

9.2.11

EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL

RESTORATION OFFICE
645 G Street
Anchorage, Alaska
September 14, 1992
10:00 a.m.

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EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

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Attorney General

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of Environmental
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MR. JOHN SANDOR
Commissioner

Alaska Department of
Fish and Game

MR. CARL ROSIER
Commissioner

USDA Forest Service

MR. MICHAEL BARTON
Regional Forester

National Oceanic and
Atmospheric Administration

MR. STEVEN PENNOYER
Regional Director
Council Chairman

United States Department
of the Interior

MR. CURTIS McVEE
Special Assistant to the
Secretary

* * * * *

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P R O C E E D I N G S

MR. PENNOYER: I think we'd like to go ahead and get started if we could. We have a rather ambitious agenda here and I think we need to go through the whole process.

This is a meeting of the Exxon Valdez Oil Spill Trustee Council, and I have here with me our -- my fellow trustees with Carl Rosier, Curt McVee, Mike Barton, John Sandor, myself, and Attorney General Charles Cole. I won't introduce all the members of the Restoration Team that are sitting at the table with me.

We're scheduled to meet tomorrow and possibly tomorrow depending on how the agenda works out. As I mentioned, we have a very long agenda process before, and obviously an adequate amount of paperwork to go through.

I think maybe -- does anybody wish to make any opening statements or shall we go to Mr. Gibbons and ask him to review the agenda and then comment on that? Mr. Gibbons, would you review the agenda and the state of preparation of these various items and in essence just sort of march through us (sic) and tell us -- through it and tell us what we have to do relative to the time schedule?

DR. GIBBONS: Sure. Item number one, the completion of Public Advisory Group nominations. This is a continuation from the August 31st meeting. The Trustee Council requested the Restoration Team to solicit more nominees in three categories. The first category was Recreational Users, the

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1 second category is Sport Fishing and Hunting, and the third
2 category, Public at Large. This was done immediately following
3 that August 31st meeting. We've received a good response from
4 the public.

5 In the packages out in front and in the Trustee Council
6 packages are a summary sheet of the nominees for each of these
7 three categories, plus a spread sheet of additional information,
8 and the Trustee Council additionally have a copy of all the
9 submissions from the public for their qualifications.

10 And I've got one additional one here that just came in
11 over the weekend from Gary Kompkoff. He's on the list but we had
12 no information on him, and so I'll be passing that out.

13 So the item here would be to complete the selection of
14 the Public Advisory Group nominees.

15 The second item on the

16 MR. PENNOYER: Mr. Gibbons, excuse me?

17 DR. GIBBONS: Sure.

18 MR. PENNOYER: Could I ask a question what we
19 have in front of us?

20 DR. GIBBONS: Sure.

21 MR. PENNOYER: We have a spreadsheet I notice in
22 the first package I got, and I'm not sure which of these books is
23 -- contains what yet, but the first package was a spreadsheet
24 with a lot of blanks in it. Are those blanks basically filled in
25 then in the -- by the -- these are the resumes in the second

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1 package we got this morning?

2 DR. GIBBONS: That's correct. Yeah. The second
3 sheet on this package that I laid in front of you, the first
4 sheet has the spread of the people by category. The second sheet
5 has a status of the information for each Public Advisory Group
6 nominee. If there's a conflict of interest or in -- in the
7 biography.

8 MR. PENNOYER: Okay. Thank you. Anybody have
9 any other questions on this one agenda item before we move on and
10 get a review of what's in the other packages? Mr. Gibbons, would
11 you proceed?

12 DR. GIBBONS: The second item on the agenda is a
13 habitat protection process. The Trustee Council in -- directed
14 the Restoration Team to go back and develop a grand plan for
15 habitat protection. We've done this. It's in the package here,
16 and today we'd like to talk about the over view of the -- of the
17 process, and then the detailed proposals by Kim Sundburg and then
18 I'll briefly talk about the status of the comments on the
19 Restoration Framework Supplement, which was mailed late July and
20 the public comments have been taken through the end of this
21 month.

22 MR. PENNOYER: And what does the -- what's the
23 action item on that?

24 DR. GIBBONS: The action item is we -- we have
25 some -- there's five proposals in the 1993 package including two

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1 on imminent threat analysis and three on the over-all process,
2 and we'd like to get the direction from the Trustee Council on
3 what actions they'd like us to take.

4 MR. PENNOYER: Any other questions on that item?
5 Thank you. Would you proceed?

6 DR. GIBBONS: The third item is the 1993 draft
7 work plan, would be a discussion of the process we've used to
8 develop a draft 1993 work plan, including the submission of
9 ideas, the screening of those, the development of three-page
10 project outlines and the analysis of those to reach the package
11 you have in front of you. There's two binders in front of you.
12 One is the package, have the description of all 63 or 64 studies,
13 three-page studies, outlines, and the additional package that we
14 need to request what -- how you would like to handle this, is a
15 detailed budget for the 1993, including administrative director
16 and the staff and the projects.

17 MR. PENNOYER: Mr. Gibbons, what's the time frame
18 on that? It's to go out to public review after the decision, and
19 when do you need it back by? What's our time frame on this?

20 DR. GIBBONS: Well, we'd like to go to the public
21 review as quickly as we can get the approval of the Trustee
22 Council to move forward with it. Basically I'd -- that we'd like
23 to get the package out and get it to the public for comment.

24 MR. SANDOR: What's -- Mr. Chairman?

25 MR. PENNOYER: Yes?

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1 MR. SANDOR: Dr. Gibbons, what's the projected
2 period of time for the review by the public of that package when
3 it -- after it does go out?

4 DR. GIBBONS: I believe it's 45 days.

5 MR. SANDOR: Uh-huh.

6 MR. PENNOYER: And, Mr. Gibbons, when do you have
7 to have it back to conform to our getting on track with OMB and
8 everybody else? What's our time schedule?

9 DR. GIBBONS: Well, OMB, both of them would like
10 an estimate or the budget as quickly as possible. I think we're
11 a little late even on that process, but they'd like to have those
12 -- the numbers for the 1993 package as quickly as possible.
13 Under the schedule we've got is we're petitioning the Court in
14 December for the funds for the 1993 activities.

15 MR. PENNOYER: Any other questions? Okay. Would
16 you review the -- continue then?

17 DR. GIBBONS: The next item on the agenda is the
18 financial operating procedures. In the package in front of you
19 is another draft of the financial operating procedures. I
20 believe it's pretty close to being final. You've reviewed these
21 in the past and this is another version having input from the
22 Trustee Council.

23 MR. COLE: Yeah, Mr. Chairman?

24 MR. PENNOYER: Mr. Cole?

25 MR. COLE: As I made one last review of the

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1 financial operating procedures I found to my chagrin that it
2 contained some provisions which I could not agree with. I should
3 have caught it when I reviewed it earlier. And I have proposed
4 along with Mr. McVee some amendments to the operating procedures,
5 which in general in my view contain some restrictions on overhead
6 allocations to state and federal agencies, and I would appreciate
7 the other members of the Trustee Council looking at those
8 proposed changes and I would hope that they would be able to
9 agree with them.

10 MR. PENNOYER: I believe all members have
11 received copies of those changes? Thank you. Any other
12 questions on the financial operating procedure item at the
13 moment? Mr. Gibbons, would you proceed?

14 DR. GIBBONS: Yeah. Item number five on the
15 agenda is a review of the Draft Restoration Plan and progress to
16 date, and the guidance from the Trustee Council on some issues --
17 some statements of issues, and an annotated outline and then some
18 progress we're making on the -- on the development of the Draft
19 Restoration Plan.

20 MR. PENNOYER: Questions on this item? Thank
21 you. Would you go ahead?

22 DR. GIBBONS: Yeah. The last item is a public
23 comment period from five to seven. At the last Trustee Council
24 meeting we tried a public comment period starting the meeting.
25 We had no response from the public on that, so we've gone back to

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1 the -- requesting public comment after the first day's -- first
2 day of discussions. So that's from five to seven.

3 MR. PENNOYER: Thank you. You have -- there's an
4 impressive amount of work here that's been accomplished and
5 placed in front of us, and I know that several Trustee Council
6 members have even some concerns about how we're to get through
7 this particularly today when some of us have not seen all of this
8 package very far in advance of the meeting, but perhaps as we sat
9 down some of it. I know Mr. McVee had written a letter to the
10 other Trustee Council meetings (sic) in that regard, suggesting
11 some concerns of his inability to at this session, or at least at
12 this morning's meeting to accomplish the review of particularly
13 the budget packet for public review, the '93 work plan, but the
14 letter also encompassed concern about agenda items in general.

15 Mr. McVee, would you care to comment?

16 MR. McVEE: Yes, thank you, Mr. Pennoyer. I
17 advised the other members of the Trustee Council that Interior,
18 that we wouldn't -- would not have or did not have opportunity to
19 thoroughly analyze all of the material that's -- that's in the
20 package, and that -- and so that we felt like that I would be in
21 no position to bring to conclusion, to actually vote or to reach
22 consensus on items that are in the agenda that are of major
23 importance, and -- to the future operation. Certainly the '93
24 budget.

25 I feel like that we could proceed with discussions and

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1 provide guidance and counsel to the R.T. We could proceed to set
2 a schedule whereby we could reach closure at some future time in
3 the near future on the major items after they have -- after we
4 have had, you know, time to analyze and review.

5 I feel like that if we possibly can, we should deal --
6 that we should deal with the Public Advisory Group and maybe we
7 can find a way to do that, because we know -- we knew that we
8 were going to commit ourselves to a very short turn-around,
9 closing nominations on Friday and then meeting on Monday. So I
10 would hope that we could, and I'm prepared to deal with that.

11 But the other items I guess I would not be prepared to
12 deal with in a final way until, you know, I've had adequate to
13 involve some staff and people that I work with on these issues,
14 but I have no problems, you know, in proceeding with discussion
15 and advice and counsel to the R.T.

16 The other problem, excuse me, is that I'm sure this
17 package did not get out to the public so that they have -- they
18 have in turn not have had any time to look at the agenda or the
19 package or any pieces of it, so that they're somewhat
20 inadequately prepared maybe in terms of comment, too, for that
21 period. Thank you.

22 MR. PENNOYER: Mr. Sandor?

23 MR. SANDOR: Yeah, Mr. Chairman, I concur with
24 Curt McVee's suggestion that we essentially make this a working
25 session. I do want to acknowledge that the Restoration Team and

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1 the work -- the groups that have been working on this package
2 have really been working overtime on this. I think perhaps our
3 project- -- our need to develop and shift to a federal budget and
4 also to develop not only the plan, the Restoration Plan, but the
5 budget along with it was a mammoth task. And I wanted to commend
6 the staff for the work that they've done.

7 However, we really have not had -- I have not had an
8 adequate amount of time to review this package, but I think it's
9 going to be worthwhile to work through it, and if we commit
10 ourselves as a working -- to this as a working session as opposed
11 to a decision-making session and then as soon after as this
12 meeting as possible, either by teleconference or another meeting,
13 I think we can reach the decisions, so -- but I'd feel more
14 comfortable regarding this as mostly a working session.

15 MR. PENNOYER: Mr. Cole?

16 MR. COLE: I join with the remarks of Mr. McVee
17 and Mr. Sandor. I mean, it appears, I don't know 250, 300
18 detailed pages, maybe more. I'm not just sure, you know, how
19 many more. I received this Saturday afternoon, and I haven't
20 been able to devote time to studying these pages. They contain
21 detailed proposals for I don't know how many, 100, 200 various
22 projects, and I cannot make intelligent decisions on these
23 projects without having studied this material, and even
24 discussing it in instances which I think I would like more
25 information.

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1 I even question how productive a, quote, "working
2 session" would be today, you know, before we've had an
3 opportunity to just review the materials. It sort of harks back
4 to the days in law school when the professor said, "You know, you
5 have to read the cases before you come to class to discuss them."
6 And, you know, it took me a number of years to find out I should
7 have listened to him then, but nevertheless, maybe I've learned
8 something in the ensuing 40 years.

9 But, I mean, to discuss and to take people's time to go
10 through these projects, the ones that we can even look at today,
11 it seems not to be very productive to the people who are here and
12 to ourselves and to the members of the Restoration Team who would
13 discuss them. I think that we simply don't have the time to have
14 people talk to us meaningfully about these projects which are
15 recommended on the one hand and those which are proposed for
16 rejection on the other. And the same goes, you know, with the
17 budget and other matters.

18 I don't fault the Restoration Team, but I mean that's
19 where we are today, and that's where I am.

20 MR. PENNOYER: Other comments?

21 I think I do echo some of the remarks, that we've set a
22 very difficult task for people obviously, although we've known
23 about this meeting for a fair amount of time. Things have
24 changed and more demands have been made, and obviously from the
25 thickness of the package there's a lot of work to do.

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1 I guess I'm a little a concerned with just sort of how we
2 end up doing business. We -- this meeting was an agonizing thing
3 to set up as I recall. We went over calendars back and forth and
4 up and down and sideways and couldn't find time when all of us
5 could get together and meet, and finally settled on today. With
6 some real consternation about what we did about tomorrow if the
7 meeting stretched into two days.

8 I guess I'm a little concerned as to how we get this
9 thing back together, not that I have an alternative to suggest,
10 because I have some of the same problems with the project review
11 in terms of this particular agenda, but in general I don't know
12 how we set this up, whether we decide to go for a rather set
13 timetable each year that has four scheduled meetings that we set
14 aside everything else for and they're on the calendar and we do
15 them. Everybody knows, we can point to them. I mean, there's
16 been a lot of concern about schedules with OMB and schedules with
17 the State process and how we set that up, and I think that's
18 starting to come to gel. We're starting to understand how that
19 should work. At least I think the Restoration Team is.

20 And I'm very concerned as to how we get back together on
21 this. I heard schedules for the next two weeks that look pretty
22 terrible, and Mr. Gibbons needs to get this out fairly soon to
23 get the public review and finalize the '93 work plan.

24 I have no problem with making this a work schedule. I'm
25 a little concerned with Mr. Cole's walking away from here and not

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1 at least going through here and outlining pretty discretely by
2 agenda item where some of these things are. I think we could
3 have somebody lead us through the choices to be made at least and
4 the criteria and maybe framework what -- better what we need to
5 be thinking about as we get into some of these items.

6 For example, on the habitat protection process, I know
7 that the have a review here, and perhaps with somebody going
8 through it with us, we'd better be able to, when we come back, to
9 deal with it quickly than we could by simply going away and
10 trying on our own individual intent to go through and understand
11 the process that's proposed.

12 But I think we've got a real problem in setting this up.
13 It's very difficult for us to get our schedules together. We all
14 travel an inordinant amount of time, and an inordinant amount of
15 meetings that we have to go to, and I know for the next two weeks
16 it sounded kind of rough. So I think as part of this discussion
17 of where we go from here, we should decide when we're going to
18 come back and try and do this, because I know the next two weeks
19 are nearly impossible for me now. Later this week might have
20 been possible initially, but today was the only day a lot of
21 people this week could get together.

22 So any further discussion and observation on where we go?
23 Do we -- do you think we can proceed down through the agenda and
24 look at it as a work session and maybe cut certain items off
25 early if in fact we don't seem to be able to deal with them, but

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1 at least proceed down and take a look at those item by item? And
2 does anybody have any comments on our future meeting? No
3 comments.

4 I do remember -- Mr. Gibbons, would you care to elaborate
5 on scheduling, because it seems to me when we set this meeting
6 up, there were some that could meet any time during this week,
7 and others could only meet on Monday. I know next week is a
8 disaster for some people, so I'm not sure when we're -- when we
9 would -- looking at our schedule, when could we get back together
10 again and deal with this? Not that we'll probably have a choice,
11 but?

12 DR. GIBBONS: Yeah. Well, part of the problem
13 with that, when I -- when I was polling the Trustee Council when
14 they were available was several weeks ago, and so I know how the
15 Trustee Council's agendas go and so something that may be
16 available two weeks ago may not be available today, so I guess
17 the only thing I'd request is maybe we can try to set up a
18 meeting date here, a continuation of this and I'm not sure how
19 soon, you know, your schedules will allow that, but

20 MR. PENNOYER: What's you drop-dead in dealing
21 with the budget? I mean, where are we in coming back and if we
22 go through this as a work plan, have a chance to go off and meet
23 with our individual staffs and talk about the projects and review
24 them, when could we -- when is your drop-dead date on getting the
25 budget out?

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1 DR. GIBBONS: Well, the drop-dead date basically
2 is on the five-month -- the remaining five-month period on the
3 approved 1992 budget. We have a petition to the Court we're
4 preparing for that time, and that -- that's a real crunch to us
5 right now.

6 We also need to get back to OMB some kind of budgets to
7 put in the Governor's budget -- or whatever the -- how the State
8 wants to handle that, and the federal government. So I know they
9 requested the first of September, and we were hoping, you know,
10 we would give it to them on the 15th of September. It's just --
11 It's a negotiation process, but I think it's on their side, not
12 on ours.

13 MR. PENNOYER: Would you elaborate on that '92
14 question again? Which decision do we have to make on the '92
15 Court Registry?

16 DR. GIBBONS: Yeah, the Trustee Council basically
17 approved a budget from March 1st, '92 to February 28th, '93, but
18 we were told to petition the Court for the seven month period
19 from March 1st, '92, to September 30th, '92, then come in line
20 with the federal fiscal year. So the budget spreads in front of
21 you have a five-month period that runs from October 1st, '92 to
22 February 28th, '93, and then an additional '93 portion of seven
23 months from March 1st to the end of September to bring us in line
24 with the federal fiscal year.

25 MR. PENNOYER: I guess my question was the second

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1 part is something we'd already signed off on? We originally
2 signed off on 12 months worth of budget, so what decision has to
3 be made on what you need to do to send to the Court Registry?

4 DR. GIBBONS: Well, I think there's a couple of
5 things the Trustee Council needs to do is to come to closure on
6 the Public Advisory Group, and also on financial operating
7 procedures.

8 MR. PENNOYER: Okay. That was my question. So
9 the two items on the agenda were the Public Advisory Group and
10 the financial operating procedures are required then to get done
11 so you can submit -- and when do you have to have this submitted
12 now for the second?

13 DR. GIBBONS: To the Court?

14 MR. PENNOYER: Yeah.

15 DR. GIBBONS: Well, a lot of the agencies run out
16 of money come October 1st.

17 MR. PENNOYER: So there's a real urgent need to
18 get those two pieces -- those are the two pieces you're missing
19 in a package that has to go to the Court then?

20 DR. GIBBONS: That's correct. There's a little
21 additional money in the '92 period if the Trustee Council elects
22 to -- well, there's some discussion on the chief scientist that
23 the Trustee Council needs to come to closure with, and also on
24 the habitat protection process. We need to get moving with a
25 data collection system in as quickly as possible, and so that --

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1 and the Trustee Council has not authorized that expenditure to
2 date.

3 MR. PENNOYER: That would be part of this
4 request?

5 DR. GIBBONS: That's correct.

6 MR. PENNOYER: Mr. Cole?

7 MR. COLE: I think the problem is really deeper
8 than we're talking about. As I hark back to what Mr. McCutcheon
9 said two or three meetings ago, that in some ways we've almost
10 lost control of this project. I'm not saying we have, but -- I
11 mean, we jus cannot, gentlemen, continue to not get our business
12 done. I mean, we have to make decisions. You know, we're -- and
13 we're not getting our work done timely, and now we're talking
14 here today of putting this off I don't know how long, another
15 two, three weeks, months, two months, three months? And we
16 simply have to do something about that. And as far as I'm
17 concerned, I am prepared to drop everything that I do, I think,
18 just about, in order to get this business done. I mean, if we
19 have to meet this weekend or the first of next week, but we
20 simply must get this done. We cannot continue to put this off
21 for three weeks, a month or two months. And properly we're being
22 criticized. So I feel very strongly about that.

23 MR. PENNOYER: Mr. Cole, I fully agree with you
24 and that's why I was bringing up the scheduling. It was not
25 simply as an administrative procedure, but the fact that we're

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1 having a hard time figuring out when we can get together and get
2 these things done in concert with getting the information before
3 us.

4 Mr. Sandor?

5 MR. SANDOR: Well, Mr. Chairman, I certainly
6 agree with the comments about the need for time and -- but I
7 would suggest that insofar as items one on the agenda, the Public
8 Advisory Group nominations, the financial operating procedures,
9 and item -- well, that's item four, and even item two, the
10 habitat protection process. We've been dealing with that, those
11 three habits for a substantial amount of time. I think I'd be
12 very disappointed if we didn't -- aren't able to deal with the
13 Public Advisory Group nominations; two, the financial operating
14 procedures. We -- I've reviewed at least two drafts over the
15 last six weeks, and there's been some changes, and I think we're
16 very close to closure on that.

17 I think it's very essential that we go through this
18 habitat protection process. A lot of information is displayed.
19 I have a lot of questions with regard with the segments in that
20 agenda item. But the strategy is laid out, the proposals are
21 there. Some very specific suggestions with respect to potential
22 contracts to do the kind of work we need, and the Restoration
23 Team and the public needs to I think -- we need to share with the
24 public, and I hope during our public comment period this -- late
25 this afternoon, early this evening, that we can get some reaction

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1 on that, but I'm less concerned I guess about the 1993 Draft Work
2 Plan and the budget. By saying "less concerned," that doesn't
3 mean I'm not concerned, but I think those are lower priority
4 items than those other three, and we've been dealing with these
5 other three items for two long.

6 There's a proposal, for example, to allocate \$5 million
7 for habitat restoration -- or habitat protection for imminently
8 threatened, and I think, you know, we can discuss that, even
9 though we may not reach a conclusion about it. So my suggestion,
10 Mr. Chairman, is to proceed with items one, two and four at least
11 and then plunge into the draft work plan and the budget as time
12 allows. See how it goes.

13 MR. COLE: Well, Mr. Chairman, are we going
14 to

15 MR. PENNOYER: Mr. Cole?

16 MR. COLE: work tomorrow? Are we going to
17 continue this meeting to tomorrow,

18 MR. PENNOYER: Well,

19 MR. COLE: and assuming we work today?

20 MR. PENNOYER: Mr. Cole, I would assume that if
21 we're just going to treat this as a work session, we might try
22 and get done today if it looks like we can get through the
23 agenda. If now, however, we're all prepared to be here tomorrow,
24 so if it looks like to accomplish the items that Mr. Sandor has
25 pointed out we need to, then I think it's available to us.

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1 MR. COLE: I'm not sure I heard what you said?

2 MR. PENNOYER: I said I think we're prepared to
3 do it. I don't know if we have to yet until we march through the
4 agenda. If we're not going to go through the '93 work plan, I'm
5 not sure how far we need to go and how long it's going to take us
6 to get through the review of the rest of it, is what I said.

7 MR. COLE: Okay. Thank you.

8 MR. PENNOYER: Circularly.

9 MR. COLE: Yeah.

10 MR. McVEE: Mr. Chairman?

11 MR. PENNOYER: Does anybody have any further
12 comments?

13 MR. McVEE: Mr. Chairman?

14 MR. PENNOYER: Mr. McVee?

15 MR. McVEE: Can we I guess -- as I understand it
16 in the '93 work plan, this discussion also contains the
17 components that were of the five-month budget that were approved
18 and understanding, you know, that there is urgency in getting the
19 request to the Court for that five-month period, is there a way
20 to deal with just that component, that request to the Court, the
21 previously approved projects for that five-month period plus
22 whatever additions that we need to consider in that budget?

23 MR. PENNOYER: Mr. Gibbons?

24 DR. GIBBONS: Yes, we could -- we could go through
25 and point out the additions to the approved 1992 five-month

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1 period. And there's I believe that -- Mark, correct me if I'm
2 wrong, I think there's only several -- a couple of these, a few
3 additions, but

4 MR. PENNOYER: And you would do that under the
5 financial operations procedures on the agenda?

6 DR. GIBBONS: We could do it then, yes.

7 MR. PENNOYER: Okay. Well, I don't think we're
8 going to come to a resolution as to how far we can get on each
9 item until we try it, so perhaps the best thing to do would be to
10 start down the list and see where we get. In some cases some
11 items might benefit from just a short recess or moving them on
12 the agenda to a latter period of time when more information is in
13 front of us, and yet still accomplish them either today or
14 tomorrow.

15 MR. COLE: Mr. Chairman, I move we approve the
16 financial operating procedures as amended.

17 MR. SANDOR: I second that.

18 MR. PENNOYER: Any discussion? Is there any
19 objection? Item one down here.

20 MR. COLE: One thing we got done.

21 MR. PENNOYER: The amendment that was sent out by
22 Mr. McVee and by Mr. Cole. Everyone knows which one we're
23 talking about?

24 MR. McVEE: We do.

25 MR. BARTON: Would you share with us which one we

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1 just adopted?

2 MR. PENNOYER: For the reference of the record,
3 would you -- for the record so that

4 MR. McVEE: It's not the one that's in the book.

5 MR. PENNOYER: the Restoration Team knows
6 which one we're talking about? Would you reference the items
7 specifically where it is?

8 MR. McVEE: Let's see, I was trying to remember
9 dates.

10 MR. PENNOYER: I know I've read it. I'm not sure
11 which folder it's in. Give us a date on the memo?

12 MR. COLE: Mr. Chairman, while you're looking for
13 it, what it does is it -- it eliminates the provision that an
14 agency may take as overhead expenses \$50,000.00 regardless of the
15 size of the project. That's the substantive change in the
16 financial operation procedures. So that

17 MR. McVEE: I

18 MR. BARTON: In that.

19 MR. COLE: Subsection one just limits it to
20 15%, and it removes the second and third sentences as I recall
21 which makes a provision that an agency, that if the total amount
22 of the plans for its projects are less than \$250,000.00 it can
23 take nevertheless \$50,000.00 overhead fee.

24 MR. PENNOYER: Was that the only change as I
25 recall?

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1 MR. COLE: Well, then it makes amendments into
2 the following paragraph.

3 MR. PENNOYER: I believe this is a

4 MR. McVEE: There are changes are three pages.
5 I think it was page two and I believe page -- it was either three
6 or four, and page six, having to do with equipment.

7 MR. COLE: This is the one, yeah.

8 MS. BERGMANN: Okay.

9 MR. McVEE: Yeah, that's it I think that you
10 have.

11 MR. PENNOYER: This is enclosed in a memorandum
12 from -- on September 8th from Curt McVee to Charles Cole?

13 MR. McVEE: Yeah.

14 MR. PENNOYER: And that's the one we're
15 referencing?

16 MR. McVEE: That's the one, yes.

17 MR. PENNOYER: And do you have any other
18 comments?

19 MR. McVEE: I'd have no other comments.

20 MR. PENNOYER: Well, as long as we're on it, and
21 that seems to be the number one item to have a time crunch, maybe
22 you want to proceed on the rest of the items that would be
23 necessary to send, the last five-month request to the Court
24 Registry? You had two other financial items that you needed to
25 surface?

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1 DR. GIBBONS: Yes. Mr. Chairman?

2 MR. PENNOYER: Yes.

3 DR. GIBBONS: Yeah, there are three items. One
4 is the chief scientist. You approved money for a peer review
5 covering the period from March 1st through February 28th. The
6 peer review didn't take effect until the first of August. We
7 have some money in there, savings we have in there, and we'd like
8 to have the Trustee Council authorize us to extend the chief
9 scientist's contract from October 1st to February 28th using the
10 savings from the peer review since it didn't start until August
11 1st. And it's -- it would be a maximum of \$25,000.00 a month
12 like the existing contract is, and be used as needed, not to --
13 not to guarantee 25,000 a month.

14 MR. PENNOYER: And that would be extending it
15 through March 1st?

16 DR. GIBBONS: That's correct.

17 MR. PENNOYER: Any discussion on that item? Any
18 objection to doing as the Restoration Team recommends?

19 DR. GIBBONS: The second

20 MR. PENNOYER: Proceed. Go ahead.

21 DR. GIBBONS: Excuse me, Mr. Chairman. The
22 second item would be the contract concerning data collection for
23 habitat protection. We propose to have two contracts with The
24 Nature Conservancy to go out and collect the necessary
25 information to link possible injured resources or services to

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1 habitat protection, and we'd like to get those started in October
2 or as quick as possible. One is for 42,000 -- \$43,900.00 and one
3 is for \$42,300.00.

4 MR. McVEE: Mr. Chairman?

5 MR. COLE: Mr. Chairman?

6 DR. GIBBONS: In the projects it's project 93059
7 and 93060.

8 MR. COLE: Where do we find those? In which
9 section are they?

10 MR. PENNOYER: In the section of the '92 work
11 plan. And so what you're doing is taking them out of the '93
12 work plan and speeding them up to start them early?

13 DR. GIBBONS: Well, it's part of the '93 work
14 plan. We need to get started on this we feel as quickly as
15 possible so we're trying to accelerate this -- the process.

16 MR. COLE: What numbers are they?

17 MR. PENNOYER: 93059 and 93060.

18 DR. GIBBONS: 93059 and 93060.

19 MR. PENNOYER: Would you care to describe what --
20 when those two proj- -- those projects?

21 DR. GIBBONS: Sure, I'll read briefly what's in
22 them. The 93059 for \$42,300.00 is a cost-share agreement with
23 The Nature Conservancy to assist in the conduct and documentation
24 of workshops to identify injured species, habitat requirement and
25 the rate and degree of recovery of the injured species. What

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1 we'd like to do is bring peer reviewers together, principal
2 investigators, sit them down in a room and say, "What do we know
3 about the injured species and their habitat requirements?"

4 Yeah, I was going to point out that under the habitat
5 protection process we're going to be talking about these two
6 projects in more detail. Item number two on the agenda.

7 MR. PENNOYER: Do you want to wait then until we
8 do that before we make a final decision on those two items? It
9 might be appropriate to wait until we get that review. So we --
10 are there any other items on the '92 Court request?

11 DR. GIBBONS: Yeah, one additional item. The
12 Trustee Council approved the budget for the staff and building
13 here of a little bit -- of a small increase when you approve the
14 '92 budget. We just need your authorization to spend the money
15 that we -- that you approved. That was pending the need for this
16 money.

17 MR. PENNOYER: We did approve it though
18 originally as part of the budget?

19 DR. GIBBONS: Yes, it's in the -- it's in the '92
20 package. It's not new money, it's just authorization to spend
21 it.

22 MR. PENNOYER: Any further comment on that item?
23 Do you wish to discuss that item further, a further review or
24 anybody object to that approval?

25 MR. BARTON: I move we approve that item for the

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1 Restoration Team.

2 MR. SANDOR: Second.

3 MR. PENNOYER: Are there any objections?

4 MR. COLE: Can I have an explanation of what
5 we're doing, please?

6 MR. PENNOYER: Would you -- Mr. Gibbons, would
7 you please elaborate on that explanation?

8 MR. BRODERSON: I think I'm -- am I working here?
9 Hello? Oh, there we go.

10 Back at the May 20th meeting when we went over the budget
11 for '92, you authorized money to operate the Simpson Building
12 here for the entire year. In fact I'm guess -- I'm not sure of
13 my words here, is it authorized or allocated? We went to the
14 Court, or had permission to go to the Court to get the entire sum
15 of money to operate the building here, but you only authorized
16 us, there we go, to spend the money through the end of September
17 to see what staffing requirements and building requirements were.
18 We were supposed to come back to you at this time to see how the
19 workload has been going in the building.

20 People here are, what shall I say, fully utilized to put
21 it mildly. We'd hate to lose any of the staff here. We'd like
22 to get you permission to go ahead and spend money that you've
23 already authorized us to do on staff to run through the period of
24 October 1 through February 28th, and it is the money that would
25 be requested from the Court at the current staff level.

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1 MR. COLE: How much money is it?

2 MR. PENNOYER: Can you give us an amount, please?

3 MR. BRODERSON: Yeah. The total contract for the
4 CACI contract for this building and staff is \$618,900.00 for the
5 five-month period. You can find that if you go into your budget
6 and look for the shocking pink divider, then go in about six
7 pages. On the Department of Agriculture, Forest Service, form
8 3B, CACI contract, and I don't know if anybody wants to actually
9 get to that point or not, but it's -- that's where it's listed.
10 This includes the building and staff for the five-month period.

11 MR. PENNOYER: Do we have some comments on the
12 necessity for extending that in what you're doing as -- in
13 supporting the process we're -- we're involved in? I mean, this
14 is -- in your view it's essential that we continue this?

15 MR. BRODERSON: We're probably understaffed at
16 this point. We're making do the best we can so as to save this
17 money for actual restoration. There was some hope earlier on
18 that, for instance, we could change employees to the State system
19 to save some money there. We haven't reached closure on that
20 particular idea yet. There's been some conversation on perhaps
21 moving out of the building to a different building. We have not
22 found a cheaper building. There were just a number of things
23 that we were supposed to explore to see if we could get this
24 number down. So far this is the best deal that we've been able
25 to have in terms of getting the work done and carry this out.

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1 We're continuing to work on this. There's possibilities
2 of changing buildings, different methods of hiring staff, et
3 cetera, to see what we can do about getting the bill down, but we
4 have not reached closure on that yet.

5 MR. PENNOYER: Mr. Cole? No questions? This is
6 the administrative underpinnings for what

7 MR. BRODERSON: Yes.

8 MR. PENNOYER: you're accomplishing?

9 MR. BRODERSON: This is our librarians, our
10 administrative staff upstairs, the clerk typist, receptionist, et
11 cetera, administrative assistants, clerical help. It's the
12 people that make this building work.

13 MR. McVEE: Mr. Chairman?

14 DR. GIBBONS: And the building.

15 MR. BRODERSON: And the building.

16 MR. PENNOYER: Mr. McVee?

17 MR. McVEE: Yes, thank you, Mr. Chairman. Since
18 we have previously approved, you know, this budget item, I would
19 support seeing the amount in the request to the Court, but I feel
20 like that this additional five months also gives us some time,
21 hopefully, although it will probably will not be the case, that
22 we'll have less time crunch and more time to look at alternatives
23 in terms of staffing, and also in terms of the building, because
24 as we all know, that there are some problems with the space that
25 need to be addressed, and I would hope in that -- with our

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1 approval of this, if that's what we'll go ahead and do, that will
2 give us -- that five months from now we won't be in the same
3 position, but we will have had time to take a look at
4 alternatives and the future use of this building or alternatives
5 -- or alternative space.

6 MR. BRODERSON: We are in the process now of
7 doing a space analysis to determine what the actual square
8 footage is supposed to be underneath the state and federal system
9 for an operation like this. It's a rather lengthy process. It
10 looks like it's going to take another month or two.

11 We're negotiating with the owners of the -- or actually
12 that managers of the building over handicapped access
13 requirements. There's some sticky points on that one that we're
14 going to have to resolve.

15 I'm not sure we'll be as far along as Mr. McVee would
16 like us to be. I would like to be there also, but five months is
17 not a very long time. If we do decide to make a move, we need 90
18 to 120 days to make that move. Five months doesn't give you very
19 much time to actually do that in.

20 We're trying to get position descriptions updated for
21 each of the staff positions to make a much more coherent whole
22 out of our staffing needs for this place. Unfortunately the '93
23 work plan got in the way and some staff we had working on our
24 budget change- -- our staffing requirement changes were pulled
25 off to work on the '93 plan to get that out to the public, and so

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1 we're trying to have people do dual roles there.

2 We just didn't have enough staff to get this done, but we
3 hopefully will have it done next time, but I'm not going to
4 promise. The same problem. We're still working on the '93 one
5 and actually need to start on the '94 one pretty soon so we're
6 not caught in the crunch that we were in '93. So we're utilizing
7 people to the fullest at the present point.

8 MR. PENNOYER: Further discussion on this item?

9 MR. COLE: Mr. Chairman?

10 MR. PENNOYER: Mr. Cole?

11 MR. COLE: I think the time is not far away from
12 that on which we should make decision about how long we want to
13 continue maintaining the level of staffing, whatever, that we're
14 now doing. I think we should review that, because maybe we don't
15 want to continue with this level indefinitely. I don't know.
16 Maybe some other Trustees have some thoughts on that. I think we
17 should take a look at that.

18 MR. PENNOYER: Any other comments?

19 MR. McVEE: Mr. Chairman?

20 MR. PENNOYER: Mr. McVee? Mr. Rosier?

21 MR. McVEE: I would agree. I guess that
22 basically is what I was getting at, suggesting, that there should
23 be some review. As I recall last winter, or February sometime,
24 we looked at staffing requirements, and I don't -- various job
25 descriptions or various job titles, and I don't believe that

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1 those may be the actual types of people that we have on board at
2 the present time, so I would like to -- I would think that we
3 should go back and review that whole -- that whole area, the
4 staffing issue at some future time and, and I guess just what I
5 was trying to get at is this is something we can do within -- and
6 have it done so we can make decisions in the next five months.

7 We should move ahead with this request to the Court, you
8 know, to basically approve status quo for the time being, but
9 work on trying to get some analysis of staffing and of space.

10 MR. BRODERSON: Mr. Chairman?

11 DR. GIBBONS: Mr. Chairman?

12 MR. PENNOYER: Mr. Gibbons?

13 DR. GIBBONS: I'm just saying I do have a rough
14 draft a work force analysis in my desk that I'm working on
15 diligently. Like Mr. Broderon said, that the '93 got in the
16 way. We just didn't have enough time to do it, but we are -- I
17 am working on that and we'll have actual duties that the people
18 in the building are doing and the amount of time they are
19 spending doing that, so

20 MR. PENNOYER: Mr. Broderon?

21 MR. BRODERSON: As a follow-up to Mr. McVee's
22 statements there, it seems like the natural time to make a
23 transition will come when the Restoration Plan is finished, and
24 that we should be aiming toward a thorough review of what --
25 where we want to go and who we need to do it when we make the

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1 transition, which is not too long after this five-month period
2 runs out, so that's what I was saying, that there's a -- they
3 don't quite correspond, but they come pretty close, and it would
4 seem like that's the point in time when we really need to present
5 a package to the Trustee Council of who do we need -- well, you
6 need to give us guidance of where we want to go, and then we need
7 to tell you who we need to get it done and you need to approve
8 that. And so that's kind of the -- the schedule that I'd like to
9 see laid out for figuring out the staffing requirements and what
10 we do with it is when the Restoration Plan comes to closure.

11 MR. PENNOYER: Further discussion on this item?

12 MR. COLE: Mr. Chairman?

13 MR. PENNOYER: Mr. Cole?

14 MR. COLE: I think at least two of us are quietly
15 expressing the sentiment that maybe we should consider reducing
16 the level of operation some appropriate time in the future. I
17 mean, I guess that's what I'm saying. I don't know if Mr. Barton
18 joins in that, but I see he's very pensive about the subject.

19 MR. BARTON: Mr. Chairman?

20 MR. PENNOYER: Mr. Barton?

21 MR. BARTON: I think, you know, we need to
22 re-examine our operations and be as efficient as we can. And I
23 think Mr. Broderson has pointed out a very logical time to do
24 that.

25 I would point out though that despite the fact that the

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1 staff has worked long and hard, we're sitting saying we can't
2 take action on the '93 program of work because we didn't get it
3 in time. So I agree with an examination. We ought to
4 examine the staffing, but at the same time we need to keep in
5 mind what is it that we want the staff to do.

6 MR. PENNOYER: Yeah, I'm not -- I'm not sure
7 whether we need to reduce staff or we need different people
8 perhaps at different times, or -- or how, but certainly we can
9 re-examine it as we go along, but like you, Mr. Barton, I'm
10 certain that there are a lot of time crunches here, and a lot of
11 people working very hard and we're still not getting some of it
12 in time to make decisions that we know need to be made in
13 accordance with the schedule we've got, so

14 Do I hear any objection to proceeding with this, with the
15 door left open to continuing review and expression of the need
16 for that review? Okay.

17 Any other items in that habit- -- the two habitat items
18 we're going to discuss later?

19 DR. GIBBONS: That's the additions to the
20 approved '92 plan.

21 MR. PENNOYER: So this will, except for those two
22 items, that complete the action for the '92 -- balance of the '92
23 work plan?

24 DR. GIBBONS: That's correct, Mr. Chairman.

25 MR. PENNOYER: Okay. Where do you want to

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1 proceed to next? Shall we try starting on the Public Advisory
2 Group or do you have another item?

3 MR. COLE: Did we approve the financial
4 operating? I don't know if Mr. Barton

5 MR. PENNOYER: I thought we had approved

6 MR. COLE: Did we approve all that?

7 MR. PENNOYER: the financial operating
8 procedures. Yes, those are approved. And we approved the
9 extension of the contract on the chief scientist. We've approved
10 the CACI, the expenditure of the funds we had already authorized
11 for the last five months, and we left open the question of the
12 two habitat proposals to fund The Nature Conservancy to expedite
13 acquisition of data for the habitat process until we review the
14 habitat process itself. I think that's all the items we took
15 action on, so

16 Where do we wish to go next? I mean, do we want to go to
17 the Public Advisory Group,

18 MR. BARTON: Right.

19 MR. PENNOYER: and at least get a review of
20 where we are and see if we need to have some further information
21 presented to us before we can take action? Is that acceptable?

22 MR. BARTON: That sounds good.

23 MR. PENNOYER: Okay. Mr. Gibbons, do you want to
24 lead us through the Public Advisory Group process, where we are,
25 what we've already approved, the items that were left outstanding

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1 and what you've done in the interim period of time, and what we
2 have in front of us in terms of information?

3 DR. GIBBONS: Yes, on August 31st the Trustee
4 Council approved ten of the 15 members for the Public Advisory
5 Group, and requested that the Restoration Team go out and solicit
6 more nominees for three categories, which were the Recreational
7 Users, the Sport Fishing and Hunting category and the Public at
8 large. On September 2nd we released a request for nominees to
9 the newspapers, on the radio, for anybody that wanted to pick one
10 up. The closure on that was September 11th, and as of about 5:00
11 p.m. on Friday I was still putting those together.

12 What you have in the big package is the status as of
13 about 5:15 p.m. on Friday the 11th. What you have, -- you've got
14 an additional package that's -- that have the nominees for the
15 three groups in front of you. It has, like I said for the three
16 groups, it has the status of information for the Public Advisory
17 Group nominees. I have one addition to that that we got over the
18 weekend again. I'll pass that out. It's in front of me here.
19 And then the submissions that we've received from the public are
20 attached to the back of that. So what's required is or it's
21 hoped that was needed would be the selection of the remaining
22 five members to the Public Advisory Group.

23 MR. COLE: Mr. Chairman?

24 MR. PENNOYER: Mr. Cole?

25 MR. COLE: I move we expand the public at large

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1 group by two members.

2 MR. PENNOYER: Sir?

3 MR. SANDOR: From what to what?

4 MR. COLE: To five.

5 MR. SANDOR: Oh, to five.

6 MR. COLE: Rather than three. And making quiet
7 (ph) word in support of that, I

8 MR. PENNOYER: Do we have a second to that
9 proposal for purposes of discussion?

10 MR. SANDOR: Well, I'll second it.

11 MR. PENNOYER: Mr. Sandor has seconded.
12 Mr. Cole?

13 MR. COLE: I just want to say that I would like
14 -- I think we could use a little more public at large balance.
15 I know certainly at least one member of the public had expressed
16 the view that the Public Advisory Group may be over-loaded with
17 special interests and it occurred to me that a little more
18 balance in the public advisory group would be well. So that's
19 the reason for I make the motion.

20 MR. PENNOYER: Where would that leave us in total
21 then?

22 MR. COLE: Seventeen.

23 MR. SANDOR: Seventeen.

24 MR. PENNOYER: Further discussion on this item?

25 MR. SANDOR: I think the question, Mr. Chairman

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1 is -- I was trying to look for my charter of the Public Advisory
2 Group, and

3 MR. McVEE: We'll have to amend the charter.

4 MR. SANDOR: what this would do is I
5 assume, Dr. Gibbons is it would modify the charter to include the
6 group of 17 as opposed to 15, is that what would happen?

7 DR. GIBBONS: That's correct. I think it's
8 section 6(a) of the charter specifically would have to be
9 modified. It's the one that was modified recently to include the
10 way the -- the nominees would be selected by principal interest
11 group and public at large.

12 MR. PENNOYER: Further discussion of the motion?
13 The motion is to expand the public at large group from three to
14 five members, and the total from 15 to 17.

15 Mr. Rosier?

16 MR. ROSIER: A question in regards to the budget
17 process. Has there been a budget that's in fact been put
18 together based on the existing number? I mean, are we talking
19 about now changing the budget as well and?

20 DR. GIBBONS: Mr. Chairman? There is a budget
21 projected on 15 members, that's correct, there's support for
22 travel, per diem and then support from the staff in this
23 building.

24 MR. PENNOYER: Mr. Cole, the question I have is
25 haven't appointed one yet, and they haven't really gotten started

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1 yet. Would it not be -- you know, we went through our previous
2 deliberations based on 15 people and had balance. Is it time to
3 change it now and to change the operating -- or the operating
4 procedures now, or should we go ahead and make our appointments?
5 We can modify it at any time. I mean, there's no -- depending on
6 how we view the advice coming in or the mix that -- of people
7 we'd want, or if we have some particular specific expertise we
8 think we want there as we go along, we can modify it. Do we need
9 to modify it now?

10 MR. COLE: Well, we don't want the specific
11 expertise, that's the very reason for the proposal, to make it
12 five. I want to get somewhat away in my view from, quote,
13 "specific expertise," and to get some balance in the public
14 advisory group. And my view is, yes, this is the time to make
15 that decision, not in my view, I'm tempted to say when we
16 conclude that we've made a mistake and have too large a composite
17 of public -- of special interest groups. As was pointed out. I
18 mean, now do we really distinguish between the classification
19 conservation and in environment? I mean, you know, it seems to
20 me we get, you know, two for the price of one there.

21 And I just have the sense that, you know, just what I see
22 and read in the paper and observe in these many years that we
23 should strive for balance in these public advisory groups. And
24 I have in mind balance from Southeastern Alaska, balance from the
25 Interior, balance from South Central area, that would include

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1 Kodiak. Just get balance. And I think that where we are right
2 now in my view we don't have the balance that I would like to
3 see. Now, you know, maybe I'm a singular voice, but I feel
4 pretty good that -- strongly that that's what we should know, and
5 furthermore the additional expense is diminimous for one person,
6 transportation, you know, and these people get modest amounts of
7 per diem and travel, and I think it would be well worth the
8 price.

9 MR. PENNOYER: Mr. Rosier?

10 MR. ROSIER: Thank you, Mr. Chairman. I
11 certainly don't have any problem with balance as far as the
12 public process is concerned here on this, but it seemed to me
13 that many of the individuals that we've already appointed were
14 recommended, you know, to cover a number of the individual user
15 groups that we've moved ahead on, that -- and made appointments
16 to here at the present time, so we're -- we're really talking
17 about people that have got multiple, multiple interests. I think
18 we've said right from the very beginning that the people that
19 we've appointed, that we were looking for the best, you know, the
20 balance that was there. I don't have great -- don't take great
21 exception to 17 members, but it seems that that's a pretty large,
22 pretty cumbersome size quite frankly from my perspective.

23 MR. BARTON: Mr. Chairman?

24 MR. PENNOYER: Further comment on this?
25 Mr. Barton?

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1 MR. BARTON: I can support the proposal as put
2 forth by Mr. Cole, however I expect that balance is like beauty,
3 in the eye of the beholder, but I think there's more opportunity
4 to achieve that perhaps with more rather than less, although I
5 think that 17 is getting to be a pretty large group to be
6 effective,

7 MR. COLE: It is.

8 MR. BARTON: so

9 MR. PENNOYER: Mr. Barton, I wasn't sure whether
10 you were supporting the motion or talking against it. Seventeen
11 is too large or do you kind of?

12 MR. BARTON: No, I supported the motion, would --
13 I am concerned about the size of the group.

14 MR. PENNOYER: Mr. Sandor?

15 MR. SANDOR: With regard to the question of
16 balance, I guess balance from the standpoint of special interest,
17 also from the balance of distribution of the people who are on
18 that group, I did a summary of at least, and maybe Dr. Gibbons,
19 you could verify this, of those ten that we've picked so far, two
20 are from Cordova, three are from Anchorage, one from Juneau, one
21 from Chenega Bay, one from Valdez, one from Kodiak.

22 So I was quite frankly looking at the public at large,
23 the sport hunting and fishing, recreation user, the individuals
24 that we're to pick, presumably five more, and I was looking at
25 this matter of balance. And the thought did come to mind, you

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1 know, are we wanting to confine, concentrate this group to the
2 Spill area, or are we going at the State at large? And I guess
3 I concluded that, you know, it really ought to be the State at
4 large, and, you know, maybe we ought to have some of them from
5 Fairbanks. We don't have one now, and there are candidates from
6 these other communities, Ninilchik, Homer, and -- and so I
7 suspect that what I'd like to see is that we do, when we pick
8 these remaining five or seven, that we give consideration to
9 balance with regard to the geographic distribution of these folks
10 within the State and I guess -- am I off perhaps in the minority
11 in suggesting that, for example, we really should have someone
12 from Fairbanks and areas not impacted by the Spill?

13 MR. COLE: Mr. Chairman?

14 MR. PENNOYER: Mr. Cole?

15 MR. COLE: I see my good friend, Commissioner
16 Sandor is so dedicated and so structured, he's worked all this
17 out. I just sort of think about it a little bit, but he
18 expresses well and in detail my views, and that is the reason
19 that I nominated Senator Eliason from

20 MR. SANDOR: Sitka.

21 MR. COLE: Sitka, Southeastern, fisherman.
22 I nominated Mr. Gavora from Fairbanks, I thought someone from the
23 Interior would be well to put on. I do think we need the
24 geographic balance of people, because I think that it is while
25 principally a subject of which the people in the Oil Spill area

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1 are most concerned, that there should be some statewide views,
2 perspective on it. So I join you, Commissioner Sandor.

3 MR. PENNOYER: Any further discussion on this
4 item? Mr. McVee?

5 MR. McVEE: Mr. Chairman, I would have no problem
6 with increasing the public at large membership to five. I think
7 when we do that, that we certainly should look at candidates and
8 I'm sure we will, that have had, you know a broad breadth of
9 experience and interests and can best represent the public at
10 large, if there's such an individual that's available. But I
11 think there's some advantage of considering, you know, people
12 from -- or representation from Southeast or Fairbanks or
13 elsewhere in the State in that, you know, those folks could have
14 a different perspective concerning the program and that
15 perspective may be very useful to the P.A.G. and therefore useful
16 to the Trustee Council. So I'd have no problem with increasing
17 it to five.

18 MR. PENNOYER: Further comment on this item?

19 Well, I think I'd add some comment that, however, I had
20 some feeling that I had the same concern Mr. Rosier, but I
21 certainly do agree with the need for balanced representation, and
22 I think it ought to be -- I, too, agree it ought to be statewide
23 not just simply for any one particular area, so I have no problem
24 with that suggestion either.

25 Are there any objections to the proposal? Do you we have

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1 to pass a new budget then? Other formal actions we'd have to do
2 if we did this?

3 DR. GIBBONS: Mr. Chairman, I don't think that
4 will be difficult to figure. It will be -- it will be a slight
5 increase, but it, you know, we -- we can just take the 15 and
6 divide it into the budget and just add enough for two more.

7 MR. PENNOYER: So if we did do this then, the
8 operating procedures would be changed automatic, or at least you
9 would type that in and make that change? We're voting on
10 changing operating procedures?

11 DR. GIBBONS: (Nods affirmative)

12 MR. PENNOYER: Okay. Are there any objections to
13 the proposal?

14 DR. GIBBONS: Mr. Chairman, are you referring to
15 the charter, changing the charter?

16 MR. PENNOYER: The charter, yeah, I meant.
17 Right. Okay. Then that's accomplished.

18 Do you want to continue on, Mr. Gibbons? What's the
19 first category and who are the -- and how do I find the -- what's
20 the first one we didn't do?

21 DR. GIBBONS: The first

22 MR. BARTON: Recreational users.

23 MR. PENNOYER: Recreational users?

24 DR. GIBBONS: Recreational users.

25 MR. PENNOYER: And do we have again that list in

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1 front of us that lists all the people that are -- ? And we're
2 looking at the wrong

3 MR. COLE: Well, Mr. Chairman?

4 MR. PENNOYER: Mr. Cole?

5 MR. COLE: Well, as I recall, we had a
6 recreational user nominated and some comments at the last meeting
7 by Mr. Barton. But if someone could refresh my recollection,
8 that we had one nominee with four first place votes. Isn't that
9 the recreational user category?

10 MR. PENNOYER: I don't know. Oh, I should take
11 one?

12 MR. SANDOR: Take one.

13 MR. PENNOYER: Oh, I just take one. I thought
14 that was the answer to the question.

15 MR. SANDOR: No.

16 MR. PENNOYER: Yes, I believe that was the
17 discussion and I don't have it in front of me, that particular
18 list, but I think James Diehl was the number one and I think
19 that, as I recall, there were several who had him as number one
20 and somebody else as number two, and

21 MR. COLE: Was that Tileston?

22 MS. BERGMANN: Tileston, yeah.

23 MR. COLE: Tileston was two.

24 MR. PENNOYER: Who?

25 MR. COLE: Tileston. Mr. Tileston.

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1 MR. PENNOYER: Mr. Tileston. Tileston, okay, was
2 number two.

3 Further comments? Commissioner Sandor?

4 MR. SANDOR: Yeah. Mr. Chairman, my recollection
5 and the listing I have, if it remains correct, is that for the
6 recreational user group we had -- we did have the nomination of
7 Mr. Diehl, one, two, three, four, five of the Trustees, and Mr.
8 Tileston was second. Actually my recollection is in our vote
9 itself, we came down to a three to three essentially tie on each
10 one of those two with the suggestion by those who had essentially
11 changed their vote on Mr. Diehl was that he could really be
12 considered for the public at large category since we were short
13 in that category, and that was part of, you know, the rationale
14 for that was reasonable, since he was also in that category as
15 well as in recreation user.

16 And so I guess to make a specific proposal, Mr. Chairman,
17 I would move that Mr. Diehl be the designated recreation user
18 representative for that group.

19 MR. PENNOYER: Is there a second? It's been
20 proposed that Mr. Diehl be the recreational user category
21 selection. Is there a second? Is there another motion?

22 MR. McVEE: Mr. Chairman?

23 MR. PENNOYER: Mr. McVee?

24 MR. McVEE: Yes. I guess part of the problem
25 here is that I feel like I need to take a look at those new

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1 nominees that we asked people -- we went to the, you know, to go
2 to the effort of submitting all of the information that were
3 requested, and I feel like if we -- if I could take a moment to
4 look at those new nominees and have about the same information in
5 my mind as those that we had considered in the past, that I'll be
6 better equipped, you know, to consider the motion.

7 MR. PENNOYER: Are the biographies on the new
8 nominees in any particular order relative to categories?

9 DR. GIBBONS: Yes, they're organized by category.

10 MR. PENNOYER: So Paul Andrews is the first one
11 I've got? I've got Paul Gavora as the first one in my stack.

12 MR. COLE: Public at large.

13 DR. GIBBONS: The second

14 MR. PENNOYER: That's only public at large?

15 DR. GIBBONS: Excuse me, Mr. Chairman, the second
16 is not. The status of the information is not by category.

17 MR. PENNOYER: So, Mr. McVee, how do you suggest
18 we proceed on that? I agree with your concept. How do we -- how
19 shall we do it? I can't

20 MR. McVEE: I'd just like to take a minute to
21 pull those resumes out and take a quick look at them, and

22 MR. PENNOYER: Okay. You're referring to Paul
23 Andrews, Jon Dunham, Jeff Pasco and Jill Wittenbrader?

24 MR. McVEE: There's five -- five new

25 MR. COLE: And Scott Bothwell, too.

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1 MR. McVEE: resumes we need to look.

2 MR. PENNOYER: Uh-huh. Shall we stand at ease
3 for five minutes and take a look

4 MR. BARTON: How about a recess and?

5 DR. GIBBONS: Mr. Chairman?

6 MR. PENNOYER: We'll stand in recess for what,
7 take a short break of ten minutes to look at the applications.

8 DR. GIBBONS: Mr. Chairman? One point, would it
9 help if the -- we went back and spread these by geographic
10 location, too, so you can understand where the new applications,
11 what communities they're representing?

12 MR. COLE: Oh, I think we -- Mr. Chairman, I
13 think we can keep them in mind. There are not that many.
14 There's only five of them.

15 MR. PENNOYER: We're going to do this in each
16 category, however. Is there any staff work we could get between
17 now and after lunch that would help us to get through this? Mr.
18 Gibbons, if we're going to do this for each of these categories,
19 the public at large has like 15 new nominees.

20 DR. GIBBONS: I'm not quite sure, you know, I
21 thought perhaps the categories might help, you know, a nominee
22 per location, but I think everybody could -- you know, the
23 Trustee Council can look through here and sort them by the -- by
24 the recreational users or for fishing and hunting or public at
25 large.

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1 I will make the comment that Gary Kompkoff, that's the
2 additional one that I passed out for public at large. In the
3 unknown category, Gary should move up to the public at large
4 category.

5 MR. PENNOYER: Well, once again these five --
6 five new recreational users are in this stack of resumes that we
7 have here?

8 DR. GIBBONS: That's correct. Now, I will make
9 a point that Tileston, Jules Tileston resubmitted another
10 application, so that's in here also.

11 (Off record)

12 (On record)

13 MR. PENNOYER: Could we come back to order,
14 please? It's been suggested -- we're going to start again if you
15 would, please? Thank you.

16 It's been suggested that we break for lunch, give us a
17 little more time to review these resumes and how they fit into
18 the process and then come back. Anybody want to have some
19 discussion of this before we leave?

20 MR. BARTON: Mr. Chairman, I would suggest that
21 we go ahead and deal with the rec users group and then break for
22 lunch.

23 MR. PENNOYER: Okay. Any problems with that
24 approach? Do you have a suggestion, Mr. Barton?

25 MR. BARTON: Yes, I move James Diehl the

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1 representative of the recreational users.

2 MR. McVEE: I'll second that motion.

3 MR. PENNOYER: Thank you. Is there any further
4 discussion? Are there any objections? Mr. Diehl has been
5 appointed to the recreational -- well, Mr. Diehl has been
6 appointed to the Public Advisory Group.

7 MR. COLE: Mr. Chairman?

8 MR. PENNOYER: Mr. Cole?

9 MR. COLE: Since that went so rapidly, would it
10 be worth while to address the sport fishing before lunch?

11 MR. PENNOYER: I'm willing to try anything once.

12 MR. COLE: I leave that to the other Trustee
13 members. It's up to them. If anyone has feelings that we ought
14 not, that's fine with me.

15 MR. PENNOYER: Any comments? Are there any
16 nominees for the recreational -- or sport fishing and hunting or
17 do you wish to adjourn to lunch and then come back and do it at
18 one? Do I have a nomination?

19 MR. BARTON: Mr. Chairman?

20 MR. PENNOYER: Mr. Barton?

21 MR. BARTON: I'd nominate Rupe Andrews to
22 represent sport fishing and hunting.

23 MR. McVEE: Second.

24 MR. PENNOYER: It's been moved and seconded
25 Mr. Andrews be appointed as sport fishing and hunting. Any

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1 comment or any discussion? Mr. Barton?

2 MR. COLE: Well, now I would like a moment
3 to

4 MR. PENNOYER: Mr. Cole wishes a moment to review
5 the

6 MR. ROSIER: He's right at the top of the page.

7 MR. PENNOYER: Would either the maker of the
8 motion or the second care to elaborate on Mr. Andrews'
9 qualifications for this position?

10 MR. COLE: Thank you. I've had an opportunity to
11 look

12 MR. PENNOYER: Had enough opportunity?

13 MR. COLE: at the documents.

14 MR. PENNOYER: Fine. Mr. Rosier?

15 MR. ROSIER: I would just like to say that, you
16 know as indicated in Mr. Andrews' application here that Rupe has
17 been very actively involved in fishing and hunting issues
18 statewide for a good many years, and he just -- he's been an
19 active member of the NRA. He's been active in outdoor council.
20 He was a field person with the Department of Fish and Game prior
21 to statehood, dating back prior to statehood and up through the
22 growth years of the Department and he's been a very active
23 individual that would be I think an excellent appointee to this
24 -- to this public advisory group.

25 MR. PENNOYER: Further discussion? Are there any

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1 objections to Mr. Andrews being appointed to this group? Thank
2 you.

3 Are we agreed then we'll adjourn for lunch and come back
4 at 1:00 o'clock to do the public at large? Okay. We're
5 adjourned then.

6 (Off record)

7 (On record)

8 MR. PENNOYER: I would like to go ahead and get
9 started if we could? If everybody will take their seats, then we
10 can get back on the track here.

11 Before we adjourned for lunch we had made some decisions
12 on the public at large -- Public Advisory Group, and we're
13 dealing with the public at large category. We had had a series
14 of applications sent to us and we requested the time over lunch
15 hour to go and review those and come back then and try to deal
16 with that particular seat on the Trustee -- on the Public
17 Advisory Group.

18 Over the lunch hour did anybody get any ideas of how we
19 should approach this? Does anybody want to suggest an approach
20 to dealing with this category? Mr. Sandor?

21 MR. SANDOR: Mr. Chairman, in our last meeting we
22 had in preparation for that identified the -- each of us
23 independently identified individuals, one or two, for each
24 category, and then at that meeting -- or in preparation for it,
25 then we each were given a summary and we had essentially the

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1 nominations or proposals by each Trustee. I would put on the
2 table a proposal that each one of the Trustees identify not less
3 than five and not more than seven or eight individuals for the
4 five public at large positions, that the staff summarize them and
5 then go on to some other agenda items, and then perhaps at 3:00
6 o'clock or later in the afternoon have the display of how -- what
7 individuals had been nominated. Is that reasonable? There's
8 nothing magic about not less than five and not more than seven or
9 eight, but in thinking through I've come up with seven that -- or
10 eight perhaps. Thoughts among?

11 MR. PENNOYER: Mr. Barton?

12 MR. BARTON: Yes, I think there's some merit to
13 that consistent with the process that we used earlier. I do
14 think though that we need to select the number at which we're
15 going to nominate and use that number.

16 MR. SANDOR: The same number?

17 MR. PENNOYER: Mr. Sandor? Anybody else have any
18 comments on the process, either Mr. Sandor's proposal, or Mr.
19 Barton's modification? Mr. McVee?

20 MR. McVEE: Mr. Chairman, I think that would be
21 a way to move it forward. I would suggest that we all come up
22 with the same number.

23 MR. SANDOR: Mr. Chairman, I move we come up with
24 seven.

25 MR. PENNOYER: Anybody second that?

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1 MR. BARTON: Second.

2 MR. PENNOYER: It's been moved and seconded that
3 we each come up with our nominees to the public at large seat on
4 the advisory group and that we nominate seven each, have the
5 staff, excuse me, compile these, and then at the appropriate
6 point in the agenda come back and -- and deal with that. And I
7 don't know I want to pick a time certain, perhaps whenever the
8 staff's ready, we'll see how the agenda's going. Does anybody
9 have any objection to that procedure? Well, do we then want to
10 take two minutes, three minutes here and each of do that?

11 MR. SANDOR: Ten minutes.

12 MR. PENNOYER: Ten minutes? Ten minutes to do
13 that. One and a half minutes per name, and then, Dave, can
14 somebody go do that compilation while we're working on something
15 else?

16 DR. GIBBONS: Yes.

17 MR. PENNOYER: Thank you. So if we would each
18 nominate seven people to the public at large seat for the
19 advisory group, staff will compile it and we'll come back at 2:30
20 or 3:00 o'clock and get the results of that and then discuss how
21 we proceed on the nominations.

22 (Off record)

23 (On record)

24 MR. PENNOYER: Yes, Mr. Gibbons?

25 DR. GIBBONS: I do have one correction. Under

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1 Jules Tileston's new application, he would like to be recognized
2 under public at large also, so you might under your
3 considerations add Jules Tileston to the list.

4 MR. PENNOYER: Thank you. Take ten minutes
5 write our lists.

6 (Off record)

7 (On record)

8 MR. SANDOR: May I suggest that the staff put
9 city of residence of each of the nominees?

10 MR. PENNOYER: A good suggestion, thank you.
11 Mr. Gibbons, would you do that, please?

12 DR. GIBBONS: Yes.

13 MR. PENNOYER: Have we concluded? Have you got
14 everybody? Okay. Mr. Gibbons, we'll come back to you possibly
15 after the next agenda item and see the results of the
16 nominations.

17 Okay. Can we continue on? The next item on the list,
18 unless somebody wants to take something else up out of order is
19 the habitat protection process. I think this is going to be a
20 fairly lengthy presentation. There are things that we may or may
21 not wish to take a decision on here, but probably we should try
22 and work through that whole process.

23 My objective, if I could get concurrence, if we're not
24 going to do the '93 work plan, it seems to me a full day of our
25 work is going to be taken at another time, and it would be my

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1 preference to try and finish this afternoon and this evening if
2 we can, other than to tie up an hour or two tomorrow morning and
3 therefore lose another day of work. So if we can get through the
4 balance of this agenda and set up what we want to do on the '93
5 work plan, I would hope we could conclude that this afternoon and
6 this evening. The door's open, of course, if we can't.

7 So perhaps, Mr. Gibbons, do we want to go on with the
8 habitat protection process?

9 DR. GIBBONS: Sure. Yes, Mr. Chairman, we have
10 primarily a dual presentation. The first item on -- under the
11 habitat protection process will be an overview by Walt Sheridan
12 to lay out our thinking on a grand plan that you requested, and
13 then followed by Kim Sundberg, a detailed analysis of the
14 proposals that -- those submitted by the ideas, or by the public
15 ideas and by the Restoration Team, so we'll start off with Walt.

16
17 MR. PENNOYER: Gentlemen, as you make your
18 presentation, would you highlight areas the Trustee Council needs
19 to reach a decision on at this meeting, too?

20 MR. SUNDBERG: Certainly.

21 MR. PENNOYER: Thank you.

22 MR. SHERIDAN: Mr. Chairman, members of the
23 Council, at your last meeting you directed the Restoration Team
24 to do a number of things with respect to the -- to habitat
25 protection. First you asked that they develop a grand strategy

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1 for habitat protection, and they have done that and we're now
2 prepared to make some recommendations to you on that.

3 You also asked that the process be accelerated. I think
4 that the term that was used was "get on with it," and the
5 Restoration Team heard that and has incorporated that into their
6 recommendations.

7 And finally the direction required that we look at the
8 use of existing data so that we could get on with it without
9 having to be involved in a long, drawn-out process of additional
10 data acquisition.

11 And what we'd like to do this afternoon is give you an
12 overview of what we're calling a comprehensive habitat protection
13 strategy, and I'll provide that for you, and then Mr. Sundberg
14 with -- from the Department of Fish and Game will provide you
15 some of the details of some of the items that we've already
16 started getting on with as well as some additional information,
17 and then finally Dave Gibbons will discuss the Restoration
18 Framework supplement and some of the comments that were included
19 in that relative to habitat protection.

20 In starting out to look at how to fulfill the direction
21 that you were giving us, we first thought it would be good to
22 develop some framework, some sideboards on what would be included
23 in that process. Some of those sideboards were that the strategy
24 needed to be consistent with the restoration planning process,
25 that we do not have two processes going off in separate

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1 directions.

2 And we also felt that the accelerated process needed to
3 be limited to habitats facing what is called imminent threat. In
4 other words, habitat that if not protected could result in
5 restoration objectives not being able to be fulfilled.

6 It also needed a clear linkage to resources or services
7 that were damaged by the Spill.

8 And we were constrained by time if we wanted to
9 accelerate this thing to the use of existing data, as we
10 mentioned earlier, and we needed some mechanism to rapidly
11 initiate collection of new data where we found that the existing
12 data was inadequate.

13 So within those kind of -- that kind of a framework, we
14 developed this comprehensive strategy. It basically consists of
15 two parts: an imminent threat process and what we're calling the
16 long-term habitat protection process.

17 The main element, the main key point in the imminent
18 threat process is that we believe that by December 1st, 1992, we
19 can provide you with recommendations for specific short-term
20 protection measures for specific parcels.

21 MR. COLE: Excuse me, could you give me that date
22 again by which?

23 MR. SHERIDAN: December 1st of this year.

24 MR. COLE: Okay. Thank you.

25 MR. SHERIDAN: How will we go about doing that?

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1 Well, we would do it by a couple of items that we've already
2 initiated. The first one is we developed a questionnaire which
3 we sent out to all the principal investigators asking them to
4 provide preliminary study conclusions on the habitat requirements
5 and the state of recovery of the resources that were injured by
6 the Spill. We wanted to know what the rate and degree of
7 recovery was and their best information as to what the habitat
8 requirements are. Mr. Sundberg will give you some additional
9 information on that shortly.

10 Second, we conducted a preliminary look at areas that
11 were affected by the Spill which may be facing an imminent threat
12 of habitat loss or degradation. Again, Mr. Sundberg will address
13 that shortly.

14 Now we come to the elements of this where we need your
15 concurrence if we're to move forward. The first of those is we
16 believe that it would be very useful to be able to conduct a
17 series of workshops or a workshop that -- a combination workshop
18 where we would bring in the principal investigators as well as
19 peer reviewers and others with expertise on resources and
20 services that were injured by the Spill and try to further refine
21 and document what the habitat requirements are for those
22 resources.

23 We would like to do that through -- the mechanism to do
24 that would be a cost-share agreement with The Nature Conservancy,
25 and that was mentioned earlier when you were discussing the

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1 financial needs that were imminent. If we can get approval on
2 that and move forward with it, we think we can accomplish that by
3 November 1st of this year.

4 The next element of the cost-share agreement that we are
5 looking for with Nature Conservancy is assistance from them in
6 gathering up the existing information. At the last meeting there
7 was a considerable amount of discussion about the fact that there
8 probably is a lot of existing data in each of the agencies
9 involved in the restoration and otherwise, and certainly that's
10 correct, there are -- there is a lot of information available,
11 but in a lot of cases we're not sure where it is, what kind of
12 form it's in, whether it's compatible with the existing systems
13 that we're trying to develop in order to do analysis, and what we
14 would be looking for with this element of the accelerated process
15 would be for the Trustee -- for the Nature Conservancy to assist
16 us in identifying where all that information is and developing
17 some catalogs and getting that moved into a system where we can
18 use it to analyze these particular areas of habitat.

19 Concurrently with all of this that would be going on, the
20 Restoration Team and the Habitat Work Group would be analyzing
21 these parcels that we've identified and developing these
22 recommendations for you by December 1st.

23 And finally, the accelerated process would include
24 monitoring additional parcels that could come under imminent
25 threat and developing recommendations as needed to you folks

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1 prior to completion of the restoration planning process.

2 The second phase then is the long-term habitat protection
3 process. That would be based on the direction that would be
4 provided in the final restoration plan, and it would, of course,
5 make use of all of the -- all of the tools and information that
6 would be generated in the imminent threat process as well.

7 The parcels that would be considered in that long-term
8 process would, of course, include first those that received
9 short-term protection through the imminent threat process. That
10 would be the obvious one to take a look at first.

11 The second group of parcels would be all of those that
12 were proposed for protection through the '93 work program and I
13 believe there were some 50 parcels, some very, very large ones
14 proposed for acquisition and for different kinds of protection
15 through that process. That would be looked at primarily through
16 the long-term process upon completion of the Restoration Plan.

17 And, third, we'd look at those parcels that would be
18 nominated for protection subsequent to this '93 process, and it
19 may -- we may actually even look at calling for some kind of a
20 special nomination process.

21 Now we'll turn it over to Mr. Sundberg who will talk
22 about some additional details of the habitat protection process
23 and then we'll be glad to answer any questions that you might
24 have, and we also have -- we'd like to go through the '93
25 projects that we'll be asking for your approval on.

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1 DR. GIBBONS: Excuse me, Mr. Chairman. I have a
2 handout here from Kim that lays out his presentation, so I'll
3 pass that out.

4 MR. SUNDBERG: Good afternoon. My name is Kim
5 Sundberg. I'm a habitat biologist with the Department of Fish
6 and Game, and what I'd like to do this afternoon is to take you
7 through four different elements of information that we're
8 gathering for the habitat protection process to give you a sense
9 and an idea of where we're heading, and I also have a few slides
10 to show after the end of the narrative portion and then we would
11 propose to open it up for questions between Walt and myself.

12 I have four -- the presentation is in four parts, and so
13 I'd ask you for the first part to refer to this table one that's
14 in your packet. It's about a quarter of an inch thick.
15 Everybody finding it?

16 MR. PENNOYER: In some of you packets, table two
17 will be in front of table one.

18 MR. SUNDBERG: That's the accelerated process.

19 MR. PENNOYER: Get right to the conclusion.

20 MR. SUNDBERG: Okay. Hopefully everybody's found
21 it.

22 During this year's solicitation of restoration project
23 ideas, 54 project ideas were received from the public dealing
24 with habitat protection. Thirty-four of those projects were
25 classified as nonspecific by the Habitat Protection Working

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1 Group, meaning that they generally advocated buying land, but did
2 not specify where or how much.

3 Seventeen of the projects specifically identified
4 geographic areas or parcels for acquisition. Four of these
5 project ideas were submitted by land owners: Seldovia Native
6 Association, Afognak Native Corporation, Old Harbor Native
7 Corporation and Koniag, Incorporated, and they're indicated as
8 willing sellers on this table one by an asterisk.

9 Fourteen of the proponents provided a cost estimate for
10 their project idea. And they range in cost from a high of
11 \$113.5 million to acquire 125,000 acres of Afognak Joint Venture
12 lands on Afognak Island, which works out to about \$900.00 an
13 acre, to a low of \$70,000.00 for a proposed land exchange between
14 the State of Alaska and the Kodiak Island Borough for key
15 recreation sites.

16 The \$22 million cost of acquiring the Katchemak State
17 Park in-holdings from Seldovia Native Association shown on this
18 table was proposed prior to the Governor's veto of the
19 acquisition component of Committee Substitute for Senate Bill
20 483, so that cost was the cost that came in back in July.

21 The total cost derived from all these project ideas is
22 \$412 million, of which \$263 million could be attributed to
23 willing sellers, i.e., the landowners themselves who are offering
24 to sell land.

25 And a more detailed summary of each project idea is

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1 appended to this table. Each of the project -- 17 project ideas
2 has an abstract written on what was the major components of each
3 of the -- of each of the proposals, and those are at the back of
4 this table one packet.

5 So in summary table one summarizes all the proposals that
6 came in for this year under 1993 project ideas, all the specific
7 proposals, and summarizes who the proponents are. The proponent
8 would be the person that would have submitted the idea and their
9 estimated costs. These costs are not the estimated costs of the
10 working group. They're simply ones that were provided by the
11 proponent.

12 MR. COLE: Can we comment on those now,
13 Mr. Chairman?

14 MR. PENNOYER: I'm not sure what your intent is
15 to -- further explanation you mean? Certainly. Well, you're not
16 proposing that we consider these,

17 MR. SUNDBERG: No.

18 MR. PENNOYER: these are just for
19 background?

20 MR. SUNDBERG: Correct. We're just -- what the
21 purpose of this is to give you a background on what the public
22 proposed during this round of the project proposals.

23 MR. PENNOYER: Yeah. Mr. Cole?

24 MR. COLE: Well, is item number one and two, the
25 Katchemak Bay State Park in-holdings, one's proposed by Seldovia

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1 Native Association, the other by Katchemak Bay Citizens
2 Coalition, am I to understand that those are the same? Is that
3 the same

4 MR. SUNDBERG: They were the same

5 MR. COLE: land involved in each?

6 MR. SUNDBERG: Correct. They propose the same
7 identical lands, two different groups proposed that project.

8 MR. COLE: And, let's see, under the Kodiak
9 acquisitions alone, that's 200 million approximately for the
10 Kodiak. That would be numbers what, six through 13, would be
11 200 million. Then the Afognak two acquisitions, one for
12 113 million and one for 84 million, essentially another
13 200 million, that's 400 million, and if you add the -- I'm a
14 little off, but the Katchemak Bay, that's 22 million, that's 422,
15 425 million. Am I -- have I got those numbers about right?

16 MR. SUNDBERG: Yeah. In the -- in the bottom
17 line on that table my sum was 412 million, but I only counted the
18 22 million once in that,

19 MR. COLE: Yeah.

20 MR. SUNDBERG: because they were the same
21 identical proposal.

22 MR. COLE: Well, mine's just done quickly in my
23 head, but

24 MR. SUNDBERG: I'm not that good at

25 MR. COLE: you know, in response to those

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1 signs which I saw at noon, there's about 425 million proposed for
2 these holdings here and I don't know how much is forthcoming from
3 the settlement funds, but if we were to favorably consider this,
4 we -- or these central proposals, we wouldn't have much left,
5 would we?

6 MR. SUNDBERG: Well, this is about a little less
7 than half of the total settlement.

8 MR. COLE: Well, I mean, but how much have we
9 been in the process of expending the last year and this year and
10 the next year and, you know, I just want to point out so we keep
11 this in perspective of some of the tasks facing us. As I recall,
12 let's see, Exxon had about 50 million for -- didn't they for
13 clean up? And then we went through another 30, that's 80. I
14 mean, I would suppose that the future funds are down to less than
15 700 million now? Less than that, sir? About how much less?

16 MR. BRODERSON: About 625.

17 MR. COLE: About -- just so everybody understands
18 what we're facing I mean, we're looking forward to maybe
19 receiving another 625 million that's unfettered funds. And, you
20 know, if we just look at these alone, I mean, and consider what
21 we're going to be doing with respect to some of the other
22 necessary restoration activities in Prince William Sound, I mean
23 we're going to be operating on a fairly narrow margin. I just
24 mention that so people will get a sense of what these acquisition
25 proposals (sic). If we -- that looks fine to us, let's get it

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1 done, we're about done for the next ten years. So -- thank you.

2 MR. SANDOR: Mr. Chairman, I just had a question.

3 MR. PENNOYER: Mr. Sandor.

4 MR. SANDOR: Where there was no cost estimate
5 provided, what did you use? Is that not then included in the
6 412?

7 MR. SUNDBERG: That's correct, it's not reflected
8 in the bottom line, so the additional acquisitions of say Kenai
9 Fjords, Cape Suckling, Olsen Bay watershed and Kodiak Refuge in-
10 holdings, sort of generic, would be in addition to the 412.

11 MR. SANDOR: Any rough idea how much that would
12 be?

13 MR. SUNDBERG: I have no idea. It would be

14 MR. COLE: Well, then let's

15 MR. SUNDBERG: hundreds of millions.

16 MR. COLE: Mr. Chairman?

17 MR. PENNOYER: Mr. Cole?

18 MR. COLE: Didn't we -- we knew something about
19 Cape Suckling, didn't we, on House Bill 411? As I recall that
20 was about 30 million along, wasn't it, or 40? I mean, look,
21 let's address number 14, Afognak One, Cape Suckling, Kachemak
22 Bay, Kenai Fjords, Kodiak Refuge and Prince William Sound, all
23 proposed by Alaska Center of the Environment, and there's no cost
24 estimate there provided. I think that's the principal one of
25 three for which there's no cost estimate. But I would hazard to

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1 guess that it's in the neighborhood of 100 million. So that
2 takes us up probably to 550 million expenditures for these
3 habitat acquisitions alone out of the 625 we have left.

4 Now, you know, I just want to say, so as the Governor
5 would say, people have a sense of where I'm coming from, if you
6 want us to look at these and not exercise a lot of care and
7 discretion, there's 550 million here, out of 625, we better -- if
8 we were to say, yes, we could put an end to this Trustee Council
9 and ou work for the next ten years and say it's done, good-bye.
10 I really doubt if that's what the public would like us to do. So
11 when you look at those signs out there and think about what we're
12 supposed to do in response to them, I would like you to keep in
13 mind where that would lead us, the very end of this function off
14 the Trustee Council, 'cause that will take it all.

15 MR. PENNOYER: Hopefully, Mr. Sundberg and
16 Mr. Sheridan are proposing a process whereby we can pick and
17 choose the appropriate ones to take out of their list, so

18 MR. SUNDBERG: We'll be trying to get to that.

19 MR. PENNOYER: Are there further comments at this
20 point or -- further

21 MR. SUNDBERG: That's why we're all here.

22 MR. PENNOYER: comments at this point, or
23 shall they proceed with their?

24 MR. McVEE: Yeah, Mr. Chairman. I guess on the
25 -- item four, let's see, I'm not sure what page we're on here.

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1 It was part of Walt Sheridan's presentation. The cost-share
2 agreement with Nature Conservancy to assist the Restoration Team
3 in collecting and organizing existing data. I guess I was -- I
4 and the understanding that the Restoration Planning Work Group
5 would also be collecting and organizing data and I hope we don't
6 have duplicate efforts here, that the -- if we approve this,
7 Nature Conservancy could take off from where the Restoration
8 Planning Group is now in terms of data that's on file.

9 MR. PENNOYER: Were you going to get into more
10 detail

11 MR. SUNDBERG: Mr.

12 MR. PENNOYER: on those two proposals
13 later, because

14 MR. SUNDBERG: Mr. Chair, if I

15 MR. PENNOYER: I have some questions as
16 well?

17 MR. SUNDBERG: could respond to that, I
18 would just say

19 MR. PENNOYER: Concerns.

20 MR. SUNDBERG: that we were going to deal
21 with those projects later on in our presentation

22 MR. McVEE: Okay. Okay.

23 MR. SUNDBERG: and we'll have an
24 opportunity to talk about in more detail.

25 MR. PENNOYER: I'm interested when you get to it

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1 what you mean by "cost sharing," too, so -- okay. Thank you.
2 Could you proceed then, please?

3 MR. SUNDBERG: Certainly. Also attached to table
4 one in the packet is a land value overview. It looks like this.
5 And this was prepared by John Harmony of the Forest Service and
6 Dee Butler of the Fish and Wild Life Service. This analysis is
7 intended to provide you with a general guide to the range of land
8 and timber values found in the Spill area.

9 Fee simple land sales occurring during the 1985 to '91
10 time period and current timber values were analyzed for four
11 geographic regions in the Spill area. As shown, fee simple land
12 values will vary widely throughout the area, which could be
13 expected. Small parcel values range from \$825.00 an acre up to
14 \$53,890.00 per acre. And large parcel sales range from \$625.00
15 per acre up to \$1,125.00 per acre.

16 Timber values also varied widely depending upon volume,
17 quality and fixed costs. Timber values are estimated to range
18 from \$9,000.00 to \$42,000.00 per acre with the average cost per
19 acre near the lower end of this range. Merchantable timber
20 values will normally exceed 90% of the total appraised value.
21 Where timber rights have been sold to second parties, acquisition
22 of present and future timber rights would require negotiating
23 with both the property owner and the owner of the timber rights,
24 likely resulting in costs which would exceed the full appraised
25 value of the land. With the present decline in availability of

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1 old growth export timber on the West Coast, lower timber prices
2 are unlikely and the market is expected to be increasing --
3 increasingly volatile.

4 The main point of this exercise I think was to just look
5 at past sales in the area and get good idea of what land values
6 are. It wasn't an attempt to appraise land or do anything to
7 come up with any hard numbers, but to give the Trustee Council an
8 idea of what we're talking about in terms of costs.

9 MR. COLE: Mr. Chairman?

10 MR. PENNOYER: Mr. Cole?

11 MR. COLE: That timber value from say 10,000 an
12 acre to \$40,000.00 an acre is pretty wide spread. Do you have a
13 better sense of what we'd be looking at or?

14 MR. SUNDBERG: My impression is that probably the
15 average price we're looking out there is somewhere around 15 to
16 \$20,000.00 an acre for timber. The difference between timber
17 values say on Afognak Island, which some of that would be at the
18 high end of the scale versus timber values on areas around the
19 lower Kenai Peninsula, which would probably be at the lower end
20 of the scale.

21 MR. PENNOYER: Proceed.

22 MR. SUNDBERG: Okay. I'd like to move on to the
23 next table, and Dave has a replacement table to hand out. The
24 estimated acreages on this replacement table are more accurate
25 and were based on some recent analysis that we did over late last

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1 week, being after the packets were mailed out or were completed.

2 DR. GIBBONS: Some of the -- copies of the new
3 table two are out in the lobby, so the corrected table two.

4 MR. SUNDBERG: The proposed habitat protection
5 strategy places a high priority on identifying and evaluating so-
6 called imminent threat lands. In the near terms these lands
7 would be evaluated to determine, one, if key habitats thought to
8 be important for restoration of injured resources or services
9 occur there; two, if a land use activity would potentially
10 threaten an essential habitat component or foreclose future
11 restoration options; and, three, if short-term protection of a
12 habitat component is warranted pending a more detailed evaluation
13 and/or implementation of the Restoration Plan.

14 Of all the anticipated land use activities in the Spill
15 area, timber harvest perhaps has the highest potential to affect
16 habitat components for some of the injured fish and wildlife
17 resources and services. An identification of potential imminent
18 threat lands and a strategy to protect key habitats will need to
19 consider areas where timber harvest has occurred and is likely to
20 occur.

21 Table two and the maps displayed on the wall over here to
22 your left provide a preliminary summary of recent and projected
23 timber harvest activities in the Spill area. The information
24 used in this analysis was obtained from reviewing Forest
25 Practices notifications, incorporating data from timber harvest

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1 unit maps provided by the State Division of Forestry, and by
2 consulting with foresters and habitat biologists with specific
3 knowledge of the history and projected timber harvest activities
4 for these areas.

5 Only harvest activities on private lands are depicted on
6 these maps. Recent harvest activities on state and federal lands
7 are relatively insignificant to the effort that has been on
8 private lands, and potential impacts to recovery on state and
9 federal lands can be addressed through normal agency management
10 actions.

11 On table two areas which are designated -- are designated
12 harvest if they were known to have been previously harvested or
13 in the -- be in the process of being harvested this year. So up
14 to and including 1992. The total area harvested is estimated at
15 39,500 acres.

16 Projected harvest areas on table two are areas where
17 timber harvest is expected to begin in 1993. This does not mean
18 to imply that all the projected area would necessarily be
19 harvested in 1993. It more -- it more correctly shows just areas
20 where timber harvest is expected to begin to occur. Projected
21 harvest areas are estimated at 33,000 acres. These lands would
22 be reviewed with others through the imminent threat process in
23 the habitat protection strategy.

24 Turning your attention to these maps over here, and I
25 have some slides later which maybe will show that a little

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1 better, for those of you like me who are near-sighted, but the
2 areas in red on those maps are essentially the projected harvest
3 areas and the areas in that rust brown color are the areas that
4 have already been harvested. And these maps were prepared
5 through the able services of Diane Lyles and her staff over at
6 the Department of Natural Resources, and this information is now
7 in our geographic information system and can be used to analyze
8 properties as to what their timber harvest history is.

9 I'd also like to caution that they're preliminary maps
10 and we're continuing to do some verification on some of the
11 acreages and configurations of some of the harvest areas, but at
12 this point they reflect, you know, pretty much most of the
13 information that's out there right now.

14 MR. PENNOYER: Any questions before we proceed?

15 MR. SANDOR: One question.

16 MR. PENNOYER: Mr. Sandor?

17 MR. SANDOR: Is it fair to use that 15 to
18 \$20,000.00 value against say that 33,000 estimated acres of --
19 being -- that's projected for harvest, just to get an indication
20 of how much money we're talking about?

21 MR. SUNDBERG: Yes, I think so.

22 MR. SANDOR: So 33,000 acres times 15 to
23 \$20,000.00 per acre would be a fair value for that then? Or is
24 a reasonable one to just project?

25 MR. SUNDBERG: As for just a back of a napkin

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1 type approach, yeah.

2 MR. COLE: Somebody help me with the zeros,
3 please?

4 MR. PENNOYER: Five to \$600,000.00 I suppose.

5 MR. COLE: What?

6 MR. PENNOYER: I mean, million dollars, sorry.

7 MR. SANDOR: I got four, somewhere between 450
8 and 500 million. Is that in the ballpark?

9 UNIDENTIFIED: 495 million.

10 MR. SANDOR: 495 million.

11 MR. PENNOYER: At 15,000.

12 UNIDENTIFIED: At 15.

13 MR. COLE: Wouldn't it be 660 million at 20?

14 MR. SUNDBERG: Right.

15 MR. SANDOR: On the upper end.

16 MR. COLE: That's what I figured it at. This
17 little table here of estimated acres projected for harvest, 33
18 million (sic), 20,000, and I'll be 660 million while at 10,000 an
19 acre it would simply be 330 million.

20 MR. SANDOR: That -- and, Mr. Chairman, that was
21 the first part of the question, and I was trying to match that
22 with the other table which was I think 412 and then that was a
23 total, this is the imminently threatened group category, is that
24 right?

25 MR. SUNDBERG: Correct, although some of these

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1 values that are on the timber harvest table may be incorporated
2 into these projected costs

3 MR. SANDOR: I see.

4 MR. SUNDBERG: on the acquisition, but also
5 they are -- there are parcels on the timber harvest table that do
6 not -- are not included in these acquisition proposals.

7 MR. SANDOR: And if I'm reading the paper, the
8 process is set up to in fact evaluate these parcels and there is
9 a method of prioritizing and determining the linkage between
10 resources or services damaged and proposed acquisition?

11 MR. SHERIDAN: Yes, that's correct. What we're
12 talking about here is a screening process.

13 MR. SANDOR: Yeah.

14 MR. SHERIDAN: These areas are the ones where
15 timber harvest is likely to take place, but that's only the first
16 step in the process. You have the -- the big piece that's
17 missing is identifying the critical habitats that are linked to
18 recovery of resources damaged by the Spill, but this is where we
19 would go looking first, around those areas where harvest is
20 anticipated, and that's the accelerated piece of it only.

21 MR. SANDOR: Just an observation, Mr. Chairman.

22 MR. PENNOYER: Mr. Sandor.

23 MR. SANDOR: That is -- I had assumed that
24 perhaps the imminently threatened would be perhaps half of what
25 the total was, and that doesn't turn out that way. It turns out

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1 actually that five to 600 million is imminently threatened, so
2 it's a big, big job to do the analysis on these imminently
3 threatened lands. That's the message I get out of that. Is that
4 a valid conclusion?

5 MR. SHERIDAN: Yes.

6 MR. PENNOYER: Further questions? Why don't you
7 continue?

8 MR. SUNDBERG: Okay. Table Three looks like
9 this.

10 Another way of gauging the imminent threat of a proposed
11 land use activity, and thus helping to identify potential areas
12 needing habitat protection, is to examine the various land and
13 water use permit authorizations issued by state and federal
14 agencies. For example, a proposed timber harvest activity may
15 require permits from several agencies including the Army Corps of
16 Engineers, Department of Environmental Conservation, Department
17 of Natural Resources, and Department of Fish and Game.

18 Presumably landowners who have received all the required
19 permits are in a more imminent position to begin their proposed
20 activity than those who are still in the permitting process or
21 who have not yet applied. Moreover, existing permits often have
22 some level of stipulated habitat protection which needs to be
23 examined as to whether it may either directly or indirectly apply
24 to protection of injured resources and services.

25 Table three summarizes all the state-reviewed land and

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1 water authorizations for private owners in the Spill area during
2 the period from July 1, 1989, through June 12th, 1992. Federal
3 permits that are subject to the State's coordinated coastal
4 consistency review process, which basically encompasses all of
5 the significant activities, are included.

6 A total of 419 permitting records were found for the
7 Spill area during the previous four-year period. These records
8 document authorizations for seven timber operations in Prince
9 William Sound, five operations on the Lower Kenai Peninsula, and
10 four operations on Afognak Island. In contrast, there are no
11 authorizations for timber harvest in Katchemak Bay at this time.

12 This table also helps to identify other land and water
13 use activities in addition to timber harvests that may affect the
14 recovery of injured resources and services.

15 And I apologize, this is a rather lengthy table, but we
16 thought it might be useful for you just to see the various
17 different types of activities that are going on out there, and
18 also to give you an idea of sort of what their geographic scope
19 is and the kinds of permits that are issued. And in addition to
20 timber harvest, there's a lot of other types of activities out
21 there: placer mining, mariculture, water use permits, wetland
22 fills, docks. Just a number of different things in addition to
23 timber harvest.

24 MR. PENNOYER: Mr. Sandor?

25 MR. SANDOR: Well, this is a remarkable table.

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1 I really commend the group for actually tracking down these
2 permits. There's at least six or seven placer mine permits, at
3 least one hard-rock mining permit, and if they're at the
4 permitting stage, they must be near imminent operation.

5 MR. SUNDBERG: Yes, these are the actual permits
6 that have already been issued, so these people would have the
7 authorizations to go ahead.

8 MR. SANDOR: I guess the question, and maybe
9 you're going to get into this, to what degree or how are you
10 going to look at these other -- these kinds of activities, the
11 placer mining, hard-rock mining, for instance? Is there a
12 mechanism to also examine that and, this is the question, is a
13 projection of perhaps acquiring the rights of that? You know,
14 obviously that is not included in the listing of the timber
15 acquisitions, so we're talking some additional monies for
16 potential acquisition of these potentially imminently threatened
17 or imminently threatened activities in these areas, is that
18 right?

19 MR. SUNDBERG: Yeah. We're getting a little bit
20 ahead of ourselves, but I think that the approach that we would
21 be proposing would be to determine what it is out there that we
22 need to look at for protection first as just sort of one of the
23 first steps. We have to be aware of these imminent processes
24 that are going on, and as key habitat area pop up out of this
25 evaluation process, we would need to look to see whether there

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1 was some land use activity that might foreclose a restoration
2 option or potentially threaten that habitat component, but
3 there's a lot of land out there and while not all habitat is
4 created equal, and I think our proposal is to look specifically
5 into what habitats are needed for restoration and approach it
6 from that angle, while being cognizant of the other activities
7 that may cause an impact in the interim.

8 MR. SANDOR: Thank you.

9 MR. PENNOYER: Other questions. Please proceed.

10 MR. SUNDBERG: Okay. The last table to go
11 through is table four. The Habitat Protection Working Group has
12 begun the process of defining the essential habitats for injured
13 species so that they can be identified on lands within the Spill
14 area. This is a critical first step towards establishing a
15 linkage between key habitats and their role in the recovery of
16 injured resources and services.

17 In July a two-page questionnaire was sent out to all
18 principal investigators working on damage assessment and
19 restoration studies. The questionnaire was designed to obtain
20 preliminary information on, one, the degree and rate of recovery
21 of injured species; two, factors which may be limiting recovery;
22 and, three, key habitat characteristics which are needed to
23 sustain each species and foster its recovery.

24 The questionnaire has yielded some interesting results.
25 First, for the ten injured species which elicited responses,

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1 recovery was rated either inadequate, declining, or unknown.
2 Second, upland habitat characteristics were identified as a
3 possible factor limiting recovery for five of the species.
4 They're murrelets, pigeon guillemots, common murre, and pink and
5 sockeye salmon.

6 MR. COLE: Could you hold on just a second?
7 Would you mind going over those again?

8 MR. SUNDBERG: Certainly. The five species that
9 were identified as having an upland habitat component or
10 characteristic that might be limiting their recovery were marbled
11 murrelets, pigeon guillemots, common murre, pink salmon and
12 sockeye salmon. In other words, there is some habitat on the
13 uplands that may be critical or crucial to their eventual
14 recovery.

15 MR. COLE: And how would you define uplands?

16 MR. SUNDBERG: Above mean high water. And also
17 including all streams and lakes.

18 MR. SANDOR: Excuse me, why

19 MR. PENNOYER: Mr. Sandor?

20 MR. SANDOR: wouldn't the harlequin duck be
21 in that category?

22 MR. SUNDBERG: Well, that's another interesting
23 thing that came out of this table, and I would also caution that
24 this is very preliminary at this time, but the principal
25 investigator investigating harlequin ducks did not list nesting

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1 habitat as a limiting factor at this time, although I don't think
2 that there's really -- the analysis, nest -- you know, that has
3 been completed in order to determine whether that is a limiting
4 factor or not.

5 MR. SANDOR: Uh-huh.

6 MR. SUNDBERG: I think the primary concern on
7 harlequins at this time is that there is still contaminated food,
8 i.e., mussels out there that seem to be doing more of a limiting
9 job on harlequins at this point.

10 MR. PENNOYER: Mr. Cole?

11 MR. COLE: Yeah. When you say, you know,
12 "uplands" and so forth, and, you know, how far, for example, on
13 each side of a stream would you want to say is part of the
14 critical habitat for pink salmon and sockeye salmon for example?
15 I'm just trying to get an idea of what we're dealing with here
16 from your presentation.

17 MR. SUNDBERG: Yeah, I don't think that we've
18 defined how far on either side of a stream is needed at this
19 point for pink and sockeye salmon within the specific parcels out
20 here. You know, the Forest Practices Act gives a 66-foot no --
21 or a buffer on either side of the stream of which you can cut 25%
22 of the trees within 25 to 66 feet. The fishery biologists were
23 asking for 100 feet on either side of the stream. Some people
24 were asking for more, some people were asking for less. You
25 know, the sense of it is, is that for fish somewhere in the

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1 neighborhood probably of 100 feet, maybe 200 feet is

2 MR. COLE: But certainly less than for a half
3 mile on each side, a quarter of a mile? No more than a quarter
4 of a mile on each side would you say?

5 MR. SUNDBERG: Yeah, I don't want to get pinned
6 down, you know, specifically but, yeah, I mean

7 MR. COLE: Yeah, I'm not trying to pin you
8 down,

9 MR. SUNDBERG: Yeah.

10 MR. COLE: I'm just, you know, giving you
11 between 66 feet and, you know, a quarter of a -- 440, I
12 mean,

13 MR. SUNDBERG: I'd say a quarter

14 MR. COLE: that's a pretty good spread.

15 MR. SUNDBERG: mile is on the very large
16 end of that spectrum, and probably it's closer to 100 to 200
17 feet. It's my opinion. Did that answer your question?

18 MR. COLE: Sure.

19 MR. SUNDBERG: Okay. Were there any other
20 questions on this? Should I

21 MR. PENNOYER: Why don't you go ahead?

22 MR. SUNDBERG: just go ahead? Okay.

23 MR. COLE: Excuse me, just let -- I'm trying to
24 still get a sense. We talked about salmon, but how about the
25 marbled murrelet, pigeon and the common murre? Did -- do you

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1 have any sense of what's needed there?

2 MR. SUNDBERG: Well, murrelets are an interesting
3 critter, because apparently there's been some seven or eight
4 nests located recently in the State, and I think all of those
5 were located in trees. There's some question as to whether some
6 of these murrelets may be nesting on the ground or in rock
7 crevices also, but at least the ones that have been found lately
8 all appear to be in trees, and they seem to have fairly -- they
9 -- they nest up high up in the watersheds a lot of times. And
10 they seem to have some component that they like northwest or
11 west, you know, facing slopes, fairly steep slopes. We're
12 starting to get a sense I think more and more about where these
13 murrelets might be nesting, but they could be anywhere within a
14 watershed, and it appears that they like trees.

15 MR. PENNOYER: Some more?

16 MR. COLE: No, that's all for now.

17 MR. PENNOYER: Okay.

18 MR. COLE: Thank you.

19 MR. PENNOYER: Thank you. Go ahead.

20 MR. SUNDBERG: Okay. Okay. Finally the
21 confidence of the principal investigators varies widely when
22 asked to identify recovery rates, limiting factors and key
23 habitat characteristics for injured species. This is not
24 surprising keeping in mind that very little habitat information
25 was available on many of these species prior to the Spill, and

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1 that most of the Spill studies conducted previously were designed
2 to determine injuries or damages rather than focusing on
3 identifying key habitat needs.

4 And the point of that is is that some people say that,
5 well, there's a lot of information out there, and we've done all
6 these studies, and there is quite a bit of information, and I
7 think we're making a start at trying to synthesize it down, but
8 it's also the kind of questions that have been asked during the
9 Oil Spill have been mostly related to looking at damages and
10 population level changes versus what these critters actually need
11 in terms of habitat. So that -- later on we'll talk about some
12 of the additional data needs that we think are warranted for the
13 habitat protection process.

14 The additional column on this table that's labelled "data
15 layers" identifies the types of information needed in a
16 geographic information system data base in order to identify the
17 location of key habitat areas in the Spill area. The need to
18 further refine the identification of key habitat characteristics
19 and to construct a geographic information system for use in
20 identifying strategic lands for habitat protection will be
21 further covered during the discussion of the proposed habitat
22 protection projects in the '93 work plan, and we hope to be able
23 to have the opportunity to discuss those at the end of this
24 presentation.

25 And what I propose to do next is to show a few slides and

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1 then we could open it up to any questions. But I could take any
2 questions that you have right now, too.

3 MR. SHERIDAN: One comment before we go to that
4 might be the way the numbers on table one and the numbers on
5 table two, to make sure you have a clear understanding of that.
6 The numbers on table one are numbers that the proponent of those
7 parcels being purchased or flagged, those are numbers that they
8 provided. Those are not -- they have not been verified in any
9 form and we -- they were just transposing them from the proposals
10 onto this chart.

11 When you start talking about the acreages and the average
12 values from the table two that Attorney General Cole was
13 inquiring about, there's no correlation between the numbers on
14 table two and the numbers on table one, and we've made no effort
15 at all to try to reconcile any differences between the two at
16 this point. We're merely providing those to you for some
17 information at this time.

18 MR. PENNOYER: Thank you.

19 MR. SUNDBERG: Somebody get the lights?

20 This is just an over-view map showing the Spill-affected
21 area, and within that light grey line that's around there is
22 approximately 8.5 million acres of uplands, and approximately 1.6
23 million acres of that area is privately owned, which figures out
24 to about 20% of the uplands in the area.

25 This is a satellite image taken of southern Prince

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1 William Sound that was just classified and processed in ground
2 truth (ph) this summer by Dr. Richard Padolski who is under
3 contract to the Restoration Team. And it depicts various upland
4 habitat types found in Prince William Sound, including snow
5 fields which are shown in blue, rocks, alpine areas which are in
6 dark orange, muskegs which are light green, shrub lands which are
7 light orange, and forests which are dark green. And, incidently,
8 most of these islands in this group here are -- the majority of
9 them are in private ownership.

10 This image is in a digital format so that it can be
11 incorporated into our proposed habitat protection, geographic
12 information system, and other systems that are in place in
13 agencies. And the information contained in this kind of remote
14 sensing inform- -- images can be very useful in concert with
15 other information for accurately defining, mapping, analyzing and
16 comparing habitat characteristics across large areas.

17 The point of showing this slide is that this is the kind
18 of information that we would be proposing to use to classify and
19 locate key habitat areas throughout the spill area in concert
20 with other information which I'll talk about.

21 I apologize, this slide is a little dark, but the land
22 surface in the Spill area contains a mosaic of different habitat
23 types with varying degrees of relative importance to the recovery
24 of injured species and services. For example, in this picture
25 the open bog meadow which is depicted in the center of this

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1 picture may be important as a flight corridor for these marbled
2 murrelets, but it may have little value as actual nesting area.

3 The accurate identification and mapping of anadromous
4 fish streams and associated riparian lands is critical to
5 determining the habitat protection needs of salmon and other
6 injured species, including harlequin ducks. The small spawning
7 and rearing streams connected to this large stream cannot always
8 be detected on remote sensing images and aerial photos, and it is
9 important that field stream surveys be continued so that fish
10 habitat characteristics can be accurately classified and mapped.

11 This is an example of an old growth forest. Forest types
12 and their respective habitat values vary widely within the Spill
13 area and include forest exhibiting old growth characteristics,
14 and forests like this which were previously logged about 40 or 50
15 years ago which show successional growth characteristics.

16 It is critical to define where the key forest habitat
17 characteristics occur, assuming, for example, that marbled
18 murrelets require old growth characteristics for nesting habitat.

19 Again I apologize for the dark slide. Transition areas
20 and high relief forest lands may also be important for some
21 species such as murrelets and harlequin ducks. These are the
22 kind of high elevation areas that have been found to be nesting
23 areas for both murrelets and harlequins.

24 And not to forget that an estimated five to 10% of all
25 the uplands in the Spill area are essentially rock and ice and

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1 have little potential habitat value for injured species.

2 Timber harvests and subsequent silvicultural (ph)
3 practices that produce even-aged tree farms as depicted by this
4 operation in Two Moon Bay, will change the habitat
5 characteristics over portions of forested lands in the Spill
6 area.

7 Forests are estimated to cover some 20 to 30% of the
8 uplands throughout the Spill area, but forests cover a higher
9 percentage on private lands.

10 In studies on Naked Island, Afognak Island and elsewhere
11 indicate that marbled murrelets are using old-growth spruce trees
12 such as this as nesting habitat.

13 This is -- this map is essentially the same as are on the
14 wall. They're a little different colors because of the way they
15 had to be projected. But this shows eastern Prince William Sound
16 and shows the private lands in yellow and the public lands which
17 are in blue and the previously harvested areas are shown in green
18 on this map and the projected harvest areas are shown in red.
19 And within eastern Prince William Sound, the areas harvested are
20 approximately 8,900 acres and the areas projected for harvest are
21 approximately 8,600 acres. And again that's using the same
22 terminology as I explained before, that projected harvest areas
23 are areas where timber harvest is likely to begin in 1993.

24 MR. SANDOR: A question before

25 MR. PENNOYER: Mr. Cole (ph)?

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1 MR. SANDOR: you move -- Mr. Chairman, if
2 I may?

3 MR. PENNOYER: Mr. Sandor?

4 MR. SANDOR: That red is the imminently
5 threatened land or?

6 MR. SUNDBERG: Correct. It's the projected
7 harvest areas.

8 MR. SANDOR: Yet

9 MR. SUNDBERG: We don't know whether there's
10 imminent threats in there yet, but there is

11 MR. SANDOR: Potentially so?

12 MR. SUNDBERG: Yeah, potentially.

13 MR. SANDOR: Yet the adjacent yellow is also
14 privately owned and presumably would have potential for harvest?

15 MR. SUNDBERG: That's correct. In fact this
16 doesn't show, you know, down the line where timber harvests may
17 occur in the future on some of those other yellow lands,
18 because

19 MR. SANDOR: Just

20 MR. SUNDBERG: we just don't know at this
21 point.

22 MR. SANDOR: Precisely the question that comes to
23 mind, if in fact we protected the imminently threatened areas in
24 red what would preclude that same land owner to move onto yellow
25 areas and -- which may also have habitat that would be

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1 potentially adversely impacting to these same species?

2 MR. SUNDBERG: Nothing. That's why what we're
3 proposing is to identify where these habitats are sort of across
4 the scale and so we make sure that we look at the important ones.

5 MR. COLE: Mr. Chairman?

6 MR. PENNOYER: Mr. Cole?

7 MR. COLE: Let me see if I -- I'm not sure I got
8 that. How many acres in red?

9 MR. SUNDBERG: In red there's approximately 8,600
10 acres.

11 MR. COLE: And how many acres in yellow?

12 MR. SUNDBERG: Oh, boy.

13 MR. COLE: Well, you know, just about.

14 MR. SUNDBERG: Walt, do you know?

15 MR. COLE: It looks like it ought to be more than
16 ten times greater, doesn't it?

17 MR. SHERIDAN: I believe that it's safe to say
18 it's more than ten times greater, yes.

19 MR. SUNDBERG: If I had a computer here, I could
20 give you

21 MR. SHERIDAN: Yeah.

22 MR. SUNDBERG: an instant answer, but I'd
23 say it's probably 800,000 acres, close to a million acres? No,
24 it's not that much.

25 MS. RUTHERFORD: 80.

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1 MR. SUNDBERG: Ten times than the red at 8,900.

2

3 MR. SHERIDAN: I think it's more like 100,000 or
4 so.

5 MR. SUNDBERG: Yeah, about 100.

6 MR. SHERIDAN: Or 150.

7 MR. SUNDBERG: Yeah. Walt says 150,000, guess.

8 MR. COLE: 150,000?

9 MR. SHERIDAN: Yeah.

10 MR. COLE: And we were dealing with that other
11 imminently threatened on table two of 33,000?

12 MR. SUNDBERG: Correct.

13 MR. COLE: And we calculated that at 20,000 an
14 acre to be 660 million.

15 MR. SUNDBERG: Correct.

16 MR. COLE: So this would be five times 660
17 million if the basic numbers remained the same. I mean, tell me
18 if I'm off base, but I'm trying to get a sense of where we are.
19 Five times this would be three billion.

20 MR. SUNDBERG: Within -- yeah, within this area
21 I would sort of venture that the values are probably somewhere
22 around 20,000 an acre.

23 MR. COLE: How much?

24 MR. SUNDBERG: 20,000 for timber value.

25 UNIDENTIFIED: Could I object just for a second?

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1 That is an absolutely absurd number. The native corporation
2 themselves have talked about prices lower than \$1,000.00 per
3 acre. And Katchemak Bay along is around \$1,000.00 an acre, fee
4 simple title plus the subsurface rights. So this \$20,000.00 an
5 acre is an (indiscernible) number to be calculating the fact that
6 we don't have the money to do the job.

7 MR. COLE: Well, we haven't gotten to that, but
8 that's what this contract, or this study I think will address,
9 but

10 MR. SUNDBERG: Yeah. I think the important thing
11 is, too, is that we're -- we're zeroing in on timbered lands here
12 versus all lands including muskegs and rock and everything else,
13 and, you know, John Harmony looked at what timber prices were
14 going for within this area to come up with his spread for the
15 price per acre, so, you know, I can do the reply is that that's
16 what he found where the prices that -- or what the market was
17 paying for it.

18 MR. SHERIDAN: I think that part of the confusion
19 is that when you start quoting prices of nine or \$10,000.00 an
20 acre for timber, you're talking about fully timbered acres of
21 land. You're not talking about the gross acreage of the parcel.
22 You may be going in and harvesting specific units within an area
23 of say 20,000 acres, and you may not be cutting but about maybe
24 half of that in actual acres of timber, and the figures of nine
25 or 10,000 and up is for those specific acres that are fully

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1 timbered.

2 MR. PENNOYER: Well, then but the yellow is not
3 all fully timbered land?

4 MR. SHERIDAN: No, you would not apply

5 MR. PENNOYER: So you couldn't apply

6 MR. SHERIDAN: those kinds of average
7 figures to that whole parcel of land.

8 MR. PENNOYER: And the difference between the
9 33,000 or what we had before or whatever, and this 150 is that
10 this was probably timbered land, and

11 MR. SHERIDAN: Correct.

12 MR. PENNOYER: this here could be a mix of
13 everything.

14 MR. SHERIDAN: That could -- that could be a mix
15 of everything. And I think that the numbers that Kim quoted
16 earlier for acreage in general on -- that is being sold in that
17 area range from less than \$1,000.00 an acre to way above, to sev-
18 -- quite a few thousand dollars per acre, so you have to be
19 careful whether you're talking about apples or oranges in this
20 process.

21 MR. COLE: Well, let's do it another way. If you
22 took a tenth of that, you know, take -- start with the three
23 billion, however we got there, you take a tenth of that, you
24 know, that's 330,000. I mean, what I'm saying is that you're
25 dealing a pretty big number just in this little area here in the

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1 eastern Sound. I guess

2 MR. SHERIDAN: Well, Mr. Chairman,

3 MR. COLE: that's what I'm saying.

4 MR. SHERIDAN: Well, I think that one of the
5 numbers that was quoted again by Kim earlier was that in the
6 whole Spill-affected area you're looking at something like 1.2
7 million acres of private land. I think that was the number that
8 was quoted. But that includes land of all kinds and
9 descriptions.

10 MR. SUNDBERG: Yeah, one other thing to keep in
11 mind, it's difficult to project on where exactly the cutting
12 units are going to occur until somebody goes out there and lays
13 out the timbered area and submits a Forest Practices
14 Notification, and even in that respect it's sometimes difficult,
15 because some of these Forest Practices Notifications, they just
16 draw a line around a section and say, "We're going to cut timber
17 in this area."

18 The green areas on there actually reflect pretty
19 accurately where the cutting units have occurred. The red areas
20 are the best sort of guesstimate as to where the cutting units
21 would be occurring, but they probably over -- the actual cutting
22 within those red units is going to be somewhat -- is going to be
23 somewhat less like Walt said.

24 This map here depicts southern Montague Island, which is
25 the focus of a current road construction project by Koncor and

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1 Chugach Alaska Corporation to begin logging out there, and shows
2 about 1,000 acres which would be projected to be cut or start to
3 be cut next year. Eventually they plan on logging all the
4 merchantable timber in the yellow areas.

5 MR. COLE: Could you go back to the other slide
6 so I -- we can get a sense of where this is compared to the
7 other?

8 MR. SUNDBERG: Yeah, it's off the scale to the
9 lower left.

10 MR. COLE: Oh, it's off the -- that's -- okay.
11 It's not on that slide.

12 MR. SUNDBERG: Correct. We had to put it on a
13 different map, because it's in the other end of the Sound.

14 MR. SANDOR: Again, Mr. Chairman, the

15 MR. PENNOYER: Mr. Sandor?

16 MR. SANDOR: you're saying although that
17 area that's in red is what's currently planned for harvest, but
18 as much as possible the total area that's in yellow will be
19 harvested?

20 MR. SUNDBERG: Correct.

21 MR. SHERIDAN: That's what's (indiscernible).

22 MR. SUNDBERG: That's the -- I believe that
23 that's their plan.

24 MR. SANDOR: Which conceivably might be as much
25 as 50% of the yellow area or more?

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1 MR. SHERIDAN: Yes.

2 MR. SUNDBERG: I've heard figures of something
3 around 12,000 acres out there of timberland, in that
4 neighborhood.

5 Okay. This -- moving on down the coast, this map depicts
6 the southern Kenai Peninsula and Katchemak Bay. And within this
7 area approximately 10,000 acres have already been harvested, and
8 the projected harvest area is 7,900 acres. Most of that is up in
9 the Katchemak Bay area.

10 MR. PENNOYER: Again, the projected is what is
11 now known, not yellow, some part of the yellow would still be
12 available later for logging?

13 MR. SUNDBERG: Correct.

14 MR. McVEE: Mr. Chairman?

15 MR. PENNOYER: Mr. McVee?

16 MR. McVEE: In looking at these maps, we've got
17 it seemed like some opportunity, and I'd really like Walt or Kim
18 to address it, but that we have previously harvested areas. Is
19 there any way of establishing the impacts that that harvest has
20 had upon Oil Spill-damaged resources, or maybe another way is the
21 effectiveness of the various permits and the Forest Practices Act
22 to say protect the anadromous streams? It seems like that might
23 be useful, too, since that's a factor or an element of the total
24 formula that we have to work with.

25 MR. SUNDBERG: There is a low-level of agency

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1 monitoring that occurs after timber cutting on these areas.
2 There's fairly active monitoring that goes on while the timber
3 harvests are in operation to enforce the buffer provisions.
4 There are no targeted studies at this point that I know of to,
5 you know, specifically go into some of these cutting units and
6 evaluate what the impacts have been on wildlife habitat.

7 The Forest Practices Act doesn't really do anything
8 specifically for wildlife. It does provide some level of
9 protection for fish and the buffer areas that are left along the
10 streams provide some benefit to wildlife afterwards, but there
11 really are no targeted studies at this point to evaluate that.

12 Okay. Last, this is a map of Afognak Island, which is
13 once you get much past this going down the coast there really
14 aren't any more trees, except for the northern part of Kodiak.
15 And this is an area where the most timber harvest activity has
16 taken place. There's approximately 20,800 acres that have been
17 harvested up until and including 1992, and there's a projected
18 harvest area of 15,500 acres.

19 MR. COLE: Do we know the price of the -- that
20 that timber was sold for? That should give us a pretty good
21 number.

22 MR. SUNDBERG: I think we could probably get a
23 pretty good idea. I don't have those figures in front of me, but
24 we do have some data on what the volume classes are on Afognak
25 Island, and there is some access through economic data on what

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1 timber prices go for on the West Coast and out of Alaska that
2 John Harmony's pulled together, so I think we could probably come
3 up with, you know, some fairly good estimates as to what it's
4 worth.

5 I put this slide in here to show sort of some of the gee-
6 whiz stuff that's possible. And what I think we would be
7 proposing to do would be to use the geographic information system
8 to model watersheds, using elevation data, anadromous stream
9 data, models on where say murrelets are nesting, harlequin's are
10 nesting, the various different injured species, and come up with
11 some, you know, configurations of habitat and how it relates to
12 the watershed as a whole in terms of identifying where these key
13 areas are.

14 And concurrently, although we'll be focusing on these
15 imminent threat lands, we would also intend to begin evaluating
16 other lands in the Spill-effected area to determine their
17 respective roles in facilitating recovery of injured resources
18 and services. This example here of Chenega Island, which isn't
19 -- there aren't any plans for a timber harvest or other
20 activities on here at this point, but I think we'd want to be
21 looking at sort of the whole spectrum of available habitat out in
22 the Spill area in terms of the big picture and grand strategy
23 that we've been talking about.

24 This basically concludes the first part of this
25 presentation, and if there is any questions, Walt and I would be

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1 happy to try to answer them.

2 MR. SHERIDAN: I guess I'd like to make just one
3 comment before we open it up for questions, and that is that one
4 point that I'd like to make sure that everyone understands in
5 this thing is that there's an awful lot of private lands out
6 there. There's a lot of activities that are going to be taking
7 place out there, and the point that I think that we would like to
8 make sure that you get is that what we're looking for and
9 proposing is a way to narrow that down, a way to focus in on
10 those areas that truly provide some critical habitats and truly
11 will make a difference in restoring the resources that were
12 damaged by the Spill. And what this serves, as much as anything
13 else is to show you the scope of the problem that we're dealing
14 with in trying to make that kind of cut and those kinds of
15 recommendations.

16 MR. PENNOYER: Thank you. Any -- what is you
17 second part of your presentation, before we ask questions on the
18 first?

19 MR. SHERIDAN: Okay. The second part of the
20 presentation is to go through the projects that consti- -- that
21 we need to get you approval on in order to move forward with
22 implementing the strategy. And there are five projects that
23 constitute that. And in fact it might be that they -- presenting
24 some overview of those specific projects might provide an
25 appropriate vehicle to generate the kind of questions that you

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1 might have.

2 MR. PENNOYER: Let me ask you one question then.
3 From the context of the questions you've been getting here from
4 everybody, it's obvious we're concerned about the total land out
5 there, proceeding onto the area in yellow on those charts.

6 MR. SHERIDAN: Yeah.

7 MR. PENNOYER: And you imminent threat analysis
8 includes an evaluation of if you do this, what's still left that
9 you'd have to do? I mean, you're going to put it -- the imminent
10 threat has to be put in some specific. There's just a lot out
11 there that could still be impacted, and as Attorney General
12 Cole's pointing out, you spend all your marbles on something that
13 looks like imminent threats and you've got ten times as much
14 threat out there potentially, you have to know that. So you're
15 -- the process will lead us not just an assessment of these
16 short-term projects, but that in context of what may come on
17 later?

18 MR. SHERIDAN: Okay. The imminent threat process
19 right now is designed to respond to the direction of you folks to
20 get on with it. And what we're trying to do is to have something
21 that will get us to the point where you complete your restoration
22 planning, and in that restoration planning process set the over-
23 all goals and objectives for the longer term kind of process.

24 I think another point that might be useful is that we're
25 not here talking about acquisition per se. We're looking at a

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1 whole toolbox of possible measures that could be applied to
2 protect these areas in the short term pending completion of that
3 restoration plan. That can include different kinds of easements,
4 it can include -- even include some no-cost kind of cooperative
5 agreements, and in some cases it might include the recommendation
6 for acquisition, but I don't think particularly in the imminent
7 threat process, in the short term prior to the completion of the
8 plan that we're looking at wholesale kinds of acquisition
9 proposal in any sense.

10 MR. PENNOYER: Mr. Sandor?

11 MR. SANDOR: Mr. Chairman, isn't it also true
12 that the process by which you evaluate these imminently
13 threatened lands really will be applicable to the long-term plans
14 as well, so that is the criteria and the process that you're --
15 while it seems like part of our concern is about the other lands,
16 we can also make some projections, but I'm jumping ahead to the
17 specific projects, so I will wait.

18 MR. PENNOYER: Any more questions on the first
19 part of the presentation before they go on with their specific
20 project proposals? Mr. Cole?

21 MR. COLE: What -- now that you've completed you
22 first presentation, could you go back and help me again with the
23 dates by which you could have some of this information available?
24 I think I would understand it a little more now if you could tell
25 us?

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1 MR. SHERIDAN: If we receive approval for the
2 suite of projects that we're suggesting to you today, we can have
3 to you a set of recommendations by December 1st as to some
4 specific parcels and some specific protection measures that
5 should be applied to that. That would be clearly linked to
6 restoration objectives and we could lay that out for you by
7 December 1st.

8 MR. PENNOYER: And that would also put in
9 perspective those versus others that might still be coming down
10 the road?

11 MR. SHERIDAN: I would hope so, yes.

12 MR. PENNOYER: Thank you.

13 MR. SUNDBERG: And then in terms of having this
14 sort of system up to look at all the different lands out there,
15 I think we're talking about next April to have that, all the
16 elements together and have that functioning as an analytical
17 tool, although parts of that as you can see we already -- we have
18 -- we're networking with other systems out there, and I think
19 that we can be providing analytical tools along the line, but the
20 timeline shows about next April to have, you know, the habitat
21 protection system up and running. And then we envision, you
22 know, batching these through on say an annual basis of coming up
23 with recommendations and bringing them before the Trustee
24 Council.

25 MR. PENNOYER: Thank you. Further questions at

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1 this point? Would you proceed then with part two?

2 MR. COLE: Should we take a recess and

3 MR. PENNOYER: Do you want to take a recess?

4 MR. COLE: Would there be any sentiment to taking
5 a recess and winding the public at large selection?

6 MR. PENNOYER: We could do that, if you wish.

7 MR. COLE: (Indiscernible) had that in mind.

8 MR. PENNOYER: We had it in mind, but we didn't
9 have it scheduled for a particular time. What's the pleasure of
10 the group? Five, ten minute recess? Okay.

11 (Off record)

12 (On record)

13 MR. PENNOYER: Could we start up again, please?
14 It's been suggested that we -- that we take a break from the land
15 acquisition discussion and go back to the Public Advisory Group
16 and discuss the public at large category. And

17 MS. RUTHERFORD: Mr. Chair?

18 MR. PENNOYER: Yes?

19 MS. RUTHERFORD: Dave's not back yet, but we just
20 were handed some additional information from Tom Gallagher. Do
21 you want me to hand to hand it out?

22 MR. PENNOYER: Certainly I guess.

23 MR. BARTON: Sure.

24 MR. PENNOYER: I'm not

25 MR. SANDOR: Yeah, we can see if that changes our

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1 votes.

2 MR. PENNOYER: We'll take half a second to look
3 at this before we proceed just with the discussion, so that we've
4 had all of these items in front of us.

5 (Pause, looking at document)

6 MR. PENNOYER: Okay. Do we -- are we ready to
7 consider the public at large category and does anybody want to
8 make any nominations? Staff has prepared some work and have --
9 we've been presented a summary of the process that we undertook
10 after lunch, and each Trustee Council member nominating seven
11 people to this group. Staff has compiled those and clearly as
12 you can see they're -- the nominations are -- are ranked by
13 number, and does anybody want to make any nominations? Or
14 comments based on this?

15 MR. ROSIER: Mr. Chairman?

16 MR. PENNOYER: Mr. Rosier?

17 MR. ROSIER: Are you looking to -- for a motion
18 for all five at one fell swoop, or individuals?

19 MR. PENNOYER: Well, we might do that. We could
20 accept amendments to it.

21 MR. ROSIER: Mr. Chairman, I would move then that
22 the five top individuals in the list provided by the staff be
23 appointed to the public at large seats.

24 MR. PENNOYER: Would you read their names,
25 please?

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1 MR. ROSIER: James McCloud -- or James Cloud,
2 Richard Eliason, Llewellyn Williams, Paul Gavora, and Vern
3 McCorkle.

4 MR. PENNOYER: Do I hear a second?

5 MR. BARTON: Second.

6 MR. PENNOYER: It's been moved and seconded the
7 five names read by Mr. Rosier be appointed to the Public Advisory
8 Group, public at large category. Are there any amendments or
9 discussion? Any objection to those five? Hearing none, the five
10 final names for the Public Advisory Group have been selected and
11 we have a Public Advisory Group.

12 Staff, you can -- you have some work to do in
13 modification of the charter I understand, and you've got a group
14 to work with now, and I presume you'll quickly move to start the
15 public advisory process, Public Advisory Group process. Can you
16 give us any idea generally of how soon a meeting would be
17 convened or when it might happen, Mr. Gibbons?

18 DR. GIBBONS: No idea right now, Mr. Chairman,
19 but we'll move as quickly as we can on it.

20 MR. PENNOYER: Thank you. Further comment by the
21 Trustee Council on the Public Advisory Group? Okay. Thank you
22 very much. I'm glad we completed that and I think it's one of
23 the main items with a couple left to go back to the Court for the
24 substantive part of the '92 budget.

25 We were dealing with the public -- with the land

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1 acquisition question, and I believe we were ready for part two of
2 the presentation, and I think Kim probably went to get a cup of
3 coffee, because I think he thinks it was going to take us longer.
4 Walt, do you -- are you guys ready to go or do you

5 MR. SHERIDAN: Yes, sir.

6 MR. PENNOYER: need a minute? Oh, there he
7 is, yeah.

8 MR. SHERIDAN: Mr. Chairman, I think what we have
9 left for the second part of this is to give you a brief rundown
10 on the projects that we're proposing and asking for your approval
11 so that we can move forward with the recommended strategy.

12 The first project is numbered 92059 and it's titled
13 imminent threat habitat identification. And what this would do
14 would be to as quickly as possible convene some workshops the
15 purpose of which would be to identify and refine what we know
16 about the critical habitat for the injured resources and
17 services. That would include the peer reviewers, the principal
18 investigators and others who would have some knowledge that they
19 could bring to bear on this.

20 The idea here is to get as good of information as we
21 possibly can on what these critical habitats are as quickly as
22 possible so that we could use that as primary screening for
23 looking at these areas that we've identified as having some
24 activity that might be taking place on them in the near future.

25 We propose to do that through a cost share agreement with

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1 the Nature Conservancy. What the Nature Conservancy would bring
2 to this process is they have a tremendous amount of expertise
3 across the country in doing just exactly this kind of thing,
4 identifying critical habitats on lands and carrying out these
5 kinds of workshops.

6 The question was raised earlier by Mr. Pennoyer about
7 exactly what a cost-share agreement is. Well, a cost-share
8 agreement is a situation where you have a cooperator, in this
9 case the Nature Conservancy, who has some mutual interests with
10 the agency who is signing the cost-share agreement, in this case
11 the Trustee Council. And so what they bring -- they bring to the
12 table more than what we're paying for is what it amounts to. In
13 this case the cost for this particular item is \$42,300.00 that
14 the Council will be putting into the process. In addition to
15 that, the Nature Conservancy would be contributing about 13 to
16 15% over and above what that cost would be. And the objective
17 here would be to have these completed by November 1st so that we
18 could then utilize that information in screening these area where
19 some activities are going to take place.

20 The next project, which also involves the use of this
21 cost-share agreement with the Nature Conservancy, Kim will give
22 us a briefing on.

23 MR. SUNDBERG: Okay. This is project number
24 93060. It's called accelerated data acquisition. And this
25 project would involve the Nature Conservancy to help the Habitat

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1 Protection Working Group assemble all this information that's out
2 there that needs to go into our geographic information system.
3 I think the comments have been made previously that, well,
4 there's a lot of information, this stuff is all -- it's all been
5 done, or it's all available. It's true that there is a lot of
6 information available and we're not going to be recreating any
7 information that's already out there, but what we found is that
8 a lot of this information is in various forms, formats. When
9 you're getting into the computer world, you have to deal with
10 whether it's in a compatible format for the hardware that you're
11 using.

12 What we would like Nature Conservancy to do in this
13 project is to assemble a catalog of this information, and we have
14 defined in this project description the kind of data layers that
15 we think we're going to need in this GIS, geographic information
16 system to analyze these lands. The Nature Conservancy is also
17 offering to give us some suggestions on other information that
18 they think is pertinent, because they have previous experience
19 with acquiring lands and analyzing lands for habitat protection
20 and other forms of acquisition.

21 So I think the total cost on this is \$43,900.00. The
22 idea is that this project would spin up very soon. They would be
23 going right to work on this and starting to bring this
24 information back to us and to bear on this project.

25 The other reason for doing this this way is that we

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1 didn't want to have to hire on staff within the agencies in order
2 to do this, and any time that you're going out and gathering
3 information, you really have to have somebody that's dedicated to
4 doing that and that can sort of go around to different agencies
5 and know what kind of information to get and get it in a form,
6 and we thought that the most efficient way of doing that would be
7 to contract with an organization who has experience doing that
8 kind of thing and also that would provide the best product in the
9 shortest amount of time, and probably for the best price, too.

10 MR. SHERIDAN: The next element of the strategy
11 is called -- is project 93064, which is the imminent threat
12 habitat protection. And what this project does is set aside five
13 -- up to \$5 million for short-term protection measures which will
14 be allocated by the Trustee Council for specific parcels.

15 And the way this would work is that on December 1st after
16 we have provided you with recommended protection measures for
17 specific parcels, then you would be able then to make a decision
18 on whether to utilize this money. Each one of those decisions
19 would then be looked upon as an amendment to this project. It
20 would modify the project and make it more specific, but would
21 provide the funds in a timely fashion for the agency which
22 assigned the responsibility for implementing the specific
23 protection measure to go forward and actually obtain the easement
24 or obtain the fee title if that happened to be what you decision
25 was on that particular parcel.

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1 MR. PENNOYER: Well, clearly though that's in the
2 '93 projects, that's what we're going to decide on later, not
3 something you're asking for now?

4 MR. SHERIDAN: No, that's correct on that one.
5 The ones that we need some action from you folks on now are the
6 ones involving the accelerated process. In other words, the two
7 cost-share agreements with the Nature Conservancy. These others
8 are part of the over-all

9 MR. PENNOYER: Shall we stop at those two, or do
10 you want to put them in the context of what you're going to
11 present later on?

12 Mr. Sandor?

13 MR. SANDOR: Yeah, Mr. Chairman, I would argue
14 that for planning purposes that it -- and this is with the, I
15 guess, the qualification that it is up to \$5 million for short-
16 term protection measures to be allocated by the Trustee Council
17 for specific parcels of land. It seems to me it would be very
18 helpful to the group that's doing the planning that we are
19 willing in fact to commit up to \$5 million for this protection,
20 particularly since we're going to have the option of an
21 opportunity to pass on each parcel individually, you know, I
22 think this brings in fact each project before us, but I would be
23 very much in favor of committing the Trustee Council even at this
24 stage for planning purposes, that we are willing to commit up to
25 \$5 million for the protection of these imminently threatened

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1 lands, and so I'd ask that those -- that the three items at least
2 be placed on the table.

3 MR. COLE: Mr. Chairman?

4 MR. PENNOYER: Mr. Cole?

5 MR. COLE: Mr. McVee had his hand up first.

6 MR. PENNOYER: You were talking. Okay.
7 Mr. McVee?

8 MR. McVEE: Thank you, Mr. Chairman. I guess the
9 problem that I have with the five million, -- I think we should
10 move ahead with the 059 and 060, and, you know, I realize the
11 concept that Mr. Sandor has talked about here, but the problem I
12 have with that is that I feel like it could go forward in the
13 normal '93 budget process and we could get public review, you
14 know, we could take action of that here in the next few days as
15 part of the '93 budget proposal, and then it could go forward for
16 public review and we could have that, you know, that number
17 validated you might say before the general public. And we aren't
18 -- we won't be delaying the process in any way if we do that, and
19 fulfill a requirement also of the decree I believe that we have
20 public input into these projects, particularly where they're a
21 substantial amount of money.

22 MR. SANDOR: A question.

23 MR. PENNOYER: Mr. Sandor?

24 MR. SANDOR: When might that be if it's not done
25 now? Is it going to be done this month, or when is it going to

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1 be done? I -- we've gotten a lot of public comments already that
2 we ought to be getting on with it.

3 MR. PENNOYER: Mr. Sandor, I think we're -- the
4 intent was provisionally to have been today or tomorrow to have
5 dealt with the '93 process, including this particular number
6 you're discussing. My assumption is before we get out of here,
7 we've got to sit down and say when we're going to reconvene to do
8 that

9 MR. SANDOR: I see.

10 MR. PENNOYER: and we have to do it in the
11 very near future, because we need to get that into the public
12 process so we can get it into the system, and to the Court before
13 we run out of money next March. So we have to do that.

14 I guess my problem with deciding it today is I still
15 don't have any idea what's a reasonable number. I mean, when you
16 say "up to," you're limiting my options before either discuss it
17 or get public reviews, or if we put it into the court process now
18 for '92, I'm not sure what we really should be doing with it.

19 MR. SANDOR: So it's your understanding,
20 Mr. Chairman, that we will deal with this as part of the

21 MR. PENNOYER: It is in the

22 MR. SANDOR: as part of the '93?

23 MR. PENNOYER: '93 budget package now.

24 MR. SANDOR: Uh-huh.

25 MR. PENNOYER: The '93 budget package we didn't

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1 act on today has that as a project

2 MR. SANDOR: Okay.

3 MR. PENNOYER: listed and it was certainly
4 one of the things we're going to discuss.

5 Mr. Cole?

6 MR. COLE: I have a problem dealing with it (a)
7 today and (b) as part of the '93 projects. Let me say why.
8 First I think we have no rational basis for arriving at the
9 \$5 million figure. I mean, it could be 10, it could be two, it
10 could be 20. If the information presented to us warrants
11 arriving at any specific number. Now, as you said, I think we're
12 limiting our judgement, and also I think that this information
13 that we're going to get from 059 and 060 is the information that
14 we need to figure out or determine whether the figure is five or
15 two or 20, you see. I don't see how we can say later this week
16 that, well, one of the projects is 5 million. I think we need
17 the data from 059 and 060 to make this decision, so therefore I
18 would not favor, you know, putting this on the project agenda
19 until we have that information. Maybe I'm missing the point
20 but

21 MR. PENNOYER: Wasn't there a need to have a
22 place holder in terms of informing OMB about the general size of
23 the budget and we couldn't wait until December to do that, so
24 we're faced with a Catch 22. Either we have something in there
25 that indicates we're intending to spend some money on this

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1 category, if we want the public to know that, and for OMB to have
2 some general concept of magnitude, or -- without actually knowing
3 ahead of time what the projects are going to look like.

4 Mr. Sheridan?

5 MR. SHERIDAN: Mr. Chairman, I'd like to speak to
6 that for a second. There was some rationale to the development
7 of that number, and that being that \$5 million is a substantial
8 sum of money, and we were looking for having a substantial sum
9 that could be used by the Council in a very timely manner to
10 respond to the recommendations that will be coming forward on
11 December 1st.

12 The second thing was that it allows the Council to show
13 that it's very serious about the imminent threat process, the
14 protection of critical habitat.

15 Now, whether or not that's the right number or not, a lot
16 of people could argue with, but we also just approved, or you
17 just approved today the financial operating procedures which
18 include in that a mechanism where by if we run into changes where
19 we need to double, triple, quadruple that number, that's possible
20 to do through actually the Council, but that kind of action will
21 require public input again and will slow the process down. If we
22 need to take some action on a specific parcel in a very timely
23 manner, and don't have some funds set up for that, we may lose
24 that opportunity.

25 MR. COLE: Mr. Chairman?

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1 MR. PENNOYER: Mr. Cole?

2 MR. COLE: You see, what I'm concerned about is,
3 and I think properly so, those who urge us to make habitat
4 acquisition, et cetera, et cetera, will say, "Well, goodness,
5 they only set aside 5 million for all this problem," and I
6 guarantee you we will be savagely attacked for such -- setting
7 aside such a small number. I just know that. And why not duck,
8 you know? And say positively, affirmatively we're prepared to
9 spend whatever money is necessary to fulfill our
10 responsibilities, you see, and really mean it, instead of just
11 having 5 million out there. Now that's the way I would do it.
12 So there you are, gentlemen.

13 MR. PENNOYER: Well, I think there's a procedural
14 problem here, but I agree with Mr. Cole. I can't pick 5 million
15 as the -- first of all, I can't do it today. I'd rather see it
16 in the context of all the projects. Second of all, when we get
17 to it, I'm not going to know anyway to chose that number. You
18 say there was a basis for it, I yet still don't know what that
19 basis would be. So maybe when we discuss the project in more
20 detail I'll have a better idea, but right now I don't know why
21 five or ten or 15. It says up to. It doesn't say I'm going to
22 do it. But why I should limit myself to that particular level,
23 and I'd prefer to do what you're suggesting, but I don't know
24 procedurally exactly how we can accommodate that, and I need some
25 help from the R.T. when we get into it, but I would not be

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1 prepared to do it today.

2 MR. SANDOR: Well, Mr. Chairman,

3 MR. PENNOYER: Mr. Sandor?

4 MR. SANDOR: it's clear I'm being
5 outnumbered, but this is partly a commitment of actually placing
6 money for planning purposes for the acquisition or other
7 mechanisms to protect this imminently threatened habitat. As I
8 understand the words "imminently threatened," this means that,
9 you know, that these lands are on the verge of in fact being
10 planned for, permitted for action, and we may want to use one of
11 a number of mechanisms to protect those.

12 I don't believe we need to act on this today, but it
13 would really disappointing for the '93 budget package we would
14 send that out for comment with zero identified for acquisition or
15 other protection purposes.

16 So, Mr. Chairman, for the purpose of the actions here
17 today, I move adoption of 93059 and 93060, the agreements with
18 Nature Conservancy, and defer action on 93064.

19 MR. PENNOYER: Do I have a second?

20 MR. BARTON: Second.

21 MR. PENNOYER: It's moved and seconded. Any
22 discussion?

23 MR. COLE: Could I comment

24 MR. PENNOYER: Mr. Cole?

25 MR. COLE: just briefly on 064?

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1 MR. PENNOYER: Certainly.

2 MR. COLE: Commissioner, it's not that you're
3 just outnumbered, but I don't think it's a matter of simply
4 putting a zero, in this proposed budget. I think we could put
5 what you might, the accounting CPAs could say contingent, you
6 know, obligations, and put something in there that, you know,
7 describes where we're going with this, and furthermore, maybe we
8 should give some thought to what imminently threatened means. I
9 mean, I'm not under the impression that that means in the next 30
10 days. It would be -- be my view that, you know, we -- but we do
11 have to have something before the next logging season and we
12 should have, no pun intended, our ducks pretty well in order by
13 then.

14 MR. PENNOYER: So if the Restoration Team could
15 -- Dave, if you could think of how we might do something like
16 that, I think when we get to that project, we're going to have a
17 very difficult time in picking a number. And I don't know how to
18 deal with that. I think there are folks who aren't going to want
19 to limit our opportunities if those opportunities are presented
20 to us, so I don't know how to do that.

21 At any rate, is there further discussion on the two
22 projects that were -- it was moved and seconded that we approve
23 as part of the '92 -- balance of the '92 year Court submission?

24 MR. COLE: Yes, I have a comment, Mr. Chairman.
25 Are we going to have a written contract for that, or is it just

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1 sort of

2 DR. GIBBONS: They'll be written contract.

3 MR. COLE: Maybe we could appoint somebody to
4 look at the contract in the interim here, Mr. Barton?

5 MR. BARTON: Be delighted.

6 MR. PENNOYER: Mr. Barton's going to take a look
7 at the contract. Okay. Further discussion? Any objection to --
8 Mr. Barton?

9 MR. BARTON: No discussion on that.

10 MR. PENNOYER: Any objection to the motion? The
11 motion's passed.

12 Mr. Barton?

13 MR. BARTON: I'm a little confused. I thought we
14 attempted to do what Charlie wanted to do in -- with the up to
15 \$5 million in terms of setting aside a number for including in
16 the budget. Is there a way to meet the 30-day Congressional
17 notification without doing this at the same time we do the normal
18 program -- or the rest of the program of work?

19 MR. SHERIDAN: Yeah, I think if you include it in
20 the rest of the program of work with a figure, I don't think that
21 would cause a problem.

22 MR. BARTON: No, but as I understood it, it's not
23 -- the proposal we were going to wait until we had some specific
24 data before developing the number for 64 is it? Yeah, 64. How
25 would we accomplish the required notification process,

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1 Congressional notification process if we took that approach?

2 MR. SHERIDAN: Well, it will put us out of synch
3 with that process, and I don't know what the results of that will
4 be, but it will certainly put us out of synch. We've been out of
5 synch to date, so -- and we've been able to work through those
6 problems though.

7 MR. PENNOYER: I think at the time we take up the
8 '93 budget, whenever that's going to be, and before we get out of
9 here, we're going to have to decide that, we'll need as good an
10 answer to that question as we can get.

11 MR. COLE: Yeah. Well, Mr. Chairman?

12 MR. PENNOYER: Mr. Cole?

13 MR. COLE: You know, this is not an instance
14 where the money's expended would go to a federal agency or a
15 state agency directly, so the Office of -- Federal Office of
16 Management and budget I should think should not be quite so
17 concerned that some agency's getting money, although we do have
18 to give some thought to who's going to own title to these lands
19 and how they're going to be managed

20 MR. PENNOYER: Uh-huh.

21 MR. COLE: in the future. Would this
22 study, 059 and 060, address that issue?

23 MR. SHERIDAN: The recommendations that we will
24 bring to you on December 1st would include a recommendation of
25 what agency would be managing it, what agency would be

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1 responsible for securing whatever short-term rights that we would
2 be asking for. It would include that.

3 MR. COLE: Or long term?

4 MR. SHERIDAN: Or long term.

5 MR. SUNDBERG: Yeah, I was just going to add that
6 this doesn't necessarily mean that this is going to be fee title.
7 This could be a moratoria or, you know, just a

8 MR. PENNOYER: Uh-huh.

9 MR. SUNDBERG: short-term protection action
10 to buy some time.

11 MR. PENNOYER: Mr. Cole, further?

12 MR. COLE: No. No.

13 MR. PENNOYER: Further comment? Do you want to
14 continue your presentation?

15 MR. SHERIDAN: Well, we would like to just
16 briefly have -- yes, there's two more projects that make

17 MR. PENNOYER: Fine.

18 MR. SHERIDAN: up this suite -- package
19 suite of projects, and Kim would like to go through those just
20 briefly for you and then you would probably want to consider
21 those as part of you regular work planning process.

22 MR. PENNOYER: Okay. Go ahead.

23 MR. SUNDBERG: Yeah. Project number 93051, and
24 that's a -- that's basically the field side of this project, the
25 habitat protection strategy, and we have a need to continue to

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1 acquire some targeted field data on some of these parcels, and
2 the two types of information that we anticipate that we're going
3 to need for next year will be a continuation of locating and
4 documenting and mapping anadromous fish streams.

5 And sort of a corollary to that or in conjunction with
6 that would be stream channel typing. That's a methodology for
7 describing the kinds of stream channels, and it's a method of
8 evaluating sort of its relative value for fish production. Those
9 two projects work together.

10 And the third project would be looking more outside of
11 the Naked Island study area as to where marbled murrelet nesting
12 habitat exists. The PIs have done a pretty good job on Naked
13 Island of defining where marbled murrelets nest on that island,
14 but there's some lack of confidence as to whether we can
15 extrapolate that information to other areas, and Naked Island is
16 not an island -- it's all in public ownership, so it's not -- it
17 would not be acquired or be part of this -- necessarily part of
18 any habitat acquisition process. So the marbled murrelet
19 component of this would be to gather some additional information
20 on outside of Prince William Sound on where marbled murrelets are
21 nesting, and develop some additional information that we can use
22 to target on where these key nesting areas are. Total cost

23 MR. PENNOYER: Mr. Sandor?

24 MR. SUNDBERG: Go ahead.

25 MR. PENNOYER: Comment?

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1 MR. SANDOR: Yeah, a question. Can you, not
2 here, but as this is sort of fleshed out, illustrate or show
3 under 93051 the cost for component A and component B? That is
4 the

5 MR. SUNDBERG: Yeah, it should be in there, and
6 I believe that the stream habitat assessment part of that which
7 is the anadromous stream surveys is 124.

8 MR. SANDOR: Oh, I see.

9 MR. SUNDBERG: And the channel typing I believe
10 is 234.

11 MR. SHERIDAN: There are subprojects for each of
12 those and we give you the specific numbers.

13 MR. COLE: When will the -- Mr. Chairman?

14 MR. PENNOYER: Go ahead, Mr. Cole?

15 MR. COLE: When will this be -- the study be
16 completed?

17 MR. SUNDBERG: The project would be completed a
18 year from December I believe. The information wouldn't be
19 available until essentially the end of the next field season.

20 I would like to point out that we are doing anadromous
21 fish surveys during this current fiscal year and we are getting
22 information in from that this fall, and so the stream, the
23 anadromous fish component of this is essentially a continuation
24 of that same effort that was begun last year.

25 MR. COLE: Mr. Chairman?

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1 MR. PENNOYER: Mr. Cole?

2 MR. COLE: I'm a little concerned about this
3 study being completed not until a year from now. I mean, if
4 we're looking forward to the acquisition of pink salmon and
5 sockeye salmon habitat, then we're going to be long delayed, you
6 see. That will not take us up until maybe the year from spring.
7 Is there not some way -- I mean, -- and furthermore, why is it
8 that we so -- why are we so -- don't have this information by
9 now? It's just troubling.

10 MR. SUNDBERG: Because essentially it involves
11 having to go out there and walk every bloody stream on the land
12 and sample it, and this -- what we've found is that we can't get
13 a lot of this information from aerial photos or remote sensing or
14 aerial overflights.

15 But to put the whole thing into context, we do have an
16 anadromous stream catalog that does show where a lot of streams
17 are, but what it doesn't show in areas that haven't been
18 intensively surveyed is where all these little feeder streams and
19 critical rearing areas, and in some cases some major spawning
20 areas have been found within forests that weren't previously
21 documented in this catalog that we have, so there's a need to
22 continue to get that kind of information and we have good
23 information now that's coming from Afognak Island on a lot of the
24 properties out there this past summer, so we can start making use
25 of that. But we'll need some more information, you know, coming

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1 in next year on some of these other lands that we don't have
2 detailed surveys.

3 We have good information on the Tatitlek Corporation
4 lands. We have fairly good information on Eyak, but there's
5 still some gaps and we have pretty good information on Afognak
6 and the Lower Kenai Peninsula, so where this project would
7 probably be targeted for next year would be on Eyak lands.

8 And to speak to your first point, you have to do these
9 surveys essentially during the summer field season when the fish
10 are there and you can sample them. So we're pretty much locked
11 into the seasonal cycle in terms of getting that information.

12 MR. COLE: Mr. Chairman? Well, one of my
13 concerns is whether we're being too fine, you know, in looking at
14 even the small streams. I'd like to have Commissioner Rosier's
15 thoughts on that. He's the expert.

16 MR. PENNOYER: Mr. Rosier?

17 MR. ROSIER: Well, I think that from the
18 standpoint of selecting critical habitat associated with salmon,
19 that I think that the project as it's being put forth here is in
20 fact probably a necessary project.

21 And I think in respect to your question, Charlie, it's
22 one of those situations in which we're continually identifying
23 probably critical habitat. It's not something that you can begin
24 and end. I think that that's the important thing here, that it's
25 going to be a long-term -- probably a longer-term project, that

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1 we'll be continuing to do this over time, so we're not going to
2 do all of the project simultaneously here, but I think that the
3 type of detail that they're talking about here, that we can in
4 fact justify what we're in fact doing I think is important.

5 MR. SUNDBERG: One other point I guess I would
6 make is that if we're talking of land acquisition prices in the
7 range of as low as \$1,000.00 an acre, 124,000 buys 124 acres, and
8 I guess I'd want to know whether there was any fish in there
9 before I bought it. And what we find out when we do these
10 surveys is that some areas that we think there were fish, there
11 aren't any fish, and in areas that we didn't think there were
12 fish, we find a lot of fish. So I guess the analogy is if you
13 bought a -- if you buy a house and you can buy it sight unseen on
14 the outside because it looks nice, but most people want to know
15 how many bedrooms it might have within the house, and sometimes
16 you've got to go inside and find them.

17 MR. COLE: Well, let me just respond to that.

18 MR. PENNOYER: Mr. Cole?

19 MR. COLE: You know, it seems to me if you've got
20 some stream going up there, it's not a big jump to say that the
21 fish are going to go just a little farther upstream, you know.
22 I mean, that's my sense, to where they can't go much farther, but
23 I don't study these things, so I don't know, but I think that's
24 a pretty rightful assumption. But maybe it isn't. Maybe you
25 need to go to the end of the stream to find out if the salmon

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1 really go to the end of the stream. I don't know.

2 MR. SUNDBERG: Well, I've done quite a few of
3 these surveys, and (indiscernible) each, you've got to the end of
4 the stream.

5 MR. COLE: You've got to go to the end of the
6 stream?

7 MR. SUNDBERG: Yeah.

8 MR. COLE: Fine. Got to go to the end of the
9 stream.

10 MR. BRODERSON: Mr. Chairman? One other point to
11 make is that 93051 is not gather specifically information for the
12 imminent threat process but for the long-term purchases so the
13 fact that it wouldn't be ready for two years, I don't see quite
14 as much of a problem since it's not really addressing the
15 imminent threat.

16 MR. PENNOYER: Further questions? We're not
17 going to pass on this today, and it's difficult, looking at it,
18 to decide whether the amount of money and the current information
19 base is sufficient relative to what you're going to go out and
20 do. I can't -- we can't decide that looking at it anyway, so
21 hopefully when we get into that project, you'll be prepared to
22 tell us a little bit more about it.

23 There was quite an extensive stream catalog in Prince
24 William Sound, of course, and a lot of us walk an awful lot of
25 streams in Prince William Sound from very far down to very far

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1 up, but we didn't as you say push on usually beyond the heaviest
2 spawning areas of pink and chums, so -- but there is a lot of
3 data there.

4 And unfortunately the salmon runs change, too, so
5 sometimes you find fish in a stream in a certain area and five
6 years later you don't. And whether that's a change in the stream
7 or a change in the run patterns is

8 Anyway, without getting off into a lot of detail,
9 obviously there will be interest in your background on that, so
10 you might be prepared to discuss it.

11 MR. SUNDBERG: Certainly.

12 MR. PENNOYER: Further?

13 MR. SHERIDAN: One other.

14 MR. SUNDBERG: One other project I was going to
15 speak to is this 93061. This project is called new data
16 acquisition. Thank you.

17 MR. PENNOYER: He didn't like you presentation.

18 MR. SUNDBERG: Yeah.

19 MR. PENNOYER: Go ahead.

20 MR. SUNDBERG: We know that we're going to
21 through these workshops you're going to hold this fall and this
22 data catalog that's going to be put together and assembling this
23 information base, we know that there's going to be some data gaps
24 that are going to crop up, and they may actually be fairly
25 critical data gaps. We can't until we go through those processes

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1 identify where all those are, but 93061 allocates \$500,000.00 to
2 allow for new data acquisition between October of this year and
3 the following fiscal year where those are identified. And the
4 proposal would be to bring these back before the Trustee Council
5 as individual projects for approval when these data gaps are
6 identified. And so if we have to launch a project this winter to
7 get some critical piece of information, we would propose to come
8 back before the T.C. and ask to approve a certain amount of money
9 below the \$500,000.00 cap to get that critical piece of
10 information.

11 Also, if there's some field projects that need to be
12 started next spring or next summer or possibly even in the
13 wintertime, this would allow some monies to be available there to
14 do these projects with the Trustee Council approval.

15 So I can't elaborate at this point any more about what
16 these particular projects are going to be, although I think some
17 of them will relate to -- to say refining some of this computer
18 information, maybe doing some digitizing of maps, and some of it
19 may have to do with some very specific targeted field studies
20 that would have to get launched into the field before the end of
21 this fiscal year.

22 MR. PENNOYER: Questions on the project? Further
23 comments? Further presentation?

24 MR. SHERIDAN: That's it.

25 MR. SUNDBERG: Yeah.

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1 MR. PENNOYER: Okay. You certainly put together
2 a lot of information in a short period of time. We're looking
3 forward to your (indiscernible).

4 MR. SHERIDAN: Thank you.

5 MR. PENNOYER: Phase two. Thank you.

6 Trustee Council, we've got a public hearing advertised
7 from 5:00 o'clock tonight. We have a couple of things left on
8 the agenda. We need to decide what to do with 1993 draft work
9 plan in terms of any discussion here and where we're going to go
10 with that. When we're going to meet on it and when we're going
11 to be ready to discuss it.

12 We have one other item I think that we hadn't made a
13 decision on whether to complete or not in this agenda, and that's
14 the review of the Draft Restoration Plan and request for Trustee
15 Council guidance, and I don't know what the guidance is, but that
16 may be something that we could do here.

17 Mr. Gibbons, is that something we complete here?

18 DR. GIBBONS: Yes, Mr. Chairman, there's about a
19 five to ten-minute presentation just on the status of where we
20 are in the development of a draft restoration plan. It

21 MR. PENNOYER: Could it

22 DR. GIBBONS: lays out the issues and also
23 an annotated outline.

24 MR. PENNOYER: Would the Trustee Council be
25 interested in moving to that item as something we might complete

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1 today and getting the presentation and then deciding what to do
2 with it? Any problems with that? Mr. Gibbons, do you want to go
3 ahead and start that then?

4 DR. GIBBONS: Yes. I'm going to request that Bob
5 Loeffler come up and -- who is a member of the Restoration
6 Planning Work Group and give a status of where they are with it.

7 MR. PENNOYER: Good afternoon.

8 MR. LOEFFLER: Thank you, Mr. Chairman. I'm Bob
9 Loeffler, I'm a restoration specialist and regional planner with
10 DEC. I'm standing in for John Strand who is the chairman of the
11 restoration working group, planning working group, and on
12 vacation at the moment.

13 What I would like to do is spend four to five minutes and
14 just present to you some information which I believe is in you
15 packet and just tell you where we are with respect to the Draft
16 Restoration Plan. And I'd like to do three things: Present to
17 you the issues, which I believe are in you packet; an annotated
18 outline so to give you sort of a vision of what the draft plan
19 will look like when you see a working copy later this fall; and
20 third, just tell you where we are in developing that outline.

21 So first off, I believe in your packet you'll find 11
22 issues. Those 11 issues were first presented in slightly
23 different form in the Restoration Framework. They were modified
24 by the working group in response to public comments on the
25 Restoration Framework, and on comments from the Restoration Team.

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1 Now, I wasn't going to go through those issues
2 individually today. I think they're there for your information,
3 to tell you where we're going, and they're here presented as a
4 guide to the Restoration Plan.

5 I would make one note, that there will also be issues
6 developed for the Environmental Impact Statement. Those issues
7 will certainly be similar, but may not be identical to those
8 here, and I believe they'll forwarded separately.

9 That's the limit of what I have to say on -- on the
10 issues. I think you can read it at your leisure. I will be
11 willing to answer questions now or at your leisure.

12 The second piece of information that's in your packet is
13 the annotated outline. This, too, was developed by the
14 Restoration Planning Working Group with comments from the
15 Restoration Team. If you read it, again at you leisure, it
16 should give you a sort of a vision of what the draft plan would
17 look like.

18 But I -- one thing that you may not get from it, which
19 I'd like to emphasize is that what we're trying to develop is a
20 stand-alone document that is quite easily accessible to the
21 public that the curious, interested observer without dramatic
22 scientific training or a desire to read through reams of
23 bureaucratic information, can pick out what we're -- what we're
24 trying to do and let us know whether we're on the right track, or
25 whether following an alternative would be good.

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1 We're also assuming that this stand-alone, easily
2 accessible document will be accompanied by the Environmental
3 Impact Statement when it's circulated for public review.

4 I believe the outline itself is relatively straight
5 forward and while reading it, you can sort of see how the process
6 will be packaged. You'll, of course, get many chances to review
7 it before it becomes a final package.

8 Sort of one note to the long, long term is that I think
9 we expect that the final restoration plan, which is where we're
10 thinking, will be similar, only the draft presents a variety of
11 alternatives for public review and the final is, of course, only
12 one.

13 Again, we're available for questions now or at your
14 leisure.

15 The

16 MR. PENNOYER: Mr. Sandor?

17 MR. SANDOR: With respect to the outline on
18 spending guidelines, the civil settlement and the criminal
19 settlement, -- well, I guess two questions. When will this --
20 when would we expect this to be completed, this total planning
21 group (ph)?

22 MR. LOEFFLER: We were hoping that we would have
23 a working draft of the important parts of this outline to you by
24 the 15th of November. That's our target date.

25 The guidelines for civil settlement and criminal

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1 settlement, it will be very similar to what's in the Restoration
2 Framework.

3 MR. SANDOR: Uh-huh. Well, this ought to be very
4 helpful.

5 MR. COLE: Yes.

6 MR. LOEFFLER: Well, my only other point was that
7 I gave to Mr. Sandor, and that we're hoping for a working draft
8 of the important parts to you by November 15th, and you will
9 probably be seeing as we come to sort of critical points in the
10 process, seeing some further status report and request for
11 guidance.

12 MR. McVEE: Mr. Chairman?

13 MR. PENNOYER: Mr. McVee?

14 MR. McVEE: Yes. I guess I'm interested in the
15 detail that will be in the plan and, of course, for an outline
16 it's difficult to see that, but maybe you could address that a
17 little bit in terms of particularly the preferred alternative.
18 Do you -- and a specific question I guess or focus a little bit
19 better is will that address injuries and proposed action by -- by
20 damaged resources or services? Will it get that specific?

21 MR. LOEFFLER: We'd certainly go by resource and
22 service. The -- we probably won't get down to the project level,
23 so that we probably can't say we'll do a fish pass on this stream
24 here, but we'd certainly say the kinds of things that we would do
25 for pink salmon or for sockeye salmon. So the level of

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1 specificity also probably varies by resource. So, for example,
2 some -- some options that we have are quite specific. They're
3 really a project. Some options encompass a couple of projects,
4 and we would -- we would push it probably as far as we can, and
5 hopefully with the help of your employees who are on the
6 Restoration Working Group, we would help determine where that is,
7 but in advance of sort of doing it, I can't -- I can't say
8 exactly how far we'd go. But we'd go as far as we can.

9 MR. McVEE: It seems like -- Mr. Chairman, it
10 seems like when we need to take it as far as we can, and if we
11 can get to the point, or it's important to try to get to the
12 point where it's clear what is planned to be done, you know, to
13 restore or enhance and so on each of these resources and
14 services, but it seems like to get that information to the public
15 as part of the draft plan will help focus, certainly focus
16 comments on restoration and provide, you know, better guidance to
17 the restoration program as it proceeds in the future.

18 MR. LOEFFLER: I think that one thing it's
19 probably important that we take as a guiding sort of principle is
20 that there needs to be a certain amount of detail or it -- for
21 the public to understand it and comment. That is, while the
22 public may not necessarily need to know where, on what stream or
23 exactly what we're going to do in what murre colony, if it's too
24 general, the public is ill-informed and can't really give us
25 comments, so we're trying to make it specific enough so that

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1 people can see kind of -- can visualize quite easily what we're
2 going to do, and that's our objective, where we're going.

3 MR. McVEE: Maybe just one other

4 MR. PENNOYER: Mr. McVee?

5 MR. McVEE: question. There's been a lot
6 of discussion I guess on endowments. Will that be -- and that
7 whole aspect, will that be addressed as part of an alternative or
8 in the alternatives?

9 MR. LOEFFLER: Yes, but let me back up a second.
10 We were imagining say three to five alternatives, enough to give
11 a clear choice to the public, but not so many as to confuse
12 everybody. However, it's useful to know that separable decisions
13 that could easily be applied to any alternative, like an
14 endowment, might be a separate category, so that we could
15 certainly ask questions on an endowment without having to
16 shoehorn it into an alternative if it could apply to either. So
17 the answer is, yes, we would ask questions on the endowment, but
18 it wouldn't necessarily be you have to choose an endowment
19 alternative or a protection alternative. You could -- those
20 questions could be answered separately.

21 MR. PENNOYER: Further questions? What -- the
22 agenda item says "Trustee Council guidance," that was -- that's
23 phase two of this presentation, later on,

24 MR. LOEFFLER: No, no, I think that

25 MR. PENNOYER: farther down in?

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1 MR. LOEFFLER: is -- this is really a
2 status report. If there is something in here

3 MR. PENNOYER: Okay.

4 MR. LOEFFLER: that you think requires your
5 guidance, we'd be happy to know it however.

6 MR. PENNOYER: Okay. You didn't have a specific
7 item then on this. Okay.

8 Mr. Cole?

9 MR. COLE: Well, Mr. Chairman, I, you know, have
10 had brought to mind when we talk about Trustee guidance, my
11 thought that maybe the Trustee Council has been too isolated from
12 the Restoration Team, that we meet here only once a month or so
13 and we give some, I might say, just scattered advices, thoughts
14 to the Restoration Team, but we've never really sat down with
15 them around the table for a couple hours or half a day and said,
16 "Look, this is what we really want to see or what we have in
17 mind. This is what we would like you to do." I think we've
18 fallen a little short in giving that type of advice to the
19 Restoration Team, and I would like to see that Council give some
20 thought to that thought.

21 MR. PENNOYER: Mr. Cole, I certainly thought that
22 when we discussed the '93 work plan we were going to sit around
23 a table with the Restoration Team and ask considerable questions
24 and maybe give considerable on that aspect, but that's

25 MR. COLE: Well, we sit

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1 MR. PENNOYER: just one item.

2 MR. COLE: We sit here in this environment, which
3 is a little

4 MR. PENNOYER: (Indiscernible, simultaneous
5 speech)

6 MR. COLE: bit formal from my standpoint.
7 And I'd just like to see us get in a little closer contact with
8 them and have some interaction between the Restoration Team and
9 the Trustee Council and in fact tell them -- have them tell us
10 where they think we're off base so to speak. I mean, I just
11 don't think we're getting the interaction with the Restoration
12 Team that it might be well to have.

13 MR. PENNOYER: Mr. Gibbons' eyes lit up at the
14 last suggestion. Are you ready to do it right now, Mr. Gibbons,
15 or do you want -- would you like to wait and order your thoughts,
16 or are you prepared to go right now?

17 DR. GIBBONS: It's not necessary.

18 UNIDENTIFIED: Give us the first hour, the
19 staff

20 MR. PENNOYER: How long do you want?

21 MR. BRODERSON: We scheduled another day
22 tomorrow.

23 MR. PENNOYER: Well, I think the suggestion is a
24 good one. We probably don't interact very well on just sort of
25 how we're doing business, and we deal with the specific pieces

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1 and the questions, but how we're doing business, and such as
2 meeting you problems with you scheduling with our scheduling and
3 how we fit those together, things we don't often get into except
4 when we come to a crunch point where we've got a date and a mass
5 of information and people had to work a lot of overtime to get it
6 done and yet we're still sitting here wondering how we're going
7 to do it, so it's a reasonable discussion. I'm not sure how we
8 get out of it except perhaps as we get into this '93 work plan,
9 we ought to do just that.

10 MR. COLE: Yeah. Mr. Chairman, it would
11 obviously have to be a public meeting, you know,

12 MR. PENNOYER: I would assume that's true.

13 MR. COLE: not be a back room meeting, but
14 nevertheless, I just think we need slightly more interaction at
15 this public meeting with the Restoration Team.

16 MR. PENNOYER: I was going to suggest the last
17 item on the agenda having to do with how they got to where they
18 got to in the '93 work plan, and -- interactively, so when we get
19 to it.

20 Other -- further comments on the Restoration Plan at this
21 time?

22 MR. McVEE: I guess, Mr.

23 MR. PENNOYER: Mr. McVee?

24 MR. McVEE: Mr. Chairman, yeah, I guess in
25 terms of guidance, what I was focusing on on my question there,

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1 on the preferred alternative was since that's where a lot of
2 attention will be directed, it seemed to me like it might be
3 somewhat useful to expand the outline under that paragraph as to
4 what really will be addressed. And that's a suggestion. I think
5 that would be useful, because basically most people will look at
6 the preferred alternative as a starting point, and I think that's
7 -- that would be

8 MR. LOEFFLER: Well, one thing that might be --
9 the way we think about it is while we're developing alternatives,
10 we don' know what the preferred alternative is until you pick it,
11 and so from our point of view, we are developing fully
12 implementable parallel alternatives, and once you choose one, it
13 is the preferred alternative. But until then, from our
14 perspective they're all -- even though some people may want one
15 or may want others, until you've picked it, it's -- they're all
16 fully implementable, and I -- so that's the way we're going about
17 it.

18 In terms of trying to present more detail, I think it
19 might be more useful rather than giving you a further outline, is
20 to sort of get into and for use to get further down the process
21 and work with the R.T. and the Department of Interior folks in
22 just trying to push the detail.

23 MR. McVEE: Okay.

24 MR. LOEFFLER: Is that okay?

25 MR. PENNOYER: Very good. Thank you very much.

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1 Question, where do we go from here? We have a 5:00
2 o'clock public meeting, scheduled public comment period
3 scheduled. I thought there might be two things left on the
4 agenda that we need to deal with and then I would suggest that
5 after the public meeting period we probably adjourn to whenever
6 we decide to take up the '93 work plan, which I presume might be
7 a continuation of the same meeting.

8 And that's the topic I am wondering about. How much do
9 we want to hear from the Restoration Team at this point as to how
10 they made their project selections and some background on this
11 package so as we go off and review projects and talk about it, we
12 have the benefit of that background before we get into that, and
13 that's not discussing individual merits of the individual
14 projects or arguing about them necessarily, but just seeing how
15 the process got us to the stage we're at now.

16 And then the second thing is when are we going to get
17 back and talk about '93 work plan? Leave it up to Mr. Gibbons to
18 schedule our further meeting, or do we have some thoughts on that
19 now? And I think people are concerned about timing and we need
20 to -- probably need to get back at it, but is the Trustee Council
21 amenable to that suggestion, that we have the Restoration Team
22 give us some background on the package so we understand how they
23 made their decisions and how they got to the point they got, and
24 -- without getting into a lot of discussion of the individual
25 projects, and then discuss where we go from here on making the

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1 approval process with the '93 work plan.

2 MR. BARTON: I think we ought to take the second
3 subject first, however, so we don't run out of time.

4 MR. PENNOYER: All right. That's probably a good
5 idea.

6 MR. COLE: You mean you think it's going to take
7 us an hour to figure out when our meeting is?

8 MR. PENNOYER: I think you have the other thing
9 in mind.

10 MR. COLE: That's about the pace at we proceed I
11 suppose is rational.

12 MR. PENNOYER: I think Mr. Barton was suggesting
13 the other, that if we started to discuss the project -- or the
14 plan itself, we might end up running out of time. Well, are
15 there suggestions as to when we want to get back together on the
16 '92 work plan? Mr. Gibbons, you have looked at the previous
17 calendars. You've said they might have changed, but are we
18 looking at later this week, looking at next week? When are we
19 going to try to do it?

20 DR. GIBBONS: Yeah, at this point in time,
21 Mr. Chairman, I'm not quite sure how the calendars of the Trustee
22 Council are filled. Like I did emphasize last time, I'd like to
23 see if we could get this done as quickly as possible. It can be
24 done perhaps Friday of this week, or early next week, or -- we're
25 available.

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1 MR. PENNOYER: We have alternates, you know.

2 MR. BARTON: I think we need to get on with it.
3 We need to get a budget figure back to OMB as well as just deal
4 with the subject and get on with it.

5 MR. COLE: Mr. Chairman?

6 MR. BARTON: I would suggest we do it
7 Monday and Tuesday.

8 MR. PENNOYER: Next week?

9 MR. BARTON: Yes, next week.

10 MR. COLE: Mr. Chairman?

11 MR. PENNOYER: Yes, Mr. Cole?

12 MR. COLE: I agree with that. It's about the
13 only time I really have enough time to read this material is on
14 the weekend, and therefore I would support next Monday and
15 Tuesday.

16 MR. PENNOYER: Anybody else have some feelings on
17 it? For some of us it will have to be an alternate if it's going
18 to be next Monday and Tuesday, if that's okay. That's -- if
19 that's the way it has to be, that's what we'll have to do.

20 MR. COLE: Well, do you have some other time next
21 week? I mean, I

22 MR. PENNOYER: No, I've got

23 MR. COLE: find that the alternates, you
24 know, we don't have sort of an even pattern with alternates. I'm
25 not

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1 MR. PENNOYER: I've got

2 MR. COLE: talking about, you know, your
3 alternate.

4 MR. PENNOYER: I assumed you weren't.

5 MR. COLE: Making you a little nervous, right.

6 MR. PENNOYER: I assumed you weren't. I've got
7 eight straight days of North Pacific Council meetings starting
8 next Monday. You know, I'm done. I could do it this Thursday or
9 Friday, but, you know, I couldn't do two days.

10 MR. COLE: I will be available any time, you
11 know. What about you, Commissioners Sandor and Rosier? How does
12 your schedule look?

13 MR. SANDOR: Well, Thursday and Friday I have a
14 meeting with EPA, and Monday and Tuesday of next week is a
15 cabinet and budget review with the OMB and the Governor's Office.
16 I'd weigh the opportunities and my alternate has chaired this
17 meeting and has represented the Department very well. I would
18 feel comfortable in Mead Treadwell representing the Department,
19 so any time for these plans.

20 MR. COLE: Well, let me say this: I mean, here
21 we are with the '93 plan. It's probably among the most critical
22 decisions that, you know, we have to make this, you know, whole
23 year, and it seems to me that we should have the first team
24 available to make those decisions.

25 MR. PENNOYER: Well, I don't disagree with you.

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1 Unfortunately some of us sit on commissions and councils and
2 can't get out of it. So it's not an easy choice to make, but
3 certainly

4 MR. COLE: How about Saturday?

5 MR. SANDOR: Saturday's fine.

6 MR. COLE: I mean, you know,

7 MR. SANDOR: Sunday. But maybe what we ought to
8 do is give Dave our schedules and

9 MR. COLE: No. We've got to do it now.

10 MR. SANDOR: Okay. Well, as I say, I'm
11 comfortable with my deputy representing me.

12 MR. PENNOYER: I am, too. Could we do it on
13 Monday? Can we do it in one day? If that's a possibility, I
14 might be able to do Monday. Can we do it in one day?

15 MR. BARTON: I hope so.

16 MR. PENNOYER: Well, let's -- why don't we trade
17 (ph)

18 UNIDENTIFIED: Let's do it in one day.

19 MR. PENNOYER: with -- if we can do it
20 Monday, let's try that.

21 MR. BARTON: Let's just plan on doing it in one
22 day and figuring how -- how to do it that way.

23 MR. PENNOYER: That's

24 MR. COLE: We could go till midnight or two in
25 the morning, until we get it done, you know.

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1 MR. PENNOYER: Let's try for Monday.

2 MR. SANDOR: Monday.

3 MR. PENNOYER: Is that acceptable, to have it
4 Monday?

5 MR. SANDOR: Sounds great.

6 MR. McVEE: Monday.

7 DR. GIBBONS: Mr. Chairman? Can we start that
8 meeting perhaps to give us a little flexibility at 8:30 or
9 something -- such a time like that?

10 MR. PENNOYER: I think we'd probably better if
11 we're going to get it done on Monday. And we go quick on the
12 tape (ph), but then again -- Monday of next week.

13 MR. COLE: 8:30 right here Monday.

14 MR. PENNOYER: Sounds good. Okay. That -- Now,
15 Mr. Barton left having done the one part he's worried about
16 running out of time on.

17 MR. COLE: May I -- can I make a statement?

18 MR. PENNOYER: Mr. Cole?

19 MR. COLE: For those who are going to be
20 addressing the Council with you complaints at 5:00 o'clock today,
21 I for one would, you know, appreciate it if, you know, some of
22 you can focus you thoughts on helping us develop a plan for the
23 acquisition of critical habitat. You see the magnitude I would
24 hope of the problem out there before us. It's not -- it's the
25 selection of habitat lands, how much money, who will have the

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1 responsibility for maintaining it in the future and things of
2 that, you know. It would be nice to have some constructive help
3 from those who have consistently criticized our decisions and the
4 rate at which we are proceeding. So I look forward to that.

5 MR. PENNOYER: Can we -- we've got 50 minutes
6 left before we're going to start the public. I'd sure like to
7 take about a ten or 15-minute break before that starts, an
8 opportunity to make a phone call or what have you, but perhaps
9 right now we could just ask Mr. Gibbons if he would with the
10 Restoration Team present us with the '93 plan not in all it's
11 detail, but at least in what we've got in front of us so we know
12 what we're looking at, and as we go off to study it, we've got
13 that background to base our considerations on. It might help us
14 get a leg up on next Monday. And so without evaluating the
15 projects, Mr. Gibbons, will you describe to us the process and
16 describe to us what we have here that we're looking at and the
17 various pieces we have to work with?

18 DR. GIBBONS: Yes, Mr. Chairman. I'm going to --
19 I think there's two people that probably should help present
20 that. One is Jerome Montague, who is the chair of the 1993 work
21 group, and the second person is Bob Spies, the chief scientist,
22 and we've been trying to work together as a team to come up with
23 the recommendations, so maybe Jerome can run through the process
24 and if Bob has some comments on it, that he can give those at
25 this time and then again maybe perhaps detail next week.

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1 DR. MONTAGUE: Thank you, Dave and Mr. Chairman.
2 First of all, I'd really like to thank the people on the '93 work
3 plan work group and -- for all the long days and Labor Day
4 weekend and other weekends they've put in on this and especially
5 to our budget guru, Mark Broderson, who's probably out done
6 everyone for -- in terms of time put in on this activity.

7 In front of you you've got three notebooks. You may
8 already be somewhat familiar with them, but I'll just go through
9 them all anyway. One is the detailed budget which covers both
10 the administrative director, the working groups, the Restoration
11 Team and all the projects. Another smaller notebook, the
12 thinnest notebook, is just copies of all of our final decision
13 documents or recommendation documents on each project showing how
14 we voted and our pros and cons and so forth for the projects.

15 And then the thickest notebook has quite a number of
16 things in it, other than the things we've already covered. What
17 it has relative to '93, it starts out with four tables that first
18 list the projects in numerical order and shows their total cost
19 and what the vote was on those projects.

20 MR. COLE: Could you show us which one is that
21 in, please?

22 DR. MONTAGUE: Okay. It's in

23 MS. BERGMANN: It's this, the blue one.

24 MR. COLE: The blue one?

25 MS. BERGMANN: Right here. Here.

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1 DR. MONTAGUE: This is what the first page to it
2 looks like, the Exxon Valdez Oil Spill, 1993 proposed projects.
3 And again the first table just lists the projects by their
4 numerical order from 93001 through 64. The second table
5 re-categorizes or prioritizes the projects and listing those with
6 five and six votes as one section, those with three and four
7 votes as another section, and those with zero to two votes as
8 another section.

9 MR. COLE: How many votes did you have to have
10 approaching that to get the green light?

11 DR. MONTAGUE: Well, relative to that we -- as
12 you can see, all the projects are in front of you no matter what
13 vote they had. The normal Restoration Team operating procedure
14 is that a recommendation only goes to the Council when there's
15 five or six yes votes.

16 The projects in those first tables are categorized in a
17 couple of different ways further to help you sort of get a vision
18 of the program. One divides the projects up by category, and by
19 that we mean whether it's an enhancement or manipulation action,
20 a management action. And then the last of those four tables
21 covers what we've termed type of project, whether it's shellfish,
22 fish, marine mammals, mammals and so on and so forth. So that's
23 what's in the first four tables.

24 And then after that is the text descriptions to all the
25 projects, and then at the end of the book is six more tables and

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1 these, we felt that what happened to this huge number of ideas
2 that came in was real important, and with 400 and some ideas,
3 it's pretty complex, and all those tables from the number of the
4 in-coming idea or the person's name, so and so forth, you can
5 actually find where that idea came from and what happened to it.
6 If it was rejected, why it was rejected. If it was combined with
7 another project.

8 We have probably two minutes, I'd like for Dr. Sullivan
9 to come up and describe a little bit on how to use those six
10 tables at the end in the event that someone from the public comes
11 to you and wants to know what happened to one of their projects,
12 and we'll keep it very short.

13 DR. SULLIVAN: Well, if you go to the -- if you
14 go to the last table, that's where you would start with if
15 someone wanted to know what happened to their project, and you
16 would look up their last name first, okay? Every time someone
17 sent in a letter or proposal or any piece of correspondence, it
18 received a document number. Within those documents, the '93 work
19 group then tried to pull out all the different things that they
20 could see as significant suggestions or ideas. We did have an
21 idea form that we asked people to submit. But whatever they sent
22 in, if it appeared to be a suggestion to take any sort of action
23 at all, then that was given an extension number.

24 So if you look at the left-hand column under any of these
25 items in the last table, you'll see that there is an

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1 identification number. For example, most of them start 92, which
2 is the year, and then there's a code for the date and then a
3 particular number. And then following that long number is a
4 digit that identifies each one of those ideas within a document.

5
6 So you take that number then and you move to the fourth
7 table, which is the list of project ideas or of ideas submitted
8 listed by project identification number. That's what the project
9 identification number is. Those are in numerical order, and that
10 then will tell you what has

11 MR. COLE: Excuse me, could you tell us which one
12 we're looking at?

13 DR. SULLIVAN: I forget what color it is, but
14 it's the fourth in your -- it looks like it would be the yellow
15 set that you're looking at. Okay?

16 MR. COLE: Okay. That's not in numerical order,
17 that's what throwing me.

18 DR. SULLIVAN: Well, let's me see which one.

19 MR. COLE: I don't think it is.

20 MS. BERGMANN: Yeah, it is. It is,
21 (indiscernible).

22 MR. COLE: No, it's not. It -- there's 12, 16,
23 see?

24 DR. SULLIVAN: That's goldenrod.

25 MR. BARTON: Well, here's yellow.

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1 MR. McVEE: Well, that's our problem.

2 DR. SULLIVAN: Right. There's two yellows. One
3 is -- one's a dark yellow that I'm calling goldenrod and a
4 lighter yellow that actually has the project identification.

5 MR. COLE: Which one were you just referring to?

6 DR. SULLIVAN: The one I'm referring to is the
7 light yellow, the lighter yellow.

8 MR. COLE: See, I didn't follow because I
9 couldn't find those in numerical order. That's what -- it skips,
10 like twenty-

11 DR. SULLIVAN: That's right. What you see there,
12 the document number, not including the extension should be in
13 numerical order. They are not entirely sequential, because the
14 first five -- or the first six left-hand digits denote the date,
15 okay? And so your date -- in other words, it's not entirely
16 sequential, but a lower number is -- always precedes a higher
17 number.

18 Also, within a document not all significant items were
19 considered ideas. Some were considered comments. Those don't
20 appear in here. We did consider all the comments. In other
21 words, like "you're doing a good job," or "you're not doing a
22 good job," something like that would be considered a comment, but
23 it's not a request for action, and that's what this table's
24 about.

25 MR. COLE: What would be the explanation for not

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1 -- there not being a number 32, for example?

2 DR. SULLIVAN: Thirty-two may have been simply a
3 letter that says, "You're doing a good job," and so it's just not
4 there.

5 In any event, once you go to that table then, you'll see
6 in the first column you have the document I.D. number, then
7 there's the category, which we've described a little bit here,
8 then project type, and the title of that particular project.
9 Well, most of these projects, a lot of people had a number of
10 very similar ideas. Some people even submitted duplicate ideas
11 of someone else's projects. They might take exactly the same
12 thing and put their name on it, just basically to add support to
13 it.

14 So when you go over to the status column, you have a
15 number of different choices there. If you have a "P" then you
16 have also associated with it project's number. That project
17 number then you would look up in the very first table, which is
18 the project table.

19 If there is a "C" in the status column, that means it was
20 combined with some other project. And whenever we combined
21 projects, we gave one document the lead number. And when you
22 look at the very right hand column, it will say "combined with,"
23 then you would go to that "combined with" column, find that
24 number and proceed with that number to find what actually
25 happened to the project.

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1 The combined with numbers will always be a passed -- a
2 "P," and "R," or an "E". A "P" is passed, of course, and that
3 goes into the passed or project table. An "R" is rejected and
4 you can look up that project in the rejected table and find out
5 why it was rejected. An "E" is an endowment, and those have yet
6 to be considered and they're all lumped together in a single page
7 endowment table.

8 So once you find out, for example, let's say take a look
9 at the "P's", you go to the very first table, and on that table,
10 on the left-hand side, you'll see the project number is at the
11 top, and then underneath that, the first -- you'll see a list of
12 documents and extensions. The first document is called -- is the
13 lead document and it may -- the rest may follow in numerical
14 order or not, but we simply chose one document into which we
15 would combine everything else, okay? So, for example, for
16 project number 93-1, there are three documents that were
17 considered when the agencies put together a three-page brief
18 project proposal. So if you want to work backwards from this
19 point then, you can look up the document I.D. numbers on those
20 three things and find out where the things came from, who
21 submitted them, what they originally had in mind and so on.

22 DR. MONTAGUE: And in short, you know, you're
23 probably going to have to spend some time with them to really
24 know how to use them, but it is simpler than 18 inches of
25 projects to look through. And I think with that, Joe, we sure

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1 appreciate -- and Joe kind of masterminded putting these tables
2 together and a lot of other people worked on them, and thank you.

3 I'd like to take about ten minutes now to just explain
4 how we got to where we are here with a short history.

5 In May for the first time since the Oil Spill we went
6 public with the work plan process and solicited ideas, and we
7 received some 460, of which about two-thirds were from agencies
8 and about a third was from the public.

9 In conjunction with this effort of going public, we are
10 attempting to enter onto the federal fiscal year, which would
11 begin October 1st, and as such had to truncate the preparation
12 process from about six month to three and a half months.

13 Of the 460 so original incoming ideas, when we eliminated
14 the duplicates and eliminated those that weren't truly ideas, but
15 more or less a comment, it left us with about 360.

16 And also this year there's I think a necessary and
17 complete paper trail on all the ideas, and there's decision
18 sheets. Just the more it goes through the process, the more
19 decision sheets that are added to it, but there is a good track
20 record of what happened.

21 Of those 360, the working group and the Restoration Team
22 first looked at them on three what we called critical factors.
23 Did it meet the terms of the civil settlement. Was it legal and
24 was it feasible, and if they were not deemed to pass any one of
25 those, then the idea was rejected. And those that were rejected

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1 on legal grounds were sent to legal counsel for confirmation, and
2 in a few cases the decisions were changed.

3 The R.T. and the chief scientist then reviewed the
4 remaining projects in terms of, one, whether they were damage
5 assessment, and, two, whether they were restoration projects, and
6 there were criteria that we used, applying a best professional
7 judgment to the various categories of projects. For instance,
8 management actions would have a different set of criteria applied
9 to them than say an enhancement action.

10 But under damage assessment, if the project was supposed
11 to have been closed out in FY 92 then it wasn't considered for
12 funding this year. And new damage assessment projects or
13 continuing damage assessment projects were considered only if
14 there was reason to believe that there was damage and it wasn't
15 sufficiently evaluated at this time for restoration actions.

16 Under the projects that were deemed to be restoration
17 projects, we looked for four things: One, did they have a
18 restoration end point? Were they time critical to be done this
19 year? Was there a lost opportunity if they weren't done this
20 year? And whether there was a long-term commitment or not. And
21 normally long-term commitments were, you know, if it had a long-
22 term commitment, it was rejected unless it was time critical or
23 a lost opportunity, and then it was still considered.

24 After we went through this, there was about 150 ideas
25 left. The R.T. and the chief scientist reviewed this list to see

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1 if, you know, these 150 had any major omissions that, you know,
2 that we thought should be in the restoration -- or in this year's
3 work plan, and also to make an attempt at logical clumping. You
4 know, of these 150, which one of them were essentially the same
5 project, or would logically -- logically go together?

6 And after we had done that, there was about 55 or 60 left
7 that we sent out to have what we term brief project descriptions
8 prepared for, and these are so-called three-pagers, as well as
9 the detailed budget information. Then we received peer review,
10 that was orchestrated by the chief scientist, and there was a
11 number of specific changes to the projects, and we received some
12 advice on priorities.

13 The R.T. then voted on the projects relative to their
14 individual merit. The result of this voting was shared with
15 legal counsel, and they made a number of recommendations, and was
16 also shared with the chief scientist and the finance committee
17 and they also made recommendations of which we have made efforts
18 to try and incorporate.

19 We then re-voted on the projects, not in terms of their
20 individual merit, but in terms of their priority, looking at the
21 total package, the whole picture of restoration needs. We re-
22 voted on them in terms of that priority. And it's that vote that
23 is represented in these first four tables that lead into the
24 brief project descriptions.

25 The Restoration Team also debated somewhat on the --

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1 whether the Restoration Team or the lead agencies should make the
2 decision whether a project should be done in-house or contracted
3 out. That wasn't fully resolved. And if the Trustee Council has
4 any specific guidance on that, we're certainly open to it.

5 We realized that the documents in front of you in these
6 three big notebooks are complex. They were done hurriedly. We
7 know there are some errors. There's going to be tables and
8 numbers that don't match up exactly, and we had contemplated
9 delaying putting this on the agenda, but with the guidance that
10 we had to begin the federal fiscal year this October 1st, we felt
11 that we had to push ahead and go with the best package that we
12 had, and admittedly it's going to be better with a couple of
13 weeks of editing and such which is certainly what we intend to do
14 before it goes out as draft rest- -- or a draft work plan.

15 After the projects are approved for the draft work plan,
16 two things will be done. Well, more than two things. Several
17 things will be done. First, based upon that, that's what we will
18 use to prepare our budgets for the State and Federal Offices of
19 Management and Budget, and also at that time the projects are
20 either going to be developed by the agency into a detailed
21 project plan, which is, you know, maybe 20 or 30 pages as opposed
22 to the three that we have here, or if it's deemed to go out for
23 a competitive bid, a request for proposals will be prepared. So
24 between the draft and the final work plan, there's going to be
25 considerable work, you know, either writing RFPs or developing

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1 detailed project plans. And both the RFPs and the detailed
2 project plans will be reviewed by the chief scientist and
3 appropriate peer reviewers, and in the case of RFPs peer
4 reviewers and multi-agency personnel will be represented on the
5 project selection committees.

6 And we'd also originally planned for a 45-day public
7 review to go on during this time period, and a number of -- I
8 don't know how many, I think about three specialized workshops to
9 deal with some specific problems.

10 We had originally hoped to have the draft work plan, or
11 the final work plan in early December, make the request to the
12 Court then. We're about three weeks late right now, and we'll
13 probably be about two more weeks further before we're more or
14 less onto our old schedule, so it's going to be problematic to
15 have the final work plan done in December, and to get the Court
16 request prior to the January 1st start-up of some of the
17 projects, so one thing that you might consider was whether a 30-
18 day public review would be adequate as opposed to 45.

19 Just trying to summarize a huge amount of information,
20 there's -- over lunch, again hurriedly, we put together this
21 table here which I laid in your chairs or gave to you in person,
22 and it more or less lists the summary of the projects on one page
23 by voting order and by their category and by their type, so you
24 can at a glance see whether fish are being covered or whether
25 habitat's being covered.

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1 I'd like to point out one error. The totals column for
2 the votes by category, in the six or five column should be 42 and
3 not 32.

4 In terms of public versus private amounts of money that's
5 proposed to be spent, depending on whether all the projects are
6 approved or whether just those in the five to six vote category
7 are approved, the range of ratio from public to private is about
8 50% public, 50% agency in the five to six vote category, and
9 about 60% public and 40% agency in the all projects category.
10 And for the most part the

11 MR. COLE: Excuse me. What conclusion did you
12 draw from that? Did you draw any conclusion from that?

13 DR. MONTAGUE: That about half the -- half the
14 money was going to the public or half going to the agencies? No,
15 other than

16 MR. COLE: I would just have the sense that it
17 would show that there was not necessarily favoritism toward the
18 agencies if a greater percentage in the three and four votes were
19 to have gone to governmental agencies. Am I right on that?

20 DR. MONTAGUE: No, I think it's the other way
21 around. The lower the -- at the five to six votes was 50% public
22 moneys and at -- as you drop down to the three votes, I think it
23 was 60% public monies. So the lower the vote, there was a slight
24 increase in the amount of money that was going out to the public.

25 And as far as the survivability of an idea, the original

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1 ratios of about two-thirds agency to one-third public pretty much
2 remained, and the projects shown here derive from about one-third
3 public ideas and about two-thirds agency ideas.

4 To avoid these, you know, kind of last minute deliveries,
5 I think that to meet future renditions of this, we're pretty much
6 going to have to devote three weeks after the Trustee Council and
7 after the Restoration Team makes any changes to it, that will
8 give the work group two weeks to put together a nice document and
9 a week to get it to you all in advance, so I think we're going to
10 have to consider that time period in here on our decisions, so if
11 we meet next Monday and finalize it then, I think we'd be looking
12 at two to three weeks before we could have a draft done, which
13 would be about I guess the second week -- second week of October.
14 So with a 45-day review with the second week of October, I don't
15 think we could make the final with a 45-day review, and be ready
16 before January 1st.

17 That's all I had if there's any questions.

18 MR. PENNOYER: Dave, do you have something to
19 add?

20 DR. GIBBONS: Mr. Chairman, I'd like to add one
21 other thing, in -- on the '94 package we intend to do it a little
22 bit differently. We intend to structure a package that we
23 perhaps -- the framework for a package that we would like to
24 receive proposals under rather than what we did this year was to
25 open it up for any idea. We'd like to say this is our thoughts

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1 on what a '94 package should look like using the Draft
2 Restoration Plan, and therefore get ideas perhaps structured a
3 little bit more.

4 DR. MONTAGUE: Mr. Chairman, further on that, we
5 intend to have more like nine months to prepare it in rather than
6 three and a half, so

7 MR. McVEE: Mr. Chairman?

8 MR. PENNOYER: Questions? Mr. McVee.

9 MR. McVEE: It's not a question, but last week in
10 kind of preparation for this meeting, and knowing that we were
11 going to have a package of projects to look at, I went back
12 through some of the records and developed for my own use a set of
13 the -- of a criteria for considering '93 and I thought I might
14 share those and just -- I don't think we need to discuss it, but
15 if it's helpful in

16 MR. PENNOYER: You're not looking for us to sign
17 off on those, Mr. McVee?

18 MR. McVEE: No. They might be helpful is my only
19 thought with people looking at projects.

20 MR. PENNOYER: Okay. Thank you. I had a
21 question, Mr. Montague. You mentioned that one of the criteria
22 that you looked at was a legal review. Do we have any -- can I
23 -- do we have anything in writing or can you elaborate on what
24 that legal review consisted of? Who did it? What

25 DR. MONTAGUE: Mr. Chairman, yes. I mean,

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1 there's been several memoranda written. Probably the most useful
2 right now would be the one that was written on the 64 projects
3 that were here now.

4 Dave, do you know if we have that? I mean, it's not in
5 here, but we have it.

6 DR. GIBBONS: Yeah. Mr. Chairman, we have -- I
7 have that, but it's stamped right up on the top "attorney/ client
8 product. Not released to public."

9 MR. PENNOYER: But we have copies of it though,
10 the 'Trustee Council?

11 DR. GIBBONS: You don't in your package, no. I
12 can get you copies of that.

13 MR. PENNOYER: I would appreciate that, thank
14 you.

15 Any further questions of the Restoration Team on this
16 package to help guide us through our review of it and then our
17 discussions on it next Monday? Who? Dave?

18 DR. GIBBONS: Mr. Chairman. Bob, do you have
19 anything that you might like to add or shed some light on?

20 DR. SPIES: No, I think Jerome did a really
21 excellent job of describing the process that we went through, and
22 I think that in the end we're a lot closer than we were last year
23 at this time as to the scope of projects proposed and what the
24 peer reviewers and I thought were justified based on the criteria
25 of injury and so forth that were developed.

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1 MR. COLE: Mr. Chair?

2 DR. SPIES: I don't think we're completely
3 matching on our views yet, but -- and I would like to get from
4 the Trustee Council if they have a view as to what kind of input
5 they would like from me on (indiscernible) I could participate in
6 this process so I can at least be prepared at that time to do
7 something that's required.

8 MR. PENNOYER: Is there some indication in this
9 package as to which recommendations were made by the chief
10 scientist on these projects?

11 MR. COLE: Yeah, that was my question.

12 MR. PENNOYER: That might be handy to have.

13 MR. COLE: Mr. Chairman?

14 MR. PENNOYER: Mr. Cole?

15 MR. COLE: Well, how many projects that were
16 given a yes vote so to speak, however it's labeled, did the peer
17 reviewers oppose? You know, approximately?

18 DR. SPIES: Well, it -- those votes were taken --
19 what you see, those votes that you see now in the packet were
20 taken after the peer reviewers had had it for three days, and
21 that review was not ideal, because they were essentially handed
22 things as they walked in the door Tuesday, I think it was August
23 -- or the first week in August, and we had three days. We had
24 good input mainly on the technical feasibility of the projects,
25 and, you know, the comments were more like whether this is

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1 justified more than this is.

2 MR. COLE: Well, here's what I'm getting at. You
3 know, we have a Restoration Team that makes the final decisions,
4 essentially composed of agency personnel. That's given I think.
5 Now, you see, they would have -- be able to out-vote the
6 recommendations of the peer reviewers and the chief scientist,
7 and so what I'm trying to get a sense of, and I hate to put you
8 on the spot too much, but that's your job so to speak, is do you
9 have the sense that your firm opposition was passed over?

10 DR. SPIES: No, I don't think so by and large,
11 that the projects were modified according to the peer review
12 comments.

13 MR. COLE: You're comfortable with the process
14 from your standpoint and those of the peer reviewers?

15 DR. SPIES: Fairly comfortable.

16 MR. PENNOYER: Could you be prepared on Monday to
17 identify any areas of some discomfort and I think you'll receive
18 those kind of questions as we go through these projects.

19 MR. COLE: Yeah, I think what you're saying, the
20 specific projects which you -- the chief scientist and the peer
21 reviewers were at disagreement with the Restoration Team, yes,
22 had a general opposition to or objections to.

23 We need -- and -- I think we need in the public process
24 this mechanism to satisfy ourselves and the public interest that
25 this selection of project process is not solely driven, unduly

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1 MR. COLE: Yeah, I think what you're saying,
2 the specific projects which you -- the chief scientist and the
3 peer reviewers were at disagreement with the Restoration Team,
4 yes, had a general opposition to or objections to.

5 We need -- and -- I think we need in the public process
6 this mechanism to satisfy ourselves and the public interest
7 that this selection of project process is not solely driven,
8 unduly driven by agency personnel. I don't necessarily think
9 that it is, and I respect their professionalism and their
10 integrity, but nevertheless I think it's incumbent upon us, you
11 know, to look at that, to satisfy ourselves that such is not
12 the case.

13 MR. PENNOYER: Yes,

14 MR. COLE: Mr. Chairman, I have a great

15 MR. PENNOYER: That's exactly what I was
16 saying.

17 MR. COLE: Thank you.

18 MR. PENNOYER: Further comment or further
19 question? Okay. I think what we'll do is we'll stand at
20 recess until 5:00 o'clock when we'll start the public comment
21 period. And my intention is then at 7:00 o'clock to recess
22 this meeting until Monday of next week. I guess I'm stuck with
23 the chairmanship again, right? Thank you.

24 (Off record)

25 * * * * *

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P R O C E E D I N G S

PUBLIC COMMENT PERIOD

MR. PENNOYER: Are we ready to start the -- Trustee Council members, are we ready to start the public hearing? Are we on line, ready to go to teleconference?

TELEPHONE OPERATOR: Well, yes. You have Kodiak, Homer, Valdez, Seldovia and Juneau on line at this time. We are barely hearing you, so

MS. EVANS: Barbara, is that better?

TELEPHONE OPERATOR: Yes. Please, continue for just five seconds, to make sure.

MS. EVANS: Okay. We'd like to announce to those that might testify here or on-line at the different sites, please, each person who testifies, spell your name so that the court reporter will be able to record your comments and get your name correctly.

Now, how is our sound, Barbara?

UNIDENTIFIED SPEAKER: Not too good, apparently.

SHIRLEY: This is Shirley in Homer. I have to turn my set way up to hear you, but you're not as broken as you were.

MR. PENNOYER: Who do we have on-line now with communities, so I don't run through the whole list every time I start down through it?

TELEPHONE OPERATOR: As of this time, you have Kodiak, Homer, Valdez, Juneau and Seldovia.

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1 MR. PENNOYER: Okay. Would you tell us if any further
2 communities come on-line so I don't repeat the list every time I
3 start down

4
5 TELEPHONE OPERATOR: Yes, we sure will.

6 MR. PENNOYER: Yes, we sure will. This is Steve
7 Pennoyer, National Marine Fisheries Service, regional director
8 for Alaska, representing NOAA and Trustee Council convening this
9 Trustee Council Hearing at this time.

10 In the past, the way we've done this is to not show
11 favoritism. We've done one from Anchorage, one held on the
12 conference network, so -- and back and forth, so I'm going to
13 start with Anchorage with a gentleman in the front row, who is
14 anxiously raising his hand, Jerry McCutcheon, and after that
15 we'll go out and start with Kodiak, Homer, Valdez, Juneau,
16 Seldovia, taking one and coming back and doing Anchorage until we
17 have everybody taken care of.

18 So, Mr. McCutcheon, will you spell your name?

19 MR. MCCUTCHEON: For the record, my name is
20 Jerry McCutcheon; that's J-e-r-r-y M-c-C-u-t-c-h-e-o-n.

21 You gentlemen have finished the alleged threats to the
22 various parts of Prince William Sound, and that's all very good.
23 Now I just hope that you will set them aside because you have
24 obviously determined you really don't have enough money to run
25 around and take care of everything that somebody points to as

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1 another threat.

2 I think you have to go out and say, okay, this is nice,
3 but now if we're going to get into land acquisition business,
4 we're going to have to pick out the very best -- pick out the
5 best, not with respect to habitat but just plain best that is
6 most representative. And then after you've got yourself a
7 catalog and a list or prioritized as what's best, then sit down
8 and say what kind of habitat did we get out of that? And then
9 look and see what's after. Somewhere along the line, you're
10 gonna have to decide also how much money is it gonna take to take
11 care of that land. You're gonna have to know.

12 If you take your 600 million that you got left and divide
13 it by two, that gives you 300 million. You put the 300 million
14 aside, and if you put the 300 million aside and you get inflation
15 plus 3%, like the Permanent Fund's goal is, you're only talking
16 about having roughly \$9 million available. And if that's only
17 \$9 million available, then you take a million off for
18 administration, and your administration is already running more
19 than that much, then you've only got 8 million left. And
20 somewhere is that 8 million gonna be enough to take care of
21 spruce beetles and other such things if you're gonna keep this in
22 pristine shape? I think you're gonna have to think about that.

23 After you've made your priorities and you've got your
24 money spent in the rest of the things, do you have a balance?
25 And I think you're gonna have to look at it. Now, I'm saying

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1 these things to take care of Charlie Cole's indirect criticisms
2 of all I do is pick on you. I hope that I'm taking the
3 suggestion, at least I'm not sure, and you have to look elsewhere
4 to see what it is you're doing.

5 You can't take Prince William Sound as an isolated event
6 in which you got a billion dollars to spend of which a third of
7 it's gone. You need to think about what am I doing elsewhere?

8 For example, in Juneau, you're going to take a pretty
9 little valley and you're gonna make a tanning spot out of it.
10 You're gonna wreck Sheep Creek for its use, its highest and best
11 use for something that's barely marginal. They had to
12 recalculate to find out it went from a \$2 million loser -- I
13 presume that's per year -- to a \$1 million winner each year. But
14 let's suppose that you tow the line. You either have to dump
15 your tailings in the ocean or you don't -- Gastineau Channel, or
16 you don't mine. What would this stream be worth as a fish
17 hatchery? Go across the road there from where the current
18 hatchery is and expand on that plain -- that alluvial plain out
19 there, and put a hatchery in. That would be worth five to
20 \$8 million a year, is commercial fish. That's at the dock.
21 That's not processed, that's not transported and that's nothin'
22 else. Then if you think it in terms of sports fish, how much is
23 it worth? I think you're gonna have to think that way.

24 Oh, I'm gonna drive the Greenies nuts, and I'm first, so
25 they can all pick on me, but this is a typical example.

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1 Now, who blew that? You people blew that. You'll say
2 well, I wasn't on the -- wait a minute, who is represented here?
3 You blew it. You know, it's not the only thing you blew. Let's
4 take Paint River, for example. There's another example of
5 something. Boy, you put a fish hatchery in. Thank God it
6 doesn't work. You ought to dynamite it. I hope some Greenie
7 goes down and blows it up. There's a higher and better use for
8 that.

9 There's another hatchery site; perched water, couldn't
10 (indiscernible), pristine water up above. And what did you do?
11 You built a -- you blew another hatchery site. What have you
12 got? You've got down a McNeil River for all the purists, a nice
13 bear watching operation, which most Alaskans, if they ever tried
14 to get into that thing to ever watch it, would never get to see
15 it in their lifetime, even if they applied every damn year.

16 Why not plain old crass commercialism. You build a
17 tower, like Wally's small tower down there, a hotel. You got
18 people from all over the world coming in. You can run that thing
19 as long as the bears can stand it. You can manipulate the fish
20 runs, and the University of Washington has shown you can do it.
21 So you can have the fish running from very start when the bears
22 first come up till the time they go into hibernation. And you
23 could have really cleaned up. But you put a fish ladder in.
24 What did you do with the fish ladder? What you did is you
25 introduced disease to the upper stream fish that they've never

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1 seen before. What you did is you took the same thing as Columbus
2 did to America and the Natives is what you did to the native fish
3 up there. You blew it. You could have had a good example of
4 that.

5 And the same thing is gonna apply to logging. You're
6 gonna take areas and go out to protect 'em in Prince William
7 Sound and these same areas you're gonna have in Southeastern
8 Alaska, and the State and the Feds are gonna say we've got to log
9 this area. But the area you're gonna log is worth a hell of a
10 lot more unlogged than some of the stuff you're gonna be put upon
11 by -- in Prince William Sound.

12 Having said enough, I'll let the Greenies all shoot me.

13 MR. PENNOYER: Please wait. Any questions for
14 Mr. McCutcheon? Thank you, very much.

15 Next we'll go to Kodiak. Anybody in Kodiak wish to
16 testify?

17 MS. AKERS: Yes, there is.

18 MR. PENNOYER: Well, please, go ahead.

19 MS. AKERS: Tracy Akers. T-r-a-c-y, the last name Akers;
20 A-k-e-r-s. Did you get that?

21 MR. GIBBONS: Yes, we did. Thank you.

22 MR. PENNOYER: Yes, we did. Thank you.

23 MS. AKERS: Thank you. I represent the Kodiak
24 Environmental Network.

25 We'd like to see habitat acquisition on an equal basis

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1 with all other options as shown in Figure 7, page 9, of the
2 Restoration Framework Supplement. We'd also like to see
3 acquisition as soon as possible, and feel that this is proceeding
4 a little too slowly. We'd also like to see lands judged under
5 Set A, in the Alternative Threshold Criteria. Sets B and C are
6 too narrow and would prove to be unworkable under the terms of
7 the settlement. We'd also like to see habitat acquisition
8 throughout all affected areas.

9 Do you have any questions for me?

10 MR. PENNOYER: Any questions from the Trustee Council?
11 Thank you, very much, Ms. Akers.

12 MS. AKERS: Thank you.

13 MR. PENNOYER: Next, we'll take another person in
14 Anchorage. Anybody else wish to testify? Yes, sir.

15 MS. EVANS: I'd like to request that anyone using the
16 microphone here, please, pull the microphone close to your face
17 and speak right into it. That helps the people at the
18 teleconference sites be able to hear better. Thank you.

19 MR. O'CALLAGHAN: Thank you for the opportunity of
20 addressing you. My name is Mike O'Callaghan;
21 O--'--C-a-l-l-a-g-h-a-n.

22 This is the second meeting of this group that I have
23 attended. The first one that I attended, I think, was the third
24 meeting of the group. I heard the US Attorney General's Office
25 address this group, and he said to the group, quote: This

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1 commission is not a legal entity. It can enter no contracts, it
2 can spend no money. You have no legal basis for existing. How
3 has this legal question been resolved?

4 MR. PENNOYER: Is that your testimony?

5 MR. O'CALLAGHAN: That's my question.

6 MR. PENNOYER: Okay. Mr. Cole, do you wish to respond?

7 MR. COLE: The view to which you refer, I think, is
8 erroneous.

9 MR. O'CALLAGHAN: Then the US Attorney General's Office
10 is incorrect in this statement and your correct in the statement
11 you do have a legal basis for existing, you do have the right to
12 spend money, and you are a legal entity? He was incorrect on all
13 three points?

14 MR. COLE: First, let me say that I do not recall that to
15 have been the opinion of the United States Attorney General
16 William Barr. As I recall, it was a statement made by an
17 attorney for one of the federal agencies, as they say, these
18 days. Having said that, I think that the answer to each of your
19 subsidiary questions is: Yes, we are a legal entity; yes, we
20 have the right to contract; and, yes, we have the right to spend
21 money.

22 MR. PENNOYER: Do you have further testimony?

23 MR. O'CALLAGHAN: No. This is really quite interesting
24 to me. I guess we will have to seek some other form of
25 resolution. I consider this entity to be entirely illegal, and

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1 I think it's really quite interesting that you're carrying on as
2 such. But

3 MR. PENNOYER: Thank you. No, we are legal entity.

4 MR. O'CALLAGHAN: whatever you can get away with,
5 right?

6 MR. PENNOYER: No, we are legal bi-steppers.

7 MR. COLE: Let me respond to that, if you don't
8 mind,

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: because, I mean, I think you deserve a
11 straight-forward answer, and one of the things you may wish to
12 do, if you feel that -- when we make application to Judge Holland
13 for money, which is currently in the registry of the court, if
14 you feel that way, you present your views to Judge Holland, and
15 I'm sure he'd be pleased to receive them and to respond. I think
16 that's the proper forum.

17 MR. O'CALLAGHAN: I have presented my views to
18 Judge Holland. I have not received a response from him. I think
19 that I would probably have to intervene in the case in order to
20 get a response from him.

21 MR. COLE: Well, maybe when we file a petition for money,
22 which if you follow these proceedings, as you've done, you can
23 find out when we will present that, and, you know, file an
24 objection there in court. That's what I would suggest you do.
25 I don't fault you for having a contrary view, but I think that's

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1 the place to present your view.

2 MR. O'CALLAGHAN: All right. Well, I thought I would let
3 all Alaskans hear my views. Thank you, very much. I appreciate
4 that.

5 MR. COLE: Thank you.

6 MR. PENNOYER: Next, we go to Homer. Is there anybody in
7 Homer that wishes to testify?

8 MS. PITZMAN: Yes, my name is Betsy Pitzman; P-i-t-z-m-a-
9 n, and I'm here representing the Board of Directors of the Pratt
10 Museum. Have you folks -- can you hear me?

11 MR. PENNOYER: Yes, we can. Please, proceed,
12 Ms. Pitzman.

13 MS. PITZMAN: Okay. Good evening, gentlemen, and LJ. My
14 testimony concerns the appropriation of funds to assist in the
15 purchase of Seldovia Native Association lands, timber and mineral
16 rights, within Katchemak Bay State Park.

17 In February of 1990, the Board of Directors of the Homer
18 Society of Natural History, the sponsoring organization of the
19 Pratt Museum, passed a resolution in support of the State of
20 Alaska's purchase of SNA lands and timber and mineral rights
21 within Katchemak Bay State Park. The Society operates the museum
22 in Homer. It represents over 800 individual family and business
23 members residing primarily in the Lower Kenai Peninsula, the area
24 most likely to feel the negative impact of logging of SNA lands
25 should reacquisition not occur.

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1 We believe that funds received through the settlements
2 with Exxon are best spent to restore and replace habitat that
3 will support recovery of species of animals and birds lost in the
4 Exxon Valdez Oil Spill in 1989.

5 The SNA lands on the south side of Katchemak Bay are
6 critical habitat for many species damaged in the Spill, including
7 the endangered or potentially threatened species such as the bald
8 eagle, the marbled and kiplet murrelets and the harlequin duck.
9 In addition, many nesting bird species and terrestrial mammals
10 such as black bear, river otter and mink would lose their habitat
11 completely. Logging operations would severely impact many other
12 species on the shoreline and in surrounding waters, including
13 whales, the threatened Stellar sea lion, sea otters, harbor
14 seals, and many species of ducks and shore birds, and several
15 species of sea birds that nest on nearby islands and coasts, and
16 find food in coastal waters that would be contaminated by logging
17 operations. Anadromous fish and marine fish impacted by the Oil
18 Spill would be further damaged by contamination of coastal waters
19 by siltation and pollution as a result of logging.

20 Archaeological sites known to be along the coast
21 throughout the areas to be logged would also be lost.

22 The SNA lands in Katchemak By are integral parts of a
23 diverse and rich ecosystem that will be further damaged if the
24 lands are allowed to be logged.

25 You have the opportunity to preserve this habitat and

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1 allow some of the species which were severely decimated by the
2 Oil Spill to recover to pre-spill levels by assisting in the
3 purchase of SNA lands and timber and mineral rights in restoring
4 ownership to the State.

5 We request that you allocate the funds necessary to
6 initiate the buy-back before the October deadline presented by
7 SNA. I thank you, very much.

8 MR. PENNOYER: Thank you. Trustee Council members, any
9 questions? Thank you, very much.

10 We'll now proceed to Anchorage again, and the next person
11 in Anchorage that wishes to testify?

12 MR. MCKEE: Yes, sir. My name is Charles McKee, and
13 during your break attorney Charles E. Cole asked me if I had any
14 sage advice that I could offer you people in lieu of apparently
15 the discussions I've had with you people before.

16 You know, take into historical account, if you can, the
17 fact that other people, in a historical footnote, were laughed at
18 for their looking beyond hate and developing things that you
19 enjoy today that they had perceived to make life easier for us in
20 the current day, and I might name a few: Thomas Edison,
21 Nepotesla (ph), Albert Einstein, just to name a few, but they
22 were all laughed at. They were all chided.

23 And, quite frankly, that's the current state of affairs
24 with our present monetary system that our founding fathers have
25 established. In my struggles, trying to increase the quality of

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1 education and quality of living in Alaska, I have been set upon
2 by people in positions of authority and denied me the opportunity
3 to help on an individual basis. And so I was told many times by
4 private individuals, well, you've got the time, they've got the
5 money. And I thought about that, so I started investigating the
6 notary seal of the money. Sure enough, they defaced it.

7 So, now we have in a situation, double digit inflation,
8 and I want to bring another historical footnote. There was a US
9 Federal judge, and his name is Martin T. Manton (ph), and this
10 was in 1939, another period in our history, a historical
11 footnote, that they had double digit inflation. He was sentenced
12 for two years in prison, with a heavy fine, because they found
13 out that he was selling court decisions.

14 In this particular situation, at the present, I wrote and
15 made it a matter of court record with Judge Holland that the
16 damage was in excess of \$3 billion. I said 3.5, and I was only
17 \$100 million off, with a ninth grade education, from what Lloyd's
18 of London actually paid out to the Crown of London.

19 So, we're arguing about a small amount of money to
20 purchase restoration -- to deal with restoration in Prince
21 William Sound and habitat purchase. Well, if we had \$3.5
22 billion, we would have the money to purchase the land acquisition
23 as well as deal with underwater oiling that has occurred and
24 still exists.

25 And back to the original treasury seal. It's fraudulent.

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1 They have no political authority to alter, i.e., deface the
2 notary of the treasury seal. It was designed and ratified prior
3 to the formation and ratification of the organic act, which is
4 the Constitution and Bill of Rights. So when he -- Judge Holland
5 agreed with a settlement, he was indeed acting on a fraudulent
6 decision, and you are presiding over fraudulent monies. Then I
7 hear that, indeed, you might not be even recognized as a legal
8 authority. There's a lot of people in our society that have a
9 position of authority that should not have it, because they're
10 just, in current terminology, suck-up to the fraudulent entities
11 that promoted this defacing of the original treasury seal.

12 I wish to bring about, and I will bring about, a coupon
13 with the original treasury seal, which I incorporated with the
14 map that I have copyrighted and provided for monies for not only
15 just restoration but all public works, because it does have the
16 original treasury seal on it.

17 I might also add that a friend of mine said, well, how
18 you gonna get a judge or other judges to decide -- rule in your
19 favor against another judge, because they're all in it together.
20 Well, that's where I come in and say, like I said last Thursday,
21 at the symposium chaired by Reverend Green -- or Pastor Green on
22 hate crimes. Oppression exists because we hang on to or hold on
23 to it. It feeds on itself. The only way we're gonna deal with
24 environmental degradation, double-digit inflation, is get rid of
25 the people that wish to maintain intimidation, i.e., oppression,

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1 and bring back the controls to the people. I mean, that's what
2 I filed this claim -- this complaint in US District Court. I'm
3 followed as an informer of the government, meaning we, the
4 people. And then I hear a snide remark from a friend, saying
5 well, how you gonna get them to rule in your favor when they're
6 just gonna be protecting themselves, indicating that they're in
7 on it altogether. Isn't there any just people in positions of
8 authority -- say the judicial branch, that will invalidate the
9 other rulings, and also invalidate Congress's acts as well as
10 presidential acts if indeed they are against the Constitution of
11 the United States of America?

12 We need \$3.5 billion to deal with this problem that we're
13 all sitting here today discussing, not 900 million. So I end my
14 comment with that.

15 Thank you. Have a nice day.

16 MR. PENNOYER: Thank you, Mr. McKee. Any questions?
17 Okay, I think I will go on then to the teleconference network,
18 and anybody from Valdez who wishes to testify tonight?

19 MS. FISCHER: Hello, My name is Donna Fischer. I'm here
20 in Valdez, and also a gentleman from KCHU, and we are just going
21 to be listening in. I'm gonna be representing, I understand,
22 local government on the Exxon Restoration Council, and I just
23 want the Trustees to be aware that I am participating by
24 listening.

25 MR. PENNOYER: Thank you, very much, Ms. Fischer. We

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1 appreciate that. We'll move on and start the next testimony in
2 Anchorage. Who wants to go next? Yes, sir.

3 MR. HARUN: Thank you. I'm Kevin Harun; last name is
4 spelled H-a-r-u-n. I'm speaking today as director of the Alaska
5 Center for the Environment. We're based here in Anchorage, but
6 have members throughout the state, and as the name suggests,
7 we're very concerned about the environment.

8 The purpose, I think, as to why we're here, is to discuss
9 how we all can work together to restore and heal the Sound and
10 other areas affected by the Oil Spill, and one of the things I'd
11 like to address today, quite simply, is how well are we doing,
12 and pose that question to the Council.

13 I'd like to make some suggestions that are positive, but
14 I'd also like to make some criticisms. I hope that the
15 criticisms are not taken non-constructively, because I do really
16 mean to be constructive in criticisms that I make. I think out
17 of the debate and the discussion of ideas, I think we can have a
18 better framework for addressing these issues.

19 In terms of how well are we doing, I'd like to look at
20 two issues. One is tangible restoration, how well are we doing
21 in that area? And, secondly, how well are we doing in public
22 office?

23 As far as tangible restoration to date, basically, we
24 haven't had very much in the way of tangible results. There's
25 been lots of paperwork, and I was kind of startled to see the

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1 mound today that was brought out. No reasonable person -- I
2 spend, you know, my full-time studying things. I couldn't --
3 you'd have to really be a Nasa scientist on a sabbatical to
4 really have the ability to analyze it and the time to get through
5 it. But that's another question of public process I'll get to.

6 But, really, we haven't seen very much to date and I'm
7 real concerned, as I mentioned before, about spending most of our
8 money on bureaucracy and administration and really not getting to
9 the main issue which is restoring the Sound and the damage that
10 occurred.

11 There's been lots of administrative machinations, but
12 there's really been no land that's been protected. And I realize
13 that things do take time, so I'm not, you know, saying that there
14 shouldn't be some studies. And I realize that we have to have
15 some study before we act. But there are certain areas that, I
16 think, we can act on.

17 My suggestion -- main suggestion is that we take action
18 on Katchemak Bay, that we send a message to the public that
19 really we are concerned about protecting lands that are
20 threatened, that fit the criteria. The question is really what
21 kind of legacy are we gonna leave if Katchemak Bay is lost. We
22 tout ourselves as being Alaskans, at least, that we're able to
23 manage our resources, and we say we can develop the Arctic
24 National Wildlife Refuge in an environmentally sound way, but
25 really this would be a real gruesome symbol to our state and our

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1 country if this state park, one of our treasures, is logged.

2 The question is what kind of a legacy are we gonna leave.
3 As far as specific suggestions I'd like to make on Katchemak Bay,
4 I would like to see the Council conceptually approve negotiating
5 to try and buy that land or the rights or try and protect it in
6 the interim.

7 Another suggestion I have is that a lot of the
8 individuals involved in this are very hot right now. One thing
9 that might help would be to bring in a mediator; someone that
10 could sit down and independently try and facilitate individuals.
11 I think often, you know, the legal process and the clash in that
12 fashion is not necessarily the best way to resolve a conflict,
13 and I think in this case, you're dealing with people that have
14 been working -- for instance, on the other side, some of them
15 have been working for many years, and they're not very willing to
16 negotiate right now or they're intransigent at this point. On
17 the other side, I see individuals on the Council that really want
18 to make sure that we don't get gouged by a corporation. Whether
19 it be a Native corporation or a non-Native corporation, and I
20 really respect that, and I think that you've got to make sure
21 that in the public interest, we get top dollar for whatever we
22 buy.

23 Finally, I'm trying to include the only -- the other
24 major point I wanted to make is that there's a public process
25 problem. The process is incomprehensible. The flow charts are

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1 things that you -- you know, would see in graduate school
2 somewhere and try to analyze and figure it out to make it work.
3 If I were running an agency, I'd be, frankly, embarrassed,
4 because I think we can do a lot better job. I mean just basic
5 things like having information simplified.

6 In the White House, for instance, I know under
7 Ronald Reagan, which might not be a sterling example, but they
8 did require that White House memos be in a one page format. We
9 might want to put a page limit on what we're getting. But I
10 think simplification, that's really what -- 'cause the staff's
11 job should be to capsulize information. 'Cause we and you all
12 don't have the time to go through every square inch of this
13 stuff.

14 The other thing that I want to say, and I want to say it
15 respectfully. I hope it's not taken the wrong way, but with the
16 public members-at-large it was mentioned what we want to do is
17 have disinterested parties involved here to give some balance.
18 But I came back this afternoon -- I had to leave and I came back
19 and I saw, for example, two very fine gentlemen, Lou Williams and
20 Paul Gavora, but that really -- Lou Williams is known as one of
21 the leading proponents of logging in the state, through the
22 Ketchikan newspaper, and I've read a number of his columns in the
23 Times, and Paul Gavora, I know Paul Gavora, and Paul is one of
24 the leading developers in Fairbanks. And I know that this is not
25 really -- I've heard about some of these other members. This is

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1 not really balance here. And I think it needs to be pointed out
2 that they're not disinterested, and they're gonna take a
3 position, and we pretty well know that.

4 So I think we can all work together, but I think we need
5 some real improvements in the public process, and I think we also
6 need to send the public a message that, yes, we're gonna protect
7 certain lands, such as Katchemak Bay, that state park that's very
8 much threatened right now.

9 Thank you.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: Well, I want to focus on Katchemak Bay. Who
12 now owns these lands in Katchemak Bay which you urge us to
13 acquire?

14 MR. HARUN: I understand there's some various parties
15 that have different pieces of it right now.

16 MR. COLE: Are they the Native organizations?

17 MR. HARUN: Yes, and

18 MR. COLE: And how did the Native organizations get this
19 land?

20 MR. HARUN: Through selections under the Alaska Native
21 Land Claims.

22 MR. COLE: All right. And -- okay, and what restrictions
23 were placed on the use of those lands by Congress when they
24 passed the Native Claims Settlement Act which allowed the Natives
25 to select those lands?

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1 MR. HARUN: Well, I'm not quibbling that

2 MR. COLE: Just hear me out. Let's stay with this.

3 MR. HARUN: Are you saying their intent was to allow them
4 to develop?

5 MR. COLE: Well, of course. Of course they were. We
6 know that. Congress gave the Native corporations the right, and
7 I'm not being critical, but justifiably so, to take these lands,
8 to develop 'em, and to improve their economic life in our society
9 in Alaska. Okay? Now, what restrictions did Congress place on
10 that? Did Congress say you can't log these lands? No. In fact,
11 the purpose underlying it was just the contrary. In many ways,
12 after a period of years.

13 Now, why don't you go to Congress and say you made a
14 mistake, you know, George Miller, and you ought to buy these
15 lands back from them. Why do you come to this group here, who
16 are charged with the restoration of Prince William Sound of the
17 Oil Spill, and say buy these lands and protect them from us all.
18 I mean, that gives me a lot of trouble. I mean, you focus on us
19 and you should be focussing on Congress and those people who
20 allowed this, if you want to call it, as you say, tragedy, to
21 happen, and then it gets dumped in our lap and say, gosh, you've
22 got to go do something. Come on, you guys. I mean, like they
23 say in the vernacular, give us a break. It's Congress who was
24 responsible for this. I mean, it's Congress who could have
25 prevented this.

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1 MR. HARUN: Could I

2 MR. COLE: Yeah, now just give me your answer to that,
3 would you, please? I know winter's coming, and I'll cool off.

4 MR. HARUN: I don't think Congress really envisioned
5 every specific implication of its action, and it's an ongoing
6 process, as we know, with any piece of legislation. And so in
7 many ways these lands are currency, they're bargained for, and in
8 many cases they're going back to Congress to try and get money to
9 buy lands. But what I'm saying is I'm not a bureaucrat, and I
10 just want to make it happen, and I think what the people of this
11 state are saying is you tell us how to make it happen. I mean,
12 we don't need to get into -- you know, if we get into the legal
13 realm and say, well, what's perfectly legal and what exactly was
14 Congress's intent, I don't think we'll ever know that. But I do
15 think that this area, Katchemak Bay, is definitely related to the
16 Oil Spill, and it is something that the people want to acquire,
17 and so why can't we do it?

18 You know, it would be a tragedy if that land is logged,
19 and I think -- you know, Charlie, you've mentioned to me -- you
20 know, at one point you said, well, some day when I'm the low man
21 with a cane, I don't want to leave behind a legacy that I didn't
22 do anything. And I believe you and I trust you, and so I look
23 forward to you and the other counsel members to follow through on
24 that; to leave a legacy for the state. Because if you don't put
25 money into land acquisition, all you're gonna have left is a big

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1 pile of paper, only a mile higher than what we already have to
2 date and nothing. And this also ties into the importance of
3 Alaska. Alaska is important. It's unique in the world, it's
4 unique in the country, and I think we have an obligation to
5 protect some of it.

6 MR. COLE: Why don't you go to Congress and ask them to
7 give us a hand?

8 MR. HARUN: If I could do it, I would. Thank you,
9 though.

10 MR. PENNOYER: Mr. Sandor.

11 MR. SANDOR: Kevin, I think you were here when we were
12 talking about the values of the lands and the proposed
13 requisition. Everything from, I think, 300 million to 3.0
14 billion, but many, many lands. But we talked about
15 prioritization process, and I guess the question I wanted to ask
16 -- since you've followed this right closely, to two projects that
17 we did approve today with the Nature Conservancy. It was
18 intended and is intended to bring a systematic and scientifically
19 based process of identifying the criteria, evaluating the
20 criteria, and prioritizing these projects.

21 What's your assessment of those two projects; did we do
22 the right thing today?

23 MR. HARUN: I think you did. I think the Nature
24 Conservancy is a great organization. I think they have the
25 skills and the ability to do an evaluation in a way that can

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1 simplify things, too. They have a history of working with
2 private parties, and I think -- I think they can come up with
3 real good framework.

4 I guess I'm just concerned, mainly, that there are some
5 areas that we've identified as being important, and I don't want
6 to see that fall through the cracks, 'cause they may not come out
7 with a report until maybe the beginning of next year, right? Is
8 that

9 MR. SANDOR: Well, hopefully, before.

10 MR. HARUN: You know how things go on. Sometimes things
11 don't fit the timetables exactly.

12 MR. PENNOYER: Further questions? Thank you, very much.

13 MR. HARUN: Thanks a lot.

14 MR. PENNOYER: Go on now to the field, to Juneau.
15 Anybody in Juneau wishing to testify tonight?

16 MR. THOMA: Yes. I'm speaking from Juneau. This is
17 Mr. Thoma -- Chip Thoma; C-h-i-p T-h-o-m-a, #2 Marine Way, in
18 Juneau, 99801.

19 Mr. Pennoyer, if you're the chairman, are all the
20 trustees present this evening?

21 MR. PENNOYER: That's correct, Mr. Thoma.

22 MR. THOMA: Have you taken any vote, sir, on the agenda
23 items? That's all that I received today. I was just trying to
24 see if votes have been taken on the habitat and the public group
25 advisory nominations and the draft work plan and the rest of the

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1 things on the agenda?

2 MR. PENNOYER: Not entirely. We have taken action on the
3 Public Advisory Group and have a Public Advisory Group of all
4 sectors now complete; we have reviewed the habitat protection
5 process; approved two projects, both contracts -- sharing
6 contracts with the Nature Conservancy to speed up data
7 acquisition and selection on eminent threat primarily in the
8 habitat arena; then we approved the Financial Operating
9 Procedures; reviewed the draft Restoration Plan. We did not
10 finalize action on the 1993 draft Work Plan, and when we recess
11 this meeting tonight, we will reconvene next Monday morning here
12 in Anchorage to do that.

13 MR. THOMA: Very good. I appreciate that summary, sir.
14 Are you up to 15 members now on your Public Advisory Group?

15 MR. PENNOYER: We have 17 total.

16 MR. THOMA: 17 total. Very good. So you appointed,
17 what, seven today?

18 MR. PENNOYER: That's correct.

19 MR. THOMA: Could you, very briefly, give me those names?

20 MR. PENNOYER: Mr. Gibbons.

21 MR. GIBBONS: Yes. For the category of Recreational
22 User, James Diehl; for the category of Sports Fishing & Hunting,
23 Paul Andrews; for the nominees of the Public At-Large,
24 James Cloud, Richard Eliason, Lou Williams, Paul Gavora, and
25 Vern McCorkle.

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1 MR. THOMA: I am extremely disappointed, as someone who
2 has been involved in politics in this state for 20 years, to hear
3 that these people have been appointed as the last seven remaining
4 members of this committee. To me it completely politicizes this
5 committee and puts on a slant to it that's inappropriate, and I
6 will speak -- I will speak to Mr. Andrews and Mr. Eliason and
7 Mr. Williams, all these gentlemen. Mr. Andrews has been a member
8 of the Territorial Sportsman and also the -- was very active in
9 the McDowell settlement, and Mr. Eliason and Mr. Williams, coming
10 from pulp mill towns, have opposed, for the most, I think,
11 progressive thinking as far as the use of the Tongass in their
12 political careers, and I determined that Mr. Williams has,
13 indeed, a political career. Mr. Williams has written extensively
14 on not selecting habitat as part of the settlement, and backing
15 the Governor in his decision completely. I think it's totally
16 inappropriate, and I do plan to complain to Judge Holland and
17 whoever else wants to listen that this selection -- this added
18 selection, for whatever reason, obviously, was to get friends of
19 the Governor's and the Attorney General's on this committee, and
20 I think it's improper. And as much as I love Dick Eliason, and
21 as much as I respect some of the things that Rupe Andrews has
22 done, I think that it's very political and inappropriate.

23 I'll go on. I went today to the US Forest Service and
24 Legislative Affairs offices, looking for a packet of information
25 on this meeting, and they were not there. DHL had not arrived.

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1 And that should have been done a week ago. But I went there
2 twice. I think something could have been faxed, some kind of
3 summary. I hear it's a very weighty tone (ph) that you have sent
4 out, but I think that it should have been there a week ago. I
5 found it striking that I went to Mr. Barton's office and his
6 secretaries had no knowledge whatsoever of any kind of agenda or
7 packet. And as far as identifying for me who, indeed, works at
8 the Oil Spill Office at the Juneau Headquarters here, they told
9 me it was solely Mr. Gibbons, and I have a real problem
10 understanding when so many people, to my knowledge, working out
11 of Juneau are on the employ of the Forest Service and dedicated
12 directly to the Oil Spill as coordinators or some sort or
13 another, that there was not a packet of information in the
14 Federal Building in Juneau.

15 So, I asked and I asked and I asked, and Mr. Barton, as
16 you know, you have three secretaries in that office, and they had
17 no idea what I was talking about, and they couldn't tell me who
18 works for Mr. Gibbons. I mean, why doesn't Mr. Gibbons, at
19 least, have a secretary in the Oil Spill Office in Juneau? You
20 know, at least for public information services. I mean, why
21 can't we afford some kind of position, you know, to have at least
22 two people that are out front identified with the Oil Spill
23 Office. If we're gonna spend this kind of money on staff, and
24 Mr. Gibbons' office is ostensibly in Juneau, I think it's totally
25 appropriate that we have a staff person in Juneau that is able to

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1 dispense information, basically, in a moment's notice that that's
2 their job. And especially now that we have Mr. Andrews,
3 Mr. Eliason and Mr. Williams on the panel. Obviously, a very
4 strong southeast influence here, I think it's even more
5 appropriate.

6 My next -- I think I'll just go on to that I think it's
7 -- I did testify about two weeks ago that I think there is a
8 critical need -- and you may have discussed this in your habitat
9 discussion today -- I think there's a critical need throughout
10 the state for the eradication of foxes and rats on islands
11 throughout the state. There are a few -- there's three or four,
12 I believe, in the Gulf of Alaska, and the majority, of course,
13 are in the Aleutians. And I think for the preservation -- and I
14 do mean that word very strongly, the preservation of bird
15 colonies and species, I think that this is a threat that we have
16 in Alaska to migratory waterfowl that these foxes and rats need
17 to be approached directly, and we do have ways to control foxes
18 in this state. I am told that biologists in New Zealand and
19 Iceland have at least begun to pioneer how to take care of rats.
20 They have huge rats on these islands. I think it's absolutely
21 necessary that we concentrate what biology staff that we have
22 available to us through Fish & Wildlife/Department of Interior,
23 through our State Fish & Game, that we coordinate this effort and
24 get on with the program. There are some 400 islands in the state
25 that are overrun -- not overrun, but are controlled -- are

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1 predatorized by foxes and rats, and it's not right.

2 The other danger, of course, that is -- that happens
3 worldwide is the -- when shipwrecks occur, the release of rats,
4 especially on grain carrying ships of that nature, that this is
5 where these rats solely are released, and I think it's important
6 that we recognize this, just as we recognize oil spills. If we
7 really are going to look at the restoration of bird colonies,
8 then we should look at shipwrecks, the release of rats as being
9 a reasonable, direct problem. And when this occurs, we should
10 have the ability and the dedication to go out and approach these
11 wrecks just as we would an oil spill, and make sure that rats
12 don't get released onto these islands.

13 My next point is I have decided from a meeting this week
14 about this state administration opposing provisions of the House
15 Energy Bill, I've decided that that truly is the way that this is
16 gonna end up working out, and I think it's a sad commentary, of
17 course, on this process, but I think that the House Energy Bill,
18 where the majority of monies -- it directs that the majority of
19 monies from the Exxon settlement be spent for habitat acquisition
20 is the proper course and that this really is the way that this
21 bill and the havoc that it's wrecked (ph) and continues to wreck
22 (ph) even at Cape Suckling (ph) on bird and wild species, has to
23 be done through habitat acquisition.

24 So I am going to identify with that bill -- with that
25 provision of the bill, and see to it that our congressional

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1 delegation, if they do oppose those provisions in the bill, are
2 identified for that throughout the coastal communities.

3 I think that if Mr. Young and Mr. Murkowski, in the next
4 six weeks or so, decide to take up this banner and try to delete
5 these provisions that we should identify them, since it is a
6 political year. I think it's a very political issue. I think
7 that the -- and to be consistent -- I will be consistent. I
8 think the settlement and the framework involved are highly
9 political and they are manipulated by this decision by unanimity
10 that you gentlemen have where you basically don't take a vote,
11 you know, unless you've got the six votes, and especially on very
12 controversial issues, such as habitat acquisition. I would like
13 to see some of these votes on the record, you know, even if it's
14 a three to three or a two to four, I would like to see these
15 votes on the record.

16 So, obviously, I have a lot of problems with this. The
17 settlement and the negotiation of it are a part of the recall on
18 Governor Hickel, and I think it's appropriate, of course, that
19 that be there, that we will continue to identify these problems
20 as being equal to the task of recall, and I think that's the end
21 of my testimony.

22 If you have any questions, I'd be sure happy to answer
23 them.

24 MR. PENNOYER: Thank you, Mr. Thoma. Any questions of
25 the Trustee Council? Comments? Thank you, very much.

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1 I think we'll come back to Anchorage now and Mr. Knowles.

2 MR. KNOWLES: Thank you, Mr. Chairman. Members of the
3 Council, my name is Tony Knowles. I'm a resident of Anchorage.
4 Did you want the address? Is that for -- 1146 S

5 MR. PENNOYER: You don't have to.

6 MR. KNOWLES: is my home address. I would like to
7 urge the Council, in the very strongest of terms, to make it the
8 highest priority, the habitat acquisition. And I would very
9 respectfully say that I really think it's outrageous that the
10 vast majority, if not all of the monies that have been spent to
11 date, have been compensating the various agencies rather than
12 insuring that the act of the Oil Spill, and to the extent that it
13 was a criminal action was an act and a crime against nature, not
14 against the DEC or Department of Interior or Fish & Game. Yet
15 the first ones to get paid have been -- to the extent that I
16 understand it, some \$55 million has been the agencies. And I
17 would just reflect on the fact that if hurricane Andrew or
18 hurricane Iniki -- if the very first monies had been spent in
19 those situations to re-compensate the agencies rather than to
20 rebuild the communities, there would be a very justified public
21 uproar. And I would say, in this particular case, that the job
22 of habitat acquisition is long overdue, and I would encourage you
23 to -- in the strongest of terms, to apply the monies to that.

24 Thank you, very much.

25 MR. PENNOYER: Thank you, Mr. Knowles. Questions or

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1 comments from the Trustee Council?

2 MR. KNOWLES: Thank you.

3 MR. PENNOYER: Thank you, very much. Go out now to
4 Seldovia. Anybody in Seldovia wishing to testify tonight?

5 MR. ELVSAAS: Yes. Are you hearing me all right?

6 MR. PENNOYER: You need to identify yourself and spell
7 your name, sir.

8 MR. ELVSAAS: Yes. My name is Fred Elvsaas; it's E-l-v-
9 s-a-a-s. And I would just like to just clarify a couple of
10 things from some earlier comments.

11 The comments on the Katchemak Bay acquisition, there
12 seems to be an inference that the Seldovia Native Association,
13 which I represent, as the land owner, are trying to sell this
14 land to the State of Alaska. The fact of the matter is the state
15 hopes that Seldovia Native Association in (indiscernible) land
16 trades and outright purchase lands. And we worked up an
17 agreement for a purchase price with the price, of a fairly large
18 discount on a cash value basis, and the sale did not go through
19 because the Governor vetoed this plan. I heard Mr. Harun speak
20 to the federal government coming into the picture.

21 The Seldovia Native Association did not make this plan
22 available to the Federal Government; to the State of Alaska only.
23 And I think that that issue must be kept in mind as you go
24 through your deliberations. If you have any questions, I'd be
25 happy to answer them.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: I would like to say that I personally favor
3 the acquisition of Katchemak Bay State Park lands, and I have
4 worked in the past and will continue to work to acquire those
5 lands in State ownership. But I am troubled over the approach
6 that so often seems to be made to the Trustees here that we're
7 somehow remiss or committing a cardinal sin by not acquiring
8 those lands quickly. I think there is broad sentiment among the
9 Trustees to acquire those lands. It's not easy to do within the
10 terms of the consent decree.

11 I think what I would like to see more than almost a
12 strident urging that we acquire those lands that some help in how
13 we can acquire them within the framework of the consent decree,
14 within the framework possibly of legislative action. Those are
15 where we're having some difficulties. I think that the Trustee
16 Council will likely find, if it's not found, that difficulty in
17 spending \$22 million out of this fund itself to acquire Katchemak
18 Bay. And as I told Mr. Harun in the past, that I think that a
19 collective approach to the acquisition of Katchemak Bay, we can
20 get it done, we can get it done relatively soon. It is not an
21 easy assignment. So, again, I urge, you know, probably less in
22 the way of -- I don't want to say demands, but strong urging and
23 help in our getting it done, and I think we can do it. That's my
24 personal view. I don't necessarily speak for the other members
25 of the Council, but

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1 I also want to say, and make it very clear, that the
2 Governor has made it extremely clear that he favors the
3 acquisition of Katchemak Bay State Park lands, with no
4 equivocation on his part on that subject. 411 contains some 40
5 to \$45 million plus or minus other expenditures. I think that's
6 somewhere (indiscernible). So, anyway, I just wanted to make
7 that clear.

8 Thank you.

9 MR. PENNOYER: Thank you, Mr. Cole. Further comment or
10 questions? Thank you, very much.

11 I'll come back now to Anchorage and the next person in
12 Anchorage?

13 MS. RODERMAN: Lisa Roderman. I'm now an Anchorage
14 resident. I've spoken to you before. I was principal
15 investigator on damage assessment studies aimed at damage of the
16 Exxon Valdez Oil Spill to sea otter weanlings and hematology
17 studies on adult females and sea otter pups, and collaborated on
18 studies of reproduction and mortality of adult females in Prince
19 William Sound. I've been studying, along with my colleagues, sea
20 otters in Prince William Sound since 1984.

21 My first comment to the Trustees have to do with -- to
22 thank you for your efforts regarding the workshops that you have
23 planned to identify critical habitats. I think that's a great
24 idea, and I think it will take you many steps forward in terms of
25 identifying critical habitats very quickly, rather than going

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1 through a more lengthy process. And I particularly applaud some
2 of you who, I do believe, have really been trying to solve the
3 problems.

4 I have some comments which, again, given Mr. Cole's
5 comments, I'll try to keep constructive, as much as possible.
6 I've tried to keep that in mind when talking to the Trustees
7 rather than just complaining to them.

8 The process, as it is right now, in terms of scientific
9 research and solicitation of projects, still has a number of
10 problems, in my opinion, and I address my comments and try to
11 make some suggestions to how you can go about remedying those
12 problems.

13 I'll give you some specific written comments within this
14 week on my own particular case, which I think I won't go into
15 now, but exemplifies some of the problems that have occurred
16 rather nicely in terms of conflict of interest and some other
17 issues, which I've raised to the Trustee Council before.

18 But there still is a tremendous amount of conflict of
19 interest problems, I believe, problems with scientific ethics,
20 which have still to be addressed by the Trustee Council, that are
21 ingrained in this process. Suffice it to say, some of the ideas
22 that have been presented to you in your Restoration Plan for
23 1993, as being agency ideas, may not have originated within the
24 agency, and are basically, in some cases -- at least in part,
25 proposals that were originally developed by other people such as

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1 myself, and which propose to analyze data taken -- for instance,
2 in the case of myself, over a very long period of time, many
3 years before the Exxon Valdez Oil Spill.

4 This -- let's see. My viewpoint is that you need to
5 remedy the problem that at this time agency personnel are still
6 being allowed to basically insure their own job security and to
7 further their own careers based on the scientific talent and
8 recommendations of other people. And this year you did so rather
9 blatantly, which was kind of strange, by saying that proposals
10 came in were non-proprietary.

11 In my own case, proposals had been -- I've been given, at
12 the request of the Restoration Planning Team, proposals in 1990
13 and proposals in 1991, with the agreement that they were
14 proprietary. These proposals now show up -- segments of these
15 proposals now show up in so-called agency proposals, and I
16 question your -- the thought that you can solicit proposals from
17 scientists and say that the ideas are non-proprietary, wherein
18 nearly every other situation, be it NSF, NIH, almost every other
19 funding source, proposals are proprietary, because it's a lot of
20 what scientists have to offer; the data that they've already
21 collected, the insights they have, the knowledge which they bring
22 to bear about a particular problem and their advice on how to
23 solve and address a particular question.

24 So, I make the following suggestion to you that you
25 entirely open the process and solicit proposals which would be as

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1 they always are, as I've said, treated and considered in a
2 proprietary manner. In this round, as I say, people were told,
3 and I was told explicitly that this was not the case, and when I
4 asked whether I could be given assurances by the Restoration
5 Planning Team that proposal grabbing would not occur, I was
6 basically told by certain members of the Restoration Planning
7 Team and others closely associated, that they could give no
8 assurances, and some folks said they actually thought this was
9 likely to happen.

10 And this -- so this doesn't result in a very fair
11 process. And I emphasize that in no case am I coming to you
12 asking for consideration of my funding requests in general. My
13 feeling is that the Trustees can either fund a project or not
14 fund it, but that if a good proposal comes from someone, the
15 person that should be funded to do the work is the actual
16 scientist that should do the work, the people that came up with
17 the proposal.

18 I'm not alone in my thoughts about opening up the
19 process, and I would like to read into the public record a letter
20 from Dr. Spies, the chief scientist to the Trustee Council. My
21 copy doesn't have any kind of a date on it, but I think it's
22 important that the public at large know this has been raised, and
23 I just want to read a few excerpts from this.

24 So, it's to the Exxon Valdez Trustee Council, from
25 Robert Spies, chief scientist: My primary duty, as chief

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1 scientist, is to advise you on the scientific information needed
2 for assessment damages and for restoration and enhancement of
3 natural resources in the Spill area. Part of my obligation is to
4 insure that you receive the highest quality information on which
5 to base your decisions.

6 And skipping down he talks in the next paragraph about
7 the many qualified scientists previously were not able to
8 participate in the process, and it says: This problem continues
9 through the 1993 Work Plan development, where it was made clear
10 that ideas solicited from the public were not to be considered
11 proprietary, and could be appropriated and used by the agencies.
12 And I am telling you that this has happened.

13 It seems to me -- then skipping down again: It seems to
14 me, now that the litigation has been settled and we have moved
15 into restoration, that there is an opportunity to potentially
16 increase the quality of some aspects of the work we do through
17 costs and increased public participation. This change would also
18 greatly benefit the agencies as the competition would insure that
19 the greatest emphasis would be placed on competence and quality
20 of the natural resource work being done. Open competition would
21 also greatly encourage the timely completion of reports and
22 publications which have not received the attention they deserve
23 in many instances. Let me say to those of us that have been
24 involved in this process, that's an understatement. To encourage
25 participation by highly qualified individuals and firms, however,

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1 that was my insert, just for the public record. That last little
2 editorial was not in Dr. Spies' letter.

3 To continue on in Dr. Spies' letter: To encourage
4 participation by highly qualified individuals and firms, however,
5 independent review of the proposals is essential. Presently, the
6 Restoration Team is voting on which proposals will be recommended
7 to the Trustee Council. The members of the Restoration Team are
8 representing agencies that themselves have proposed projects, and
9 are clearly not without real and perceived conflicts of interest.
10 Several independent investigators have indicated to me they are
11 skeptical about the outcome of the process.

12 And in the last paragraph, Dr. Spies recommends the
13 following -- he says the following: Many of the peer reviewers
14 and other scientists have told me that the restoration process
15 should be more open to public participation. I have come to the
16 same conclusion. I hope that you will seriously consider this
17 suggestion in your future. There is, in my opinion, time to
18 implement a competitive process for selections and an independent
19 review process for much of the work you may wish to achieve in
20 1993.

21 In the response to Dr. Spies', the Restoration Planning
22 Team says, for instance: We envision an equitable mixture of
23 agency and private activities and talks about how the team is
24 going to address the conflict of interest issues.

25 So, again, I get back to Dr. Spies' recommendation, and

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1 I'd like to put Dr. Spies on the spot, actually. I'm sorry I
2 have to put you on the spot but it does come with the job, and
3 ask him to comment on whether he does the following -- would you
4 ask him to comment on the following: Does he think there is
5 still time to implement a totally open process for proposal
6 solicitation for the 1993 work process; whether he thinks the
7 whole process in general would be served by putting -- if not,
8 whether he thinks the process would be served by putting all of
9 the proposed studies that you have before you out to bid. The
10 ones that you decide should go forward, put those out to bid.
11 The agency people -- you said the ideas were not proprietary, and
12 yet in some cases agency personnel have written up the ideas as
13 their own, put it all out to bid. That would be basically the
14 only thing that's left to do that would be equitable. And ask
15 him if he would be willing to characterize -- this is what really
16 puts him on the spot, and maybe he won't want to do this, for the
17 Trustees and for the public, how his recommendations in terms of
18 opening the process have been received, and to ask him to comment
19 in general on whether this whole proposal and idea grabbing issue
20 has been a problem, and if he thinks this negatively affected the
21 process.

22 And then I'd just like to clarify, as I end, one other
23 thing. I would like to clarify what proportion -- well, let me
24 backup a second. Previously today, we were told that there was
25 a significant private sector element. I mean, what's coming from

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1 the Restoration Team to the Trustee Council. And I was curious
2 if we could clarify what proportion of the PI's on proposed
3 studies come to you are from the private sector, because -- well,
4 I'd just like to know that: What proportion of the actual PI's.
5 I imagine a lot of boat charters and other things are going to be
6 in the private sector, but in terms of the people that will be
7 leading scientific studies, I would like some clarification as to
8 how it stands right now in terms of your proposed work plan.

9 MR. PENNOYER: Appreciate it. Would you, please, wait
10 for a second to see if there are further questions.

11 We are going to take up the '93 Work Plan, and we've
12 asked the Restoration Team and Dr. Spies to be present and answer
13 questions about the plan, how it was developed by the various
14 project committees in their priority.

15 Rather than get into that here, I'm not sure if Dr. Spies
16 is prepared to get into that process at this time. I think I'd
17 entertain questions from the Trustee Council. These questions
18 have been raised, Ms. Roderman, and I think we can deal with them
19 during the '93 Work Plan discussion. But I'll certainly yield to
20 your preferences.

21 MR. GIBBONS: Well, Mr. Chairman, I think it is important
22 these be dealt with. I presume it would be more logical to deal
23 with next Monday. I think Dr. Spies' memo raises some important
24 issues, you've essentially reinforced them, and raised some
25 logical questions. I look forward to that discussion unless

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1 someone would want to have that discussed at this time. It think
2 it's probably better handled at the meeting next Monday.

3 MS. RODERMAN: Well, can I ask on Monday will there be a
4 public comment period on Monday? In other words, will we have
5 the same people in line that are on line right now? Because I
6 think that this is an issue that's come up repeatedly, and it's
7 an issue that the public in general really needs to, I think,
8 have clarified for them -- at least the research community needs
9 to have this clarified, if at all possible.

10 MR. PENNOYER: Were we scheduling a public hearing
11 session for Monday?

12 MR. GIBBONS: We can, Mr. Chairman.

13 MR. PENNOYER: Well, I think that might be appropriate
14 then, and your questions are in the record and we will deal with
15 Dr. Spies' letter then. Again, these are projects going out to
16 public review, and we'd like the broadest possible understanding
17 of where they came from and how they were developed and what they
18 mean.

19 So, if there are no further questions? Mr. Gibbons.

20 MR. GIBBONS: I'd like to make one comment. She
21 referenced the response letter. I'd like to put that into the --
22 make sure that's in the record. We did respond to Dr. Spies' and
23 we've had some discussions with Dr. Spies since then.

24 MS. RODERMAN: Would it be possible at this time to
25 clarify my last question which had to do with the -- sort of the

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1 percentage of PIs that you are now -- in terms of projects -- in
2 terms of the breakdown right now that you're recommending, in
3 terms of private sector/public sector, does anyone have a -- at
4 least a gross idea to what proportion of the principal
5 investigators on theses studies are in the private sector?

6 MR. MONTAGUE: Mr. Chairman.

7 MR. PENNOYER: Mr. Montague.

8 MR. MONTAGUE: I don't know if this is working. I can
9 answer that. First of all, of the 60 or so projects, they're
10 projects not studies, there's a lot of projects that aren't
11 researched and the leaders of 'em wouldn't rightfully be called
12 principal investigators, but of the 60, altogether, 10 would be,
13 you know, headed up by non-agency people, about 20%.

14 MS. RODERMAN: What about the ones that you would
15 consider scientific?

16 MR. MONTAGUE: I'd have to look that up. I'm not sure.
17 And then the amount of money to the public is 60%.

18 MR. PENNOYER: Questions have been asked and they're on
19 the record, and we will try and deal with them next Monday. And
20 thank you, very much.

21 MS. RODERMAN: Thank you. And, again, I do appreciate
22 this -- some of the Trustees are working very, very hard, I know,
23 to try to involve the public and try to offer remedies at getting
24 at this whole question of how to protect critical habitats, and
25 I do appreciate that.

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1 Thank you.

2 MR. PENNOYER: Thank you. Are there any communities that
3 have come on line since we've started? We had Kodiak, Homer,
4 Valdez, Juneau and Seldovia, or am I starting over again on the
5 list? Start over again, okay. Thank you. Anybody else from
6 Kodiak who wishes to testify tonight?

7 TELEPHONE OPERATOR: Cordova and Soldotna have joined
8 you.

9 MR. PENNOYER: Okay, well, then maybe we'll finish the
10 list first. Cordova, anybody from Cordova who wishes to testify?

11 MS. MCBURNEY: Yes, there is. My name is Mary McBurney;
12 M-a-r-y M-c-B-u-r-n-e-y, Post Office Box 464, Cordova, 99574.

13 And I appreciate the opportunity to at least have these
14 public comment periods at the end of your Council meetings,
15 however, we do kind of work at a deficit at the off-net sites
16 since we don't have the benefit of sitting in on the rest of the
17 proceedