, does the Department of  
4 Agriculture have any views on the subject?

5 MR. McVEE: Mr. Barton.

6 MR. BARTON: Mr. Chairman, yes, we do have views on the  
7 subject. Now, I've not talked with our general counsel about  
8 this, but it's my understanding that their view was that a  
9 financial disclosure statement/conflict of interest statement  
10 was required.

11 I see that the regulations that we've been provided are  
12 Secretary Interior regulations, and he's the appoint authority  
13 as to who knows the appropriate regs. I don't know, frankly,  
14 whether Agriculture regs would indicate something different or  
15 not, but I do know that our counsel has been talking with the  
16 Solicitor's Office, and I thought they were of the opinion that  
17 disclosure statements were needed.

18 Is that correct, Regina?

19 MS. SLAETER: Mr. Barton, I have been talking to  
20 Maria Lisowski of your general counsel's office on this matter,  
21 and the answer is no, where -- yes, we probably are in  
22 agreement but no, financial disclosure statements aren't  
23 necessarily required.

24 The general rule that we start from, which is published  
25 in all of those how to keep out of trouble government ethics

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1 books says that financial disclosure -- says that advisory  
2 committee members are special government employees, but upon  
3 actually looking into the laws and regulations, in 1982, the  
4 Government Ethics Office issued a statement that defined when  
5 an advisory committee would be a special government employee  
6 and when it wouldn't be, because it became clear that in  
7 reality, not all advisory committees function in the same  
8 manner.

9 And that's where the test about representative versus  
10 personal capacity comes from. And I did discuss this with  
11 Maria, and she said she would defer to my knowledge and  
12 expertise in that. I don't know that that's binding on you.

13 MR. COLE: Mr. Chairman, .....

14 MR. BARTON: I appreciate that. Maria happens to be  
15 (indiscernible - coughing) when we tried to hook her in, it  
16 didn't work.

17 MR. McVEE: Okay. Mr. Cole.

18 MR. COLE: That, generally, having been settled, I  
19 think, what is the recommendation to the Trustee Council today  
20 about selecting or appointing members of the Public Advisory  
21 Group or deferring that until after receipt of the statements?

22 MR. McVEE: I think that the issue before us is whether  
23 we need to go out with a letter to nominees and they're  
24 notified concerning the -- and ask for information concerning  
25 their conflicts or whether we can go ahead and take the final

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1 action today.

2 I guess that Regina focussed on the only question, I  
3 think, and that is are we concerned about appointing a board  
4 where there is substantial conflict of interest that would make  
5 it ineffective or do we want to proceed with some risk of doing  
6 that.

7 MR. COLE: What is your view?

8 MR. McVEE: Our view is that -- I think it would be  
9 better to go out and ask people about their conflict of  
10 interest. Maybe that's the over-cautious view, but most  
11 conservative view, but I feel like, you know, that might be  
12 best.

13 The other -- the financial disclosure, I think we can  
14 resolve that with the amendment to the Charter so that can be  
15 taken care of.

16 MR. BARTON: Mr. Chairman.

17 MR. McVEE: Yes, Mr. Barton.

18 MR. BARTON: Yes. Do I take it then that we have  
19 concluded that if we amend the Charter then the financial  
20 disclosure problem is no problem?

21 MR. McVEE: That's true.

22 MR. BARTON: All right. I do think that we should not  
23 go forward with naming the membership until we have agreement  
24 from the nominee or information from the nominee relative to  
25 conflict of interest. It seems to me that there may be some --

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1 there's a possibility that there's a broad conflict rather than  
2 the specific conflicts that an individual could refuse  
3 themselves in. I don't know of any, but it would be nice to  
4 know that before we move ahead.

5 MR. McVEE: Mr. Cole.

6 MR. COLE: Does Mr. Pennoyer have a view on that  
7 subject? We have now two federal trustees recommending  
8 deferral, and since it's a federal matter, my tilt is to accept  
9 the recommendations of the federal members, but I would like to  
10 hear Mr. Pennoyer's views.

11 MR. McVEE: Yes. Mr. Pennoyer, can you hear us?

12 MR. PENNOYER: Yes. Mr. Chairman, thank you. We don't  
13 have a separate legal viewpoint, but I think what Maria and  
14 Regina talked about is consistent with our views, but I believe  
15 it would be better to find out if there is a conflict here.

16 I don't know if we're going to have formal votes or  
17 refusing procedures or how we're going to do that, but it seems  
18 to me we ought to know if, in fact, there's a broad conflict of  
19 some kind within this committee that we're appointing. So, I  
20 guess I agree with Mr. Barton and Mr. McVee that we ought to  
21 get something -- feedback from the letter that we're sending  
22 out.

23 I will say I hope that we have all of our ducks in  
24 order now and that come the next time around we don't have  
25 something else we have to do that's going to cause us not to

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1 reach a decision, because we do have to get on with this.

2 MR. McVEE: I share that.

3 MR. COLE: We've looked into that on the state scene,  
4 and our current view is there is no such requirements, but  
5 certainly if we receive the federal statements, then the state  
6 can have them available publicly.

7 I would, therefore, move, in light of the  
8 recommendations of the federal trustees, to defer appointment  
9 of Public Advisory Members until the statements have been sent  
10 and received back and completed.

11 MR. SANDOR: Second.

12 MR. McVEE: Motion has been made to defer action on the  
13 appointments of the PAG until we have had contact with  
14 nominees. Further discussion?

15 Yes, Mr. Rosier.

16 MR. ROSIER: Mr. Chairman, would it be possible to have  
17 this information at hand before the next meeting in August?

18 MR. McVEE: See, we're proposing an August meeting. I  
19 think there was a teleconference meeting scheduled for the 3rd.  
20 We're going to get into this next meeting thing, but I guess  
21 it's possible that we can get a notice out and set a deadline.  
22 I think in the draft we've asked the people to reply by July  
23 29th. I guess I am as concerned -- have some concern that many  
24 of the people that we have nominated are very busy during this  
25 period of time, thinking of some of the folks that are in the

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1 fishing industry and tourist industry, and I wouldn't want to  
2 eliminate somebody with a tight deadline because they just  
3 don't get their mail or have a chance to respond to it. But I  
4 would hope that we could get into this issue and wrap up the  
5 nomination and selection process on the 3rd, if that's  
6 possible.

7 MR. BARTON: Mr. Chairman.

8 MR. McVEE: Yes, Mr. Barton.

9 MR. BARTON: Yes. I assume that it's Mr. Cole's motion  
10 and it included the amendment of the Charter.

11 MR. COLE: Yes.

12 MR. McVEE: Yes, it does.

13 MR. SANDOR: That was included in the second also.

14 MR. McVEE: Is there any further discussion? Is there  
15 any objection to the motion? Hearing no objection, the motion  
16 is passed.

17 Is there any further discussion on this item on the  
18 agenda, the Public Advisory Group Membership?

19 I think we're ready then to move on to the next issue  
20 of '93 Project Idea List and Restoration Team Actions.

21 MR. COLE: May I be excused at this time? I will .....

22

23 MR. GIBBONS: Yes, Mr. Chairman.

24 MR. COLE: ..... defer to my vote.

25 MR. GIBBONS: This is Dave Gibbons. This is more of an

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1 informational item than anything else. In the public package  
2 and in the package that went to the Trustee Council is a  
3 spreadsheet containing 1,227 ideas that we received for work in  
4 1993.

5 We have categorized those ideas into six categories  
6 outlined in the cover letter on the package, and during the  
7 last week that the restoration team has dealt with these ideas,  
8 -- well, we've dealt with them all week until Friday at noon,  
9 and if you'll go to page seven in that package, the package  
10 that has the 1993 -- it's after the Public Advisory Group  
11 nominees in the public package, it's called the 1993 Work Plan.  
12 And at page seven of that you'll find a form that's entitled  
13 "Initial Restoration Team Review of 1993 Project Ideas."

14 MR. McVEE: Oh, okay. I've got it.

15 MR. SANDOR: I'm still looking, Dave.

16 DR. GIBBONS: Okay. It's after the Trustee Council  
17 nominees of the Public Advisory Group.

18 MR. SANDOR: The heading on it is Initial Restoration  
19 Team Review of 1993 Project Ideas?

20 DR. GIBBONS: That's correct.

21 MR. MONTAGUE: Mr. Chairman.

22 MR. McVEE: Mr. Montague.

23 MR. MONTAGUE: It's page seven of the document that  
24 begins like this.

25 MR. McVEE: Okay. Has everyone got it? Okay, proceed,

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1 Dr. Gibbons.

2 DR. GIBBONS: Yes. The Restoration Team met last week,  
3 commencing on Monday through Friday, and used this form to  
4 analyze the 400 plus ideas submitted in 1993. Since we  
5 completed just the afternoon of Friday, new spreadsheet has not  
6 had time to have been produced. We used these factors,  
7 however, to look at the 427 ideas, and somewhere -- this is my  
8 personal guess, less than a 100 met these criteria or are still  
9 in the 1993 package. We'll try to get you a spreadsheet on that  
10 as quickly as we can.

11 The first three factors relate to the resource services  
12 injured by the Spill. We looked at every proposal in regard to  
13 that. The Critical Factors, was it technically feasible to do,  
14 and was it consistent with applicable federal and state laws.  
15 And those were the first three criteria we used.

16 The Damage Assessment Ideas were applied strictly to  
17 the first category called damage assessment. There was 12 idea  
18 submitted in that category, and those were analyzed using those  
19 four criteria.

20 The remaining projects were analyzed under the category  
21 called General Restoration Ideas, and looking at is there a  
22 restoration end-point, is it time critical to the recovery of  
23 the injured resource/service; the idea to be conducted this  
24 year or can we wait until a restoration plan is completed, and  
25 we have a complete umbrella so we know the entire restoration

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1 projects. And, three, opportunity lost if not funded in 1993,  
2 and also then the fourth one, a long-term commitment. And it  
3 was our idea until a restoration plan is completed that we  
4 should perhaps not commit to long-term commitments of multi-  
5 years and large fundings. And those were the ideas we used --  
6 the criteria we used to evaluate the ideas.

7 Like I say, the new spreadsheet is being prepared now  
8 with the projects that were rejected, using these, and also the  
9 projects that will move forward for three-page write-ups.

10 The next step in the process is to analyze the  
11 remaining studies that were still in, to meet these criteria on  
12 pages eight, nine, 10, 11 and 12, and there's specific  
13 evaluation criteria by category that each of these projects  
14 that are still remaining in the process will be evaluated by.

15 And, basically, that's where we are now.

16 MR. McVEE: I have a question, Dave. Is the criteria  
17 on eight, nine, 10, and so on, are those going to be applied  
18 after you look at the expanded write-ups -- the three-page  
19 write-ups?

20 DR. GIBBONS: That's correct.

21 MR. McVEE: Okay.

22 DR. GIBBONS: Those will be applied to the ones that  
23 are still -- that met the other criteria.

24 MR. McVEE: Okay. And the deadline for the -- which is  
25 set for the detailed write-ups or the three-page write-ups, I

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1 guess?

2 DR. GIBBONS: Yeah, that's early August, and we're  
3 prepared to have this package to the Trustee Council for the  
4 31st, or whatever date the Trustee Council sets in August. We  
5 would prefer to have it towards the end. That's the only time  
6 frame that we can really meet.

7 MR. McVEE: That package will have had the second set  
8 of criteria applied?

9 DR. GIBBONS: That's correct.

10 MR. McVEE: Jerome.

11 MR. MONTAGUE: Just to further elucidate your question  
12 there. On the fourth through the seventh will be a meeting of  
13 the Chief Scientists Peer Reviewers and the Restoration Team  
14 and technical experts from the agencies to apply these project  
15 evaluation factors to the three-page write-ups that are going  
16 to be prepared between now and July 31st. So the three-page  
17 write-ups are due the 31st, and then the 4th through the 7th,  
18 they'll be ranked according to these evaluation packages. And  
19 then based upon the comments that come out of this coordinating  
20 technical review, the three-page descriptions will be modified  
21 to change their technical aspects as directed by the Chief  
22 Scientists Peer Reviewers, and then it will be put together  
23 into a draft work plan to be submitted to you all the week  
24 before the 31st meeting.

25 MR. McVEE: Members and Trustee Council, do you have

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1 any questions or comments?

2 MR. BARTON: Mr. Chairman.

3 MR. McVEE: Yes. Is that Mr. Barton or .....

4 MR. BARTON: It looks like .....

5 MR. McVEE: ..... Mr. Pennoyer?

6 MR. BARTON: ..... a very good way to go, they're very  
7 well organized. I think the Restoration Team has done a good  
8 job in putting this action together for us, and I look forward  
9 to the results of the review towards the end of August.

10 MR. McVEE: Any other comment? Any comment on the  
11 criteria or schedule?

12 MR. SANDOR: Mr. Chairman, I'm pleased to see a process  
13 like this in place. I share Barton's views.

14 MR. McVEE: Any other further comment? I guess,  
15 Mr. Gibbons, you don't need any actions, I understand, on this.

16 DR. GIBBONS: That's correct. We were just informing  
17 the Trustee Council of the process that we're implementing.

18 MR. McVEE: You received a vote of confidence and  
19 support, so I guess the Restoration Team can proceed on that  
20 basis.

21 Moving to the other items, then we had two other items.  
22 I believe Mr. Pennoyer had the issue of Financial Operating  
23 Procedures. Let's take that one up next.

24 Mr. Pennoyer.

25 MR. PENNOYER: Mr. Chairman, yes, if I could. We have

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1 had a set of Financial Operating Procedures in front of us for  
2 some time now. I think the majority of that package has been  
3 approved by the Trustee Council, and the pieces that are still  
4 missing, I think there's only one, if I'm not mistaken,  
5 outstanding piece that still has not been decided, and that's  
6 an appendix; Appendix F. I don't know -- I don't think the  
7 Counsel's got it in their packet in front of them, but  
8 Appendix F was the one about the transfer of funds between  
9 federal agencies of the NERDA accounts, and it's basically a  
10 federal requirement we're going to have to sort out our  
11 process, and I guess we have to finalize the it, but my  
12 understanding is the rest of the package is complete.

13 My question is how long are we going to take before we  
14 approve this or can we put it on the August 3rd teleconference  
15 agenda? It seems to me we should have these procedures  
16 finalized and in front of us, and the only thing that's missing  
17 currently is an appendix about how the federal government is  
18 going to handle its funds internally, maybe that does not  
19 preclude us from approving the agreed upon parts.

20 MR. McVEE: I guess my comment on this is basically  
21 concern to us on the federal side, in that we haven't ironed  
22 out exactly how that was going to be handled. We haven't had a  
23 great deal of discussion at this level on that, but it's  
24 possible that by the 3rd of August we could have that  
25 resolved -- hopefully, we would have that resolved.

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1 I think that Attorney General Cole, and he is not  
2 present now, had to attend another meeting, had some other  
3 language problems with the procedures involving the role of the  
4 committee, and there has been some discussion about how -- with  
5 the Attorney General's Office on modifying that language  
6 though.

7 I guess my feeling is that I'm not ready to act today  
8 on that but, hopefully, maybe by the 3rd, we could have that on  
9 the agenda.

10 MR. PENNOYER: Well, Mr. Chairman, I was not  
11 necessarily suggesting that we get agreement today, although if  
12 we could have, it would have been nice to have this out of the  
13 way. But I have the need to get on with this, and I would be  
14 satisfied with doing something on the 3rd, if we get to that  
15 point.

16 MR. McVEE: Well, I would agree, Mr. Pennoyer, that I  
17 would like to see the Financial Operating Procedures finalized  
18 so they be a matter of record and provide guidance of our '93  
19 program.

20 MR. BARTON: Mr. Chairman.

21 MR. McVEE: Yes, Mr. Barton.

22 MR. BARTON: Yes. What do you anticipate having by the  
23 3rd of August?

24 MR. McVEE: What I would hope we could anticipate  
25 having would be a final set of Operating Procedures with the

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1 language involving the role of the Financial Committee refined  
2 to resolve the problems that Attorney General Cole was having  
3 with it, and also the federal problem of how we deal with OMB,  
4 the cycle of OMB and Trustee approvals or our own trustee  
5 actions -- federal trustee member action would be taken.

6 MR. BARTON: You're talking about Appendix F?

7 MR. McVEE: Yes, Appendix F, plus the .....

8 MR. BARTON: If I understand it, Attorney General  
9 Cole's concerns have been addressed at the top of page 4 of the  
10 July 7 version of the Financial Operating Procedures. I would  
11 advise everyone's attention to that, and hope that we could  
12 move ahead. I would like to move ahead without Appendix F, if  
13 we still have not come to agreement on the federal side on  
14 Appendix F.

15 MR. McVEE: Yeah, there was a paragraph, as I recall,  
16 on the last version we looked at. It was on the bottom of page  
17 5 that was also a problem. I think that was the June 23rd  
18 version. I realize there are probably another version that was  
19 probably published after that, I believe, but the June 23rd  
20 version had a paragraph that was creating problems that  
21 addressed OMB -- federal OMB and the role of the trustees --  
22 federal trustees.

23 MR. BARTON: Yeah, I'm informed that that also has been  
24 addressed at the bottom of page five, the July 7 draft.

25 MR. McVEE: July 7th -- 7th draft?

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1 MR. BARTON: Yes, that's right.

2 MR. McVEE: That was the draft that followed .....

3 MR. SANDOR: The latest version.

4 MR. McVEE: ..... the latest version.

5 MR. BARTON: Now, the July 7th, I'm told, is the latest  
6 version.

7 MR. McVEE: What do you want to do -- what do the  
8 members want to do with this; just put it on the agenda for the  
9 August 3rd teleconference meeting?

10 MR. BARTON: Yes, I think so. That's what I'd like to  
11 do, with or without Appendix F.

12 MR. McVEE: Okay.

13 MR. BARTON: I'll second that. I guess I can't vote.

14 MR. PENNOYER: I agree.

15 MR. McVEE: Dr. Gibbons, did you hear that discussion  
16 on .....

17 DR. GIBBONS: Yes, I did.

18 MR. McVEE: ..... the agenda item for the 3rd? Is  
19 there any further discussion on Financial Operating Procedures?

20

21 The item that I wanted to talk about was cleanup costs.  
22 And in December of '92 -- or December of '93, we will -- no,  
23 December '92, the accountant will be receiving the 150 billion  
24 payment, less cleanup costs incurred by Exxon for this past  
25 year.

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1           One of the things, I think, we have to think about is  
2 how those costs would be audited, and one option we would have  
3 would be to ask Coast Guard, which has not been done at this  
4 point, but ask the Coast Guard to provide that audit. The  
5 other option, I guess, would be to mobilize and do that audit  
6 under the auspices of the Trustee Council. But it seems like  
7 it would be very desirable to audit those costs before the  
8 payment is made. It's not that it couldn't be done afterwards,  
9 and certain credits, you know, could be made and so on, but it  
10 seems it would be advantageous to audit those costs so that  
11 we'd have a precise number for Exxon for that December payment.

12  
13           I guess I would propose that we contact Coast Guard and  
14 ask them if they're prepared to do that or if they have done  
15 that.

16           Is there any thoughts on that?

17           MR. BARTON: Mr. Chairman.

18           MR. McVEE: Yes.

19           MR. BARTON: Yes, I think that's an excellent idea.  
20 I'd suggest that the Trustee Council ask the Coast Guard to do  
21 that.

22           MR. SANDOR: I'll second the motion.

23           MR. McVEE: A motion has been made and seconded that  
24 the Trustee Council ask the Coast Guard to provide an audit of  
25 the Exxon expenses for the 199- -- what is it, the '92 cleanup?

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1 Yes.

2 Any further discussion? '91 and '92 cleanup. Is there  
3 any objections to the motion? Hearing no objection, the motion  
4 passed.

5 Are there any other items for discussion or action at  
6 this time?

7 MR. BARTON: Mr. Chairman.

8 MR. McVEE: Yes, Mr. Barton.

9 MR. BARTON: I move that we authorize the interim  
10 administrative director to investigate and evaluate some decent  
11 teleconferencing system and come back in 60 days with a  
12 recommendation to the Council.

13 MR. ROSIER: Second the motion.

14 MR. McVEE: All in favor -- there's no objection to  
15 that.

16 MR. BARTON: Only one, Dr. Gibbons. That's fine.  
17 Good.

18 MR. McVEE: Any other items? Do you want to talk about  
19 next meetings before we recess? You have public comment period  
20 from 1:00 o'clock to 2:00.

21 Dr. Gibbons, can you outline what your proposal is for  
22 Trustee Council meetings -- future meetings?

23 DR. GIBBONS: Yes. The proposal that we had was to  
24 hold an August 3rd teleconference to discuss any public  
25 comments on the administrative costs of the budget. Those have

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1 been shipped out mid-June. I have not received any comments  
2 concerning those administrative costs, and so the August 3rd  
3 date is still -- is very flexible. I'm not sure, you know, if  
4 I will receive any comments, but to date, I'm not aware of any  
5 comments on the administrative budget.

6 MR. McVEE: Shall we do that meeting by teleconference?  
7 We've added two more subjects to that agenda. I guess that's  
8 the question, the action on the PAG nomination and the  
9 Financial Operating Procedures.

10 MS. RUTHERFORD: Mr. Chair?

11 MR. McVEE: Yes.

12 MS. RUTHERFORD: It's Marty, for those of you in  
13 Juneau. I am not convinced at all we'll be able to get a turn  
14 around on the conflict statements from the Public Advisory  
15 nominees by that date. It's the 20th now. That's less than  
16 two weeks. Even if we got -- and I intend to get the letters  
17 out today. I'm not convinced we don't get them. Some of the  
18 locations will take a week to get there, that's the 27th. I  
19 just don't think we can get them back in time.

20 MR. McVEE: What kind of a problem, Dr. Gibbons, do we  
21 create if we delay that meeting for a week? I'm sure maybe  
22 scheduling problems, but do we create problems concerning our  
23 next request to the court for funds, that type of thing, the  
24 scheduling of that?

25 DR. GIBBONS: Forgive me. The last Trustee Council

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1 meeting we built into the 1993 review process some review by  
2 the Public Advisory Group. That looks like that will not  
3 occur. That will be a problem. I don't think we'll make it  
4 now. Personally, I think it's too late to get that group  
5 formed and get the meeting, so that would be a concern. That  
6 group's review of the '93 package.

7 MR. McVEE: Yeah, I don't think that we can form that  
8 --get that group formed fast enough to do that.

9 What are the wishes of the Council and the staff then?  
10 August 3rd, the next Monday would be August 10th. Are there a  
11 lot of scheduling problems?

12 MR. BARTON: Mr. Chairman, I'll be out of the country  
13 on August 10th myself. The first time I'd be back would be the  
14 week of August 17th or 24th and 31st.

15 MS. BERGMANN: Mr. Chair.

16 MR. McVEE: Yes, Pam Bergmann.

17 MS. BERGMANN: If I recall, there was something in  
18 request to the court about the Trustee Council taking actions  
19 on the administrative portions of the budget, right around  
20 August 3rd, so my question is do we need to have a Trustee  
21 Council teleconference to address that particular issue so  
22 we're consistent with what we indicated to the court we would  
23 be doing.

24 MR. BARTON: Mr. Chairman.

25 MR. McVEE: Yes, Mr. Barton.

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1 MR. BARTON: Yeah, I thought we had agreed to that  
2 administrative cost budget subject to public comment. If we  
3 have no public comment it would seem like the approval would  
4 just stand.

5 MR. McVEE: I think that's true. It was approved, as I  
6 recall, by the Trustee Council, subject to public comment.

7 MS. BERGMANN: What's the -- Dave, what's the deadline  
8 again for receiving comments?

9 DR. GIBBONS: Today.

10 MS. BERGMANN: Today.

11 MR. McVEE: We have received no comments as of this  
12 morning, okay. I guess my suggestion would be to stay with  
13 that teleconference date. If we don't have responses back from  
14 PAG nominees, then we may have to schedule something in  
15 addition to that and handle that matter.

16 MS. RUTHERFORD: Mr. Chair. I would have suggested  
17 that we fax them out, but I know, from having contacted them  
18 for other reasons, that there's a good third of them that don't  
19 have access to fax machines.

20 MR. McVEE: Yes. It would be later in the month.  
21 Mr. Sandor.

22 MR. SANDOR: Well, I think we should stick with this  
23 August 3 teleconference date, and if we do not have all of the  
24 contacts and responses, which we may well not have, we can  
25 still make them subject to the submission of a satisfactory

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1 ethics and financial disclosure statements. We really should  
2 get on with it.

3 MR. PENNOYER: Mr. Chairman, if that's the case, I'm  
4 not sure how we'll be in a different position on August 3rd  
5 than we are now. We don't have them in front of us now either.  
6 Maybe what we should do is go ahead and just keep the August  
7 3rd date and let the executive director take a look at what  
8 we've got back by then and see how it's coming, and cancel it  
9 if it isn't going to work.

10 MR. McVEE: I think we will have at least an issue,  
11 hopefully, two to deal with by that time and we should proceed  
12 with that at the August 3rd teleconference.

13 Dave, I guess .....

14 MR. PENNOYER: Mr. Chairman, what are the other two  
15 issues? I mean the Financial Operating Procedures we need to  
16 do, but they're not -- I guess I'd just as soon see them done  
17 but if not, take half a day, if we get sort of the type of  
18 coordination we've got at this session. If you don't have the  
19 Financial -- we don't have the PAG group back, then I'm not  
20 sure the other issues warrant holding a separate meeting. See  
21 what I mean?

22 MR. McVEE: I think that if we just have the  
23 administrative budget to deal with, and it sounds like we may  
24 not have that to deal with if we don't have any public  
25 comments, and the Financial Operating Procedures, it seems like

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1 we could deal with either or both of those on a teleconference  
2 without any problem.

3 I would suggest that we go ahead and proceed with the  
4 teleconference and

5 MR. BRODERSON: August 3?

6 MR. McVEE: August 3. What would be the next meeting  
7 date then, Dr. Gibbons?

8 DR. GIBBONS: The next meeting date is August 31st. It  
9 will be a full meeting, but it will deal with many factors.  
10 The two factors it's going to deal with is the Habitat  
11 Protection Project, and the 1993 draft Work Plan. Those are  
12 the two major factors of that meeting.

13 MR. SANDOR: Is that a one day meeting?

14 DR. GIBBONS: Hopefully.

15 MR. McVEE: Yeah. I'm getting hand signals from the  
16 staff here, Dr. Gibbons, that says that we better schedule it  
17 for two, and I guess my concern was that the involvement and  
18 the time that it took to put the '92 proposal together, it  
19 might take two days.

20 Any thoughts of Council members on that?

21 MR. BARTON: I would hope we could get it all done in  
22 one day.

23 MR. McVEE: We could try for the ultimate.

24 MR. BARTON: Sounds like a beer commercial.

25 MR. McVEE: Okay. Maybe that would help. Any other

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1 thoughts on the meeting?

2 DR. GIBBONS: Mr. Chairman.

3 MR. McVEE: Yes.

4 DR. GIBBONS: This is Dave Gibbons again. If we start  
5 --I know there was some concern that we started the last day's  
6 meeting at 8:00 o'clock. What time would the Trustee Council  
7 like to start the meeting on the 31st?

8 MR. McVEE: I'll let the Juneau .....

9 DR. GIBBONS: It's going to go for two days. I'd start  
10 on 9:30 or something on Monday and just go into Tuesday.

11 MR. PENNOYER: If it's going to take two days, let's  
12 accommodate a Monday morning flight from Anchorage to Juneau.

13 MR. McVEE: I think you have agreement among the other  
14 two Juneau members here. Any other items before we recess?

15 MR. SANDOR: The August 3 teleconference is a  
16 continuation of this meeting?

17 MR. BRODERSON: It has to be.

18 MS. RUTHERFORD: Why?

19 MR. BRODERSON: Because there isn't time to announce  
20 it. We aren't allowed to be adjourned; it has to be recessed.

21 MR. McVEE: Juneau, did you hear that discussion?

22 MR. PENNOYER? No, I did not.

23 MR. McVEE: Well, the question of Commissioner Sandor  
24 is the August 3rd meeting had to be a continuation of this  
25 meeting, and the staff replied that yes, there was not enough

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1 time to get out a public notice to adequately inform the public  
2 of a new meeting.

3 MR. BARTON: Fine.

4 MR. McVEE: With that then, we'll recess. We'll return  
5 at 1:00 o'clock? Well, we're scheduled for 1:00 on the  
6 schedule, so 1:00 o'clock for the public comment period.

7 MR. BARTON: All right. Thank you.

8 MR. McVEE: Thank you.

9 (Off record - 12:03 p.m.)

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

11 MR. McVEE: Are you on line now? Steve Pennoyer,  
12 Mike Barton, can you hear us?

13 MR. PENNOYER: Yes, Curt, loud and clear.

14 MR. McVEE: Okay, you're coming through. Let's  
15 reconvene the meeting of the Trustee Council. At this point,  
16 we're ready to take one hour for public comment. This is not  
17 teleconferenced, so it would only be those present here in  
18 Anchorage, I guess, that have comments to make. And so with  
19 that, is there anyone that wants to be first? It's a matter of  
20 raising your hand or coming forward. Yes, sir.

21 MR. COUMBE: Hi. I'm Mike Coumbe. I'm with the  
22 Katchemak Bay Citizens Coalition. And the -- did you need  
23 anymore identifying information from me?

24 MS. BERGMANN: How do you spell your last name?

25 MR. COUMBE: C-o-u-m-b-e. And just to let you know,

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1 the Katchemak Bay Citizens Coalition is interested in one issue  
2 only, and that is the protection of Katchemak Bay State Park  
3 and the boundaries that were set aside by the State of Alaska  
4 back in 1970 when the Legislature passed a law protecting the  
5 state park.

6 And just to let you know what -- you may already know  
7 through the newspapers that -- and that is that currently the  
8 24,000 acres that Seldovia Native Association owns within the  
9 lands that were set aside for the park, and the land that  
10 Timber Trading Company has the rights to cut trees on, and the  
11 land that the Cook Inlet Region Incorporated has subsurface  
12 rights to within the park -- designated park land, currently  
13 there is no agreement to protect that land.

14 And I realize that the Trustee Council is here to  
15 protect lands that are -- or in the land acquisition program is  
16 to protect lands that were affected by the Exxon Valdez Oil  
17 Spill. That property, while just the beaches of the park were  
18 lightly oiled, the lands within the state park are, according  
19 to the Attorney General, in his opinion to Governor Hickel,  
20 they are lands that support the marbled murrelet, which is a  
21 bird that was heavily affected by the Oil Spill.

22 Anyway, the state park is threatened. The logging  
23 company is going to go ahead with their plans to seek permits  
24 to log on the state lands -- not the state lands but on the  
25 lands within the state park. And the \$11 million that we

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1 originally asked the Council for to buy back these three  
2 parties' interests within the state park now balloons to quite  
3 a considerable amount more. It would at least include the 22  
4 million that was the agreed upon sale price. But at this  
5 point, it's -- we're not that sure that there is an agreed upon  
6 sale price.

7           So, I would just like to say that the quicker this  
8 process of determining what lands can be acquired by the  
9 Council, the quicker that process can proceed, the more likely  
10 we are to come to an agreement with the parties on a price that  
11 the Council can afford. Afford isn't the right word, but  
12 anyway.

13           The Katchemak Bay Citizens Coalition is willing to work  
14 with the Council in whatever capacity we can to see that the  
15 Katchemak State Park lands are protected, and whatever you --  
16 you know, whatever help we can be to you, we would definitely  
17 like to serve that purpose.

18           MR. McVEE: Thank you, very much for your comments.  
19 One question. Do you have any sense of how long it will take  
20 the timber companies to obtain their permits?

21           MR. CUMBE: That isn't determined at all. I talked  
22 with the person at the Division of Governmental Coordination on  
23 Friday to ask her where the permit process stood. She said  
24 there had been no action since -- no real action with her  
25 office since January. But it -- for me to give you a guess, I

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1 really don't know. I mean, I've heard anywhere from -- well, I  
2 really do not actually know how long that process would be.

3 MR. McVEE: Wait for a moment here.

4 MR. COUMBE: Okay.

5 MR. McVEE: (Pause) For the benefit of John, Mr. Cole,  
6 Mr. Coumbe, Katchemak Bay Citizens Coalition, is speaking with  
7 the issue of Katchemak Bay State Park. We're just talking  
8 about the permit process and how long it might take to  
9 acquire -- for the timber logging company to acquire a permit  
10 so I can get some kind of a sense of a time frame that's  
11 critical here.

12 Were there any other questions? Yes, Mr. Rosier.

13 MR. ROSIER: Thank you, Mr. Chairman. Mike, you made  
14 the linkage here with the marbled murrelet and its nesting  
15 habitat. Are there other species in your mind that are in this  
16 area that this area provides critical habitat for that were  
17 damaged by the Spill?

18 MR. COUMBE: I'm not a biologist in any sense of the  
19 word. I don't -- myself, I don't know. There might be other  
20 people in the -- that work with the coalition that would be  
21 able to give that information, but I don't know.

22 MR. COLE: Mr. Chairman.

23 MR. McVEE: Yes, Mr. Cole.

24 MR. COLE: Would you summarize his testimony so I would  
25 have the benefit of it, please?

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1 MR. COUMBE: Sure. My name is Mike Coumbe, by the way,  
2 and I'm with the Katchemak Bay Citizens Coalition, and I was  
3 just explaining that the sole purpose of the Coalition is to  
4 protect state park lands. And I did mention a letter that you  
5 wrote to Governor Hickel regarding the Katchemak Bay State Park  
6 and that you mentioned that the marbled murrelet was affected  
7 on state park land, and that because it was damaged by the Oil  
8 Spill, I realize that that's part of the process that this  
9 Council has to go through, is determining what species affected  
10 by the Oil Spill -- also are affected on the land that you're  
11 talking about acquiring. And also that we in the Coalition are  
12 willing to work with the Council in whatever way possible. If  
13 you need assistance regarding the state park, we'd be willing  
14 to comply with whatever your needs are.

15 MR. McVEE: Do Council members have any questions or  
16 comments? Juneau?

17 MR. PENNOYER: No, that's fine, Curt. We're here.  
18 Thank you, very much.

19 MR. McVEE: Juneau is still there. Well, thank you,  
20 very much.

21 MR. COUMBE: Thank you.

22 MR. McVEE: We worked backwards on that effort.

23 MR. COUMBE: Yes, we did.

24 (Off record comments)

25 MR. McVEE: Is anyone else present who wishes to make

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1 comment? Yes, come forward, please.

2 MR. HARUN: My name is Kevin Harun. Can you hear me  
3 okay? I'm the executive director of the Alaska Center for the  
4 Environment. And I represent many members throughout  
5 Southcentral Alaska, including members who live in the Sound  
6 and other parts of Alaska.

7 On behalf of our membership, I just wanted to thank you  
8 all for this opportunity today because we feel that it's really  
9 important that the public process continue, and I think we'll  
10 get a lot more ideas out of that public process, and we thank  
11 you very much for this opportunity, and other opportunities.

12 You know, sitting back this morning, watching the  
13 Counsel in action, I was struck by the importance of the  
14 decisions that you all are faced with, that you all are very  
15 much vested with a tremendous amount of power to determine the  
16 course of Prince William Sound. And really I think that's what  
17 this process is about, that we're really concerned that out of  
18 this settlement that the healing of Prince William Sound begin.  
19 And I think that's really what we're all working towards. And  
20 although there might be differences of opinion on how to get  
21 there, I want you to know that we in the environmental  
22 community sincerely want to work with you in that process.

23 One of my concerns, in looking at the process to date  
24 is that we're concerned that as the money is spent that it  
25 actually go to some real good, to promoting healing of the

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1 Sound. We don't want to see the money go to a massive pork  
2 barrel project for the area. We don't want to see it become a  
3 process by which museums are established all over the place,  
4 even though a museum may be perfectly appropriate.

5 The purpose is really promoting healing, and land  
6 acquisition is one important way to do that, and I realize that  
7 there's a criteria for establishing the acquisition. We want  
8 to make sure, however, that in the process of establishing that  
9 process that we don't lose lands that are eminently threatened.

10

11 We were very, very disappointed by the Governor's veto,  
12 of House Bill 411, actually the capital monies. I realize that  
13 is a separate process from this process here. But we were very  
14 disappointed by that and are looking to the Council for some  
15 remedy where it's appropriate, particularly with Katchemak Bay  
16 State Park. I think that's one area where, you know, we can't  
17 afford to lose it. And I don't mean to single that area out.  
18 There are other areas that may be eminently threatened as well.

19

20 But we look to you to do the best job you can, and I'm  
21 sure you will try. If the process is extended too long, we may  
22 end up being in a bind and not actually being able to get these  
23 and acquire these lands before they are logged. And so I hope  
24 you will move with all due speed, as well as with carefulness  
25 to make sure that it's fitting whatever criteria that is

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1 determined is necessary.

2           So, that's really our message, is it's real important  
3 that certain areas not get lost. We don't want to see the  
4 money going just to bureaucrats and pork barrel; we want to  
5 make sure that it actually goes out there. And you can leave a  
6 legacy for this area that's really important, and I think  
7 that's the whole reason for the settlement, is to compensate  
8 for the damage that was done.

9           Thank you.

10          MR. McVEE: Questions? Questions from Council members?

11          MR. COLE: Mr. Chairman, I'd like to .....

12          MR. McVEE: Mr. Cole.

13          MR. COLE: ..... say that we appreciate the offer to  
14 work with the Trustee Council. I think it would be fruitful  
15 for all of us to strive together instead of having this  
16 constant apparent tension between the groups, as I think all  
17 these members of the Trustee Council are certainly in good  
18 faith, trying to achieve the most fruitful ends. So, thank  
19 you.

20          MR. HARUN: Thank you.

21          MR. McVEE: Yes, Mr. Rosier.

22          MR. ROSIER: Mr. Chairman, thank you. Kevin, you say  
23 don't spend the money on pork barrel, and I don't think any of  
24 us are interested in seeing that happen. Do you think,  
25 however, that there's a role for good science, in terms of

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1 support of the restoration projects in the Sound?

2 MR. HARUN: I think there is. You know, unfortunately,  
3 there weren't a lot of baseline studies in place before the  
4 Spill to know what the real impacts were, and I do think  
5 science has a role to play. I guess from our membership's  
6 perspective, that we would probably rate habitat acquisition as  
7 probably the highest, but I do think there is a role to play  
8 for science as well.

9 MR. McVEE: Any other questions? Juneau, do you have  
10 any questions?

11 MR. PENNOYER: Thank you, Mr. Chairman. I don't.

12 MR. McVEE: Thank you, Mr. Harun. Does anyone else  
13 have public comment that they would like to make at this time?

14  
15 Yes, Mr. Parker.

16 MR. PARKER: Thank you. My name is Jeff Parker,  
17 speaking on behalf of the Alaska Sport Fishing Association and  
18 Trout Unlimited. I just want to comment briefly upon some of  
19 the suggestions for expenditures of restoration monies.

20 I'm not certain that it's in the list, but it may well  
21 be that I don't identify it by the project title. But I think  
22 it would be useful to have a project that focusses on inventory  
23 of replacement lands for services, particularly recreational  
24 use.

25 Most of the projects tend to be focussed on habitat --

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1 on acquisition of lands or replacement lands of mitigating  
2 habitat, and I think what is missed here is recreational  
3 services, acquisition of lands for replacement services. What  
4 is -- it tends to be along the line of capital improvements,  
5 such as camp grounds, that kind of thing.

6 At least from the perspective of the people for whom I  
7 work, that is not as desirable an expenditure as it would be to  
8 acquire or conserve lands that are important for remote  
9 wilderness based recreational services, as you have in Prince  
10 William Sound.

11 And we think it would be useful to look at the  
12 inventory approach because probably a sensible decision making  
13 process would depend upon the ability to compare one potential  
14 acquisition, whether of title or conservation easement or  
15 public access easement or whatever, against another candidate.  
16 We look not only within areas proximate to where oil went, but  
17 we strongly, and for a long time, urged that the concept of  
18 replacement doesn't at all require that you look proximate to  
19 the area that was injured.

20 And I think a previous time that I've engaged in a  
21 discussion, and will reiterate portions of it here, about  
22 whether or not there are lands, for example, outside of the  
23 Sound, Kodiak archipelago area that provide services that in  
24 some ways are commensurate or comparable with those that were  
25 injured.

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1           One type of candidate that was not mentioned in the  
2 past is lands in the Illiamna region and Bristol Bay region  
3 drainages which are very heavily used for remote dispersed  
4 wilderness based recreation.

5           I see Attorney General Cole shake his head because he  
6 probably thinks .....

7           MR. COLE: No.

8           MR. PARKER: ..... how is that comparable? I  
9 appreciate and laugh at your own smiles on the issue, but this  
10 is the way in which I think, with all due respect to Mr. Cole,  
11 that I think it has some comparability. It has comparability  
12 in terms of the dispersed nature of the recreational use  
13 pattern.

14           The Southwest Alaska drainages are the most intensely  
15 used wilderness recreation lands in the state, higher than  
16 Denali National Park, for example. When you take off from the  
17 fact that on Denali half of your visitor use doesn't go past  
18 the gas station and -- I think it's in the low tens of  
19 thousands of people who are actually in Denali, are engaged in  
20 wild- -- and dispersed recreational use pattern, in that sense  
21 Southwestern -- portions of Southwestern Alaska are very  
22 comparable to the use pattern that you have in Prince William  
23 Sound and in the Kodiak archipelago.

24           What are they focussed on? They're focussed, in large  
25 part, on fisheries and game. Just as you have, similarly, in

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1 Prince William Sound. What do you have? You have salmon  
2 stocks, trout stocks. What did we just injure? We just  
3 injured trout. We just closed trout fisheries.

4 You have some rather unique species in the area, too.  
5 You have your only harbor seal -- inland harbor seal population  
6 in the United States. One of six inland seal populations in  
7 the world was harbor seals that we've got problems with.  
8 Somewhat analogous to our trout stocks, where we have problems  
9 with western Prince William Sound trout, and we all know that  
10 the Illiamna drainages are the best trout waters in the world.

11 Similarly, you've got one of your few inland marine  
12 birds populations. We've got three in this state.

13 You have, in portions of Southwest, you have a kayak  
14 based recreational use pattern, the same as you do in Prince  
15 William Sound. In fact, Southwest Alaska is the only, and the  
16 most popular -- I shouldn't say it's the only, but it's the  
17 most popular place -- inland place for using clipper kayaks.

18 Some people say that ungulate deer were injured out in  
19 Prince William Sound. Well, that's obviously of some debate  
20 right now in the scientific community.

21 But what do you have? You have the third largest  
22 caribou herd in the country in those drain- -- yes, I mean in  
23 the country in Alaska in those drainages.

24 You similarly have in the eastern portion of those  
25 drainages very good eagle values. Well, we've got some

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1 injuries on eagles.

2           You -- obviously I mentioned salmon before. I don't  
3 think I need say more about the salmon values in Prince William  
4 Sound. We'll admit the species is different, the sockeye  
5 mostly, but in Prince William Sound, mostly pink. But you can  
6 certainly add a genus level, you've got identity.

7           Now, let me speak, very briefly, about what I think the  
8 cost of it would be. In those drainages, you have land rich,  
9 cash poor corporations. You have no trees involved, no  
10 minerals. Even if you forget minerals and we're just talking  
11 about conservation easements and non-disposable easements, you  
12 are probably talking about beating the price or the cash inflow  
13 that would occur, say across the next 100 years of selling  
14 incremental recreational tracks, which -- for which anyone can  
15 pick a market or a number as well as I can, but I would say  
16 somewhere in the vicinity of a couple thousand lots that place  
17 would be saturated for that market.

18           What do you have to do to beat that cash flow? My  
19 guess is that on an average, across 100 years in present day  
20 value, those lots will be at the vicinity of \$1,000.00 an acre.  
21 At the front end, they're going to be much higher, but as a  
22 market saturates, they will decline. So you're talking on the  
23 order, on an average five-acre lot, assuming 2,000 lots  
24 throughout that region, you're talking on the order of \$10  
25 million in present dollars. That's a very small amount, and it

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1 shows the efficiency of doing replacement recreation lands in  
2 the Bristol Bay drainages.

3 Now, I would point out that the state has -- and you in  
4 fact acquire a lot of conservation of habitat for species that  
5 are similar to or identical to those that are injured in the  
6 Sound if you do the recreation approach, the service approach.

7 I think I was pointing out the efficiency of that type  
8 of acquisition. What do you accomplish in terms of protecting  
9 that area? You're probably talking -- there are, in private  
10 lands outside of core townships of the four villages involved,  
11 the four villages around Illiamna region are -- have about  
12 200,000 acres outside of the core townships. If the market  
13 that you have to meet is just \$10 million worth of disposal on  
14 cash flow, you could effectively -- because of the strength of  
15 the state's land use plan in the Bristol Bay area plan which is  
16 pretty much non-disposal throughout that whole region. You  
17 would effectively create several million acres of land that are  
18 conserved. It would be a very powerful acquisition in terms of  
19 the benefits in the context of that larger state land use plan.

20

21 Am I being reasonably clear?

22 MR. COLE: No.

23 MR. PARKER: No? Okay. The state land use plan .....

24 MR. COLE: As long as you asked me, I just wanted  
25 to .....

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1 MR. PARKER: Thanks -- thanks. The state land use plan  
2 and the Bristol Bay area plan, put out by DNR, is retention of  
3 state lands throughout the area. By conserving the Native  
4 corporate lands -- village corporate lands surrounding Lake  
5 Illiamna and the drainages that feed into it, such as the  
6 Copper, Gibraltar, Illiamna River drainage, the Tolerik creeks,  
7 those places where corporate land has been selected, you would  
8 preserve the character of that land in total, which is about --  
9 for the price of conserving 200,000 acres, you would get  
10 800,000 -- or eight million conserved. And in so doing, I  
11 think, retain for recreational character the land as it  
12 presently is.

13 I'm advocating that as -- and I do think I disagree  
14 here, with all due respect to Attorney General Cole, on the  
15 question of whether or not an acquisition has to be proximate  
16 to where oil went. Replacement -- acquisitions for replacement  
17 purposes -- I say there's no criterion in the law, that I can  
18 identify, that says the replacement has to be -- or any  
19 acquisition, actually, has to be proximate to where the oil  
20 went. It has to relate to an injured service or resource. And  
21 I do think you'd agree with me on that.

22 MR. COLE: Let me ask this question, .....

23 MR. PARKER: Sure.

24 MR. COLE: ..... as long as we're focussing on that  
25 subject. Would you say that we should buy lands in the

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1 foothills of the Sierras to preserve the services of fly  
2 fishermen there? I mean as long as there's no requirement of  
3 proximity.

4 MR. PARKER: I think my gut feeling is no, because the  
5 character of the -- but I stated it was a gut feeling, because  
6 I think you have to look at to define carefully what service  
7 you're talking about was injured in the Sound. I think it's a  
8 difficult argument to say that the people who utilize the  
9 Prince William Sound area will get a replacement service by  
10 buying in the Sierras. But I think it is much easier to say  
11 that the people who utilize southern coastal drainages of  
12 Alaska, including Prince William Sound and Kodiak archipelago,  
13 also utilize -- I'm quite certain of this on Kodiak archipelago  
14 -- also utilize the Bristol Bay drainages. And I think .....

15 MR. COLE: Then you would say .....

16 MR. PARKER: I think .....

17 MR. COLE: ..... there must be a proximity to the  
18 people that use those services?

19 MR. PARKER: I think what you have to do is establish  
20 some linkage. I'm not saying that proximity to the people is  
21 the only criterion. I think that what we're struggling with is  
22 trying to put forward good proposals that bear some  
23 relationship to an injury occasioned by the Spill, either to  
24 resources or to services that the resources provide. I think  
25 that you would probably agree that if there is valuable habitat

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1 to be protected in California, for birds that utilize Prince  
2 William Sound habitat, that it is reasonable to put forward  
3 that acquisition in California as a candidate. My hope is  
4 .....

5 MR. COLE: The Justice Department offered that during  
6 negotiations, and I said no, never.

7 MR. PARKER: I know. And I have not taken the approach  
8 as no, never. I have always taken an approach of spend Alaska  
9 --generally, you'll get better matching if you focus on Alaska  
10 expenditures, and I think you get better matching if you focus  
11 on southern coastal drainages, because the use pattern across  
12 the southern coastal drainages is much different than the use  
13 pattern up on -- in the Brooks Range, for example.

14 But what I'm particularly advocating here is that you  
15 broaden your view within Alaska of where to -- you broaden your  
16 view in two respects: One is there should be more focus on  
17 acquisition for replacement services, and the other is there  
18 should be a broader view as to stepping away or going beyond  
19 just areas that are proximate to the Spill, because the notion  
20 of replacement in no way implies that acquisition has to be  
21 proximate to the Spill -- to where the Spill occurred.

22 If it replaces the service, it's a decent candidate.  
23 And I think the problem is, Attorney General Cole, that there  
24 are many candidate acquisitions, whether easements or title or  
25 whatever, that in terms of service they are just like

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1 acquisitions for a resource and a habitat in that you'll have  
2 degrees of matching.

3           Nothing is going to be perfect matches. If we hold  
4 ourselves to a criterion of a perfect match, we will acquire  
5 nothing, either for services or for habitat, because I don't  
6 think anyone has come forward with a perfect match. And the  
7 reason is because everything below the high tide line, you guys  
8 own anyway. But -- so you have to step beyond the high tide  
9 line.

10           And I think the question is how do you reasonably  
11 evaluate candidates that have varying degrees of match. And  
12 what I tried to put forward is that I do encourage you to look  
13 beyond just adjacent lands to where the oil went. I think  
14 you'll do a much better job for both habitat and services if  
15 you give yourselves that flexibility. You'll be in a much  
16 better negotiating cluster to begin with. I think that's a  
17 very fundamental point.

18           MR. McVEE: Comments? Questions from Trustee Council?

19           MR. PARKER: None of my comments say that you shouldn't  
20 acquire proximate or oil went. I'm encouraging, again, an  
21 inventory of recreational service plans that have varying  
22 degrees of comparability on services, whether it's wildlife  
23 viewing or activity consumptive use.

24           That's the essence of my remarks.

25           MR. McVEE: I might just mention, Mr. Parker, that as I

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1 understand the staff, the Restoration Team is looking at the  
2 possibility of a project which would explore recreation damage  
3 assessment, so I don't think there's a project yet in the  
4 proposals, but .....

5 MR. PARKER: You may have noted that .....

6 MR. McVEE: ..... that's being discussed.

7 MR. PARKER: There is a damage assessment out on loss  
8 of sport fishing related recreation, and Attorney General Cole  
9 may have seen it. It was just published in a treatise on  
10 natural resource damages by Kevin Ward and John Duffield.

11 MR. McVEE: Juneau, do you have any questions or  
12 comments? I'm not sure they're with us.

13 MR. BARTON: We're with you.

14 MR. McVEE: Okay.

15 MR. PARKER: I'm still not sure they're with us.

16 MR. COLE: With you. With us, but not with you.

17 MR. PARKER: That's all right.

18 MR. BARTON: We're listening.

19 MR. McVEE: Pardon? I missed that.

20 MR. BARTON: We'll just leave it at that.

21 MR. McVEE: Okay. Thank you, Mr. Parker.

22 MR. PARKER: Thank you.

23 MR. McVEE: Further -- yes, come forward.

24 MR. TWARDOCK: My name is Paul Twardock. I represent  
25 the National Outdoor Leadership School. We've been running

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1 wilderness base expeditions in the Sound for over 20 years.  
2 I've been out in the Sound all summer, so I'm a little behind  
3 on what's going on. My understanding is you're in the process  
4 of whittling down this list of possible projects for '93.

5 I guess our concerns mostly center around the  
6 acquisition. We are the wilderness value of the Sound and the  
7 courses that we're operating are horribly important to our  
8 ability to run courses and maintain our operations out there.  
9 Things that are incompatible are logging, any sort of resorts,  
10 any sort of operation that restricts our use of beaches and  
11 such. That's not to say that we need the whole Sound, but the  
12 general idea that we like to get across is any sort of  
13 acquisition or a project that enhances wilderness values help  
14 us run better courses out there, and help us attract people to  
15 come to Alaska.

16 I guess the other point that I'd like to make is the  
17 perception of this wilderness values in Alaska of Alaska by  
18 people that are thinking about coming up here, I'd hate to see  
19 someone going through and decide where they're going to go and  
20 all of a sudden decide that well, golly, I heard that they're  
21 sort of not doing all they can for Prince William Sound, I'll  
22 go somewhere else.

23 That's sort of the wilderness perception out in the  
24 Sound of Alaska as a whole. That includes things like logging  
25 in a state park. I'd hate to have to defend that when I went

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1 Outside to promote our business. Well, I heard you guys did  
2 this, what about that. It's something that would be tough to  
3 explain.

4 And that's pretty much all I wanted to say for remarks.

5 MR. COLE: Mr. Chairman.

6 MR. McVEE: Yes, Mr. Cole.

7 MR. COLE: Let me ask this question. Here's one of the  
8 things that really troubles me.

9 MR. TWARDOCK: Uh-huh (affirmative).

10 MR. COLE: We all know, read and are familiar with the  
11 concerns of the environmental groups about logging in Prince  
12 William Sound. And we're constantly asked to utilize Exxon  
13 Valdez funds to protect the habitat from logging. Right?

14 MR. TWARDOCK: Uh-huh (affirmative).

15 MR. COLE: Now, what troubles me is where were the  
16 environmental groups when Congress was enacting legislation to  
17 convey these lands to Native corporations, free of restrictions  
18 on logging? I mean, you know, how did this happen that there  
19 are no restraints in those deeds to preclude the Native  
20 organizations from logging those lands. It seems to me that  
21 the environmental groups at that time should have raised this  
22 human cry and saying don't allow it, these lands to be conveyed  
23 free of restrictions, covenants running with the land, if you  
24 will, on these lands. That's what troubles me. Do you have an  
25 explanation?

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1 MR. TWARDOCK: No, I'm not .....

2 MR. COLE: Who has that explanation?

3 MR. TWARDOCK: I'm not totally familiar with the  
4 history of it. I know that they were in there and as can be  
5 things in like Denali Lodge (ph) Wilderness Study Area, we  
6 still support that kind of thing. And I'm not quite sure -- I  
7 know there is quite a few battles fought over Knight Island,  
8 and obviously someone lost.

9 MR. COLE: You know, people come to us as Trustees and  
10 say, you know, you've got to save these lands. But the time to  
11 save those lands from logging was at the time this enabling  
12 legislation was passed.

13 MR. TWARDOCK: Well, maybe we're just persistent.

14 MR. COLE: I hope so. Anyway, I just want that -- you  
15 know, that's a concern of mine.

16 MR. TWARDOCK: I don't know what happened back there.  
17 I know that -- you know, people fought that battle, and for  
18 whatever reason it came out the way it was, and here we are  
19 again. I mean, I know from our perspective or from those  
20 perspectives, it's a concern now. I mean, it's a concern for  
21 the fact -- and it's not necessarily logging, it's any sort of  
22 activity that sort of degrades the wilderness value affects our  
23 courses -- affects our ability to run -- affects us to employ  
24 people up here. You know, I'm just throwing that out.

25 MR. McVEE: Thank you. I guess I have a question in

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1 that the, you know, the Sound is a large area.

2 MR. TWARDOCK: Right.

3 MR. McVEE: Do you -- and I understand what you're  
4 saying of the perception, I guess, of the public that it is  
5 primary wilderness, a pristine kind of areas is advantageous to  
6 your program, but the question is, you know, how much area do  
7 you need to have an effective program and do you utilize  
8 private lands as well as public lands, federal and state lands  
9 within the Sound?

10 MR. TWARDOCK: Yes. We use all three. We pay fees to  
11 Chenega Village Corporation and Chugach and to the Forest  
12 Service. I think we're actually one of the few people that  
13 actually do all that. And, you know, as far as the amount of  
14 area, we've talked a lot about this since the Spill, and we're  
15 looking at and doing quite a bit of analysis last winter of  
16 what areas we've used in the last 22 years. And looking at  
17 corridors that we could -- we're going to be very defensive  
18 about. And corridors of travel that are very important to  
19 destinations, whether it's Icy Bay, whether it's Harriman  
20 Fjord, Knight Island, you know, specific destinations, and once  
21 we get to those destinations then we need an area that's fairly  
22 well preserved. What happens in those corridors, outside of  
23 those corridors, you know, have a lot of flexibility there.  
24 But I think, for instance, right now there's a road being built  
25 on Montague. That's out for us. Quite a bit of the area

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1 between Valdez and Cordova has either been logged or being  
2 logged, so we can't use that area. The areas right around  
3 outside of Whittier, again, you know, that's area we don't have  
4 any qualms with that if the City of Whittier and the state have  
5 plans for, you know, that's also their priority. But the area  
6 is slowly shrinking. That's what we see, that we have the  
7 ability to use. It concerns us. We'd like to be there another  
8 20 years, still using the area.

9 MR. McVEE: I'm sure you have some information, you  
10 know, that you talked about that would be very useful to us in  
11 the development of the Restoration Plan process that now is in  
12 progress. I hope that you would participate in that process  
13 and comment.

14 MR. TWARDOCK: Yeah, it's tough in the summertime,  
15 'cause we're all out making money, but -- as much as I can, you  
16 bet. Love to.

17 MR. McVEE: Any other questions? Juneau folks, do you  
18 have any questions or comments?

19 MR. PENNOYER: No. Thank you, very much for the  
20 testimony.

21 MR. TWARDOCK: All right. Thanks.

22 MR. McVEE: Other public comment? Yes. Please come  
23 forward.

24 MS. LANE: My name is Dee Lane, and I'm not here  
25 representing anyone except myself. And I want to address the

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1 17(b) easement identification and marking, because I think if  
2 this is done on Native corporation lands, that you will find  
3 that some of the problems that some of these people that have  
4 just spoken will be resolved.

5 For the most part, these easements, that I know of,  
6 none of them are marked in Prince William Sound. But there are  
7 a lot of them. And they go from the mean high tide line, up  
8 and through various regular corridors that have been used or  
9 are needed for use. If these are marked, and I'm sure you've  
10 heard a lot of comment about this in the past, then people will  
11 know where they can go. At the present time, they can go along  
12 the coast and they can't tell what rights they have.

13 Of course, I'm speaking to you, Mr. McVee, because you  
14 know all this stuff already. Well, having been with the BLM so  
15 long.

16 I also want to address a comment that you asked,  
17 Mr. Cole, the original Alaska Native Land Claims Settlement  
18 Act, the -- each village corporation had to select a core  
19 township. That's where the village was located. They also had  
20 rights to a specific amount of land based on the number of  
21 people in their population. And because most of the land we're  
22 talking about was in the Forest Service, it was in previous  
23 years logged. I mean, that's what the Forest Service did,  
24 right? They logged some of the land in their area. So in the  
25 Prince William Sound area, for example, it was -- you know, US

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1 forest. So there would be no reason for it to be withheld.  
2 Also, the aboriginal rights were considered paramount because  
3 they were first. So other rights were not as important.

4 Thank you.

5  
6 MR. COLE: Well, I want to say I remain troubled.  
7 Congress could well have imposed restrictive covenants and  
8 logging of that land. Not only in the regional corporation  
9 lands but certainly around villages -- easily could have put  
10 those restrictions in. You know, and somehow it almost  
11 troubles me that if Congress, as a matter of national policy  
12 said these lands may be logged, implicit in the conveyance  
13 without restrictions, isn't it? Then why should the Trustee  
14 Council, other than to protect habitat or damage to resources  
15 caused by the Spill, we should be implicitly or forwarding  
16 implicit congressional policy by saving these lands from  
17 logging. And that fundamentally troubles me. That doesn't  
18 mean that I'm opposed to the acquisition of "habitat," but it  
19 does trouble me why this was allowed to happen.

20 MS. LANE: I think if you were here at the time, it was  
21 a very propitious time for the Alaska Native, and they -- the  
22 rights that they felt were inherent were those without  
23 restrictions, for the most part, and a lot of people at the  
24 time felt that there shouldn't be lots of restrictions on these  
25 lands. MR. COLE: Well, then if they thought it at the time,

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1 they'd still think it.

2 MS. LANE: Times change. And most of the discussion  
3 was in the late '60s on this issue, so we were just at the time  
4 of when we discovered oil in Cook Inlet -- I mean, things were  
5 entirely different. In those days, people were still kind of  
6 hoping people would come up and live here. I mean that's  
7 just .....

8 (Indiscernible - simultaneous speaking)

9 MS. LANE: It's a totally different era, then and now.  
10 I won't take any more of your time unless you have questions.

11 MR. COLE: Thank you.

12 MR. McVEE: Do you have any questions from Council?  
13 Thank you, very much. Further public comment?

14 MR. PARKER: I'll respond on Attorney General Cole's  
15 question, if he wants me to, about the Native Claims Settlement  
16 Act, Section 22(k) is what we're talking about.

17 COURT REPORTER: Mr. Parker, would you -- excuse me.  
18 Step up to the microphone, please.

19 MR. PARKER: Thank you.

20 MR. COLE: Let me say this. Commissioner Sandor, and I  
21 personally, and maybe perhaps (indiscernible) early has another  
22 meeting soon, but we would like to hear you talk, if you can  
23 keep it to a thousand words, please.

24 MR. McVEE: We need to adjourn at 2:00 o'clock.

25 MR. PARKER: That's pretty hard. That's 500 right

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1 there. Section 22(k) of the Settlement Act is what you have to  
2 talk about, and that provided a restriction on timber lands  
3 conveyed from the Forest Service to village and regional  
4 corporations. The section provides that the corporations were  
5 required to adopt a land -- and as I recall for the Forest  
6 Service to approve, I may be wrong on that point, but a timber  
7 management plan for a sustained yield purposes.

8         The restriction had a duration of 12 years. There were  
9 arguments about whether or not -- and I was involved in some of  
10 these arguments and a bit of litigation on it -- Sierra Club,  
11 or at least several groups in Southeast Alaska represented by  
12 Sierra Club Legal Defense did litigate the 22(k) issue.  
13 Primarily, when the restriction -- I expect John Sandor, you  
14 probably recall this. The key issue was when it commenced  
15 whether at the date of conveyance or at the date of enactment  
16 of the Settlement Act, obviously date of conveyance came much  
17 later. As I recall, the decision on at least one of the  
18 appeals on 22(k), before the Interior Board of Land Appeals --  
19 and I don't know whether it went to court or not, but was  
20 commenced at the Settlement Act.

21         Hence, very rapidly the effect of 22(k) was exhausted  
22 as a 12-year restriction. And pretty much because of the  
23 non-enforcement by the federal government -- that's right, that  
24 guy -- because of -- nothing there, just responding to Attorney  
25 General Cole's pointing of a finger. Because of the

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1 non-enforcement of 22(k), the effect was that the timber was  
2 not managed for sustained yield purposes or under that  
3 restriction.

4 And we now -- as I'm certain several of you know, we  
5 have a number of corporations that have totally logged within a  
6 few years of logging off their land. They were under a  
7 sustained yield requirement that was of limited duration, and  
8 the environmental community did try and pursue the issue.

9 And in final hindsight as to why the environment  
10 community wasn't very effective at the time of passage of the  
11 Settlement Act, it was really only as a national move --  
12 beginning with Earth Day in 1970, it was a very young movement  
13 still as a national entity.

14 MR. McVEE: Thank you.

15 MR. COLE: We'll talk more about it later.

16 MR. PARKER: All right. I'm sure.

17 MR. McVEE: I guess I'll make one more call for any  
18 other public comment. No other public comment?

19 Two other items that I thought about, and this is maybe  
20 primary for the RT and for Dave Gibbons is it would be of  
21 interest in some future meeting would be the Coast Guard plans  
22 on how they would handle the cleanup operations and the  
23 identification of Exxon Valdez Oil, and that would give us a  
24 chance to reflect upon how this might impact Trustee Council  
25 and the future use of joint funds.

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1           And then, I think, that we probably need a status  
2 report -- should have a status report at the next meeting,  
3 briefly on the process of hiring a -- the executive director or  
4 administrative director.

5           Is there any other items that other members have that  
6 they want to bring up at this time? Juneau, do you have any  
7 other items, any comments?

8           MR. PENNOYER: From Pennoyer. Thank you, very much,  
9 and we'll be looking forward to talking to you on the 3rd of  
10 August.

11           MR. McVEE: Mike Barton, any additional comments or  
12 suggestions or ideas?

13           MR. BARTON: No. I move we adjourn.

14           MR. McVEE: I understand that we will have to recess,  
15 and I'll assume that your motion is to recess.

16           MR. BARTON: Do whatever we need to do.

17           MR. McVEE: Okay. Is there a second to the motion to  
18 recess?

19           MR. SANDOR: Second.

20           MR. McVEE: We're recessed till August 3rd. Thank you,  
21 everyone.

22           (Off record - 2:00 p.m.)

23                           (END OF PROCEEDINGS)

24                           \* \* \* \* \*

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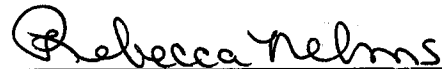
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I, Rebecca Nelms, Notary Public in and for the State of Alaska, residing at Anchorage, Alaska, and Reporter for R & R Court Reporters, Inc., do hereby certify:

THAT the annexed and foregoing is a Transcript of the Teleconference Meeting of the Exxon Valdez Oil Spill Settlement Trustee Council, taken on the 20th day of July, 1992, commencing at the hour of 10:00 o'clock a.m., at the Simpson Building, 645 G Street Building, Anchorage, Alaska;

THAT this Transcript, as heretofore annexed, is a true and correct transcription of the proceedings, taken by Meredith Downing, and thereafter transcribed by Laurel L. Kehler.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 23rd day of July, 1992.



REBECCA NELMS

Notary in and for Alaska.

My commission expires: 10/10/94

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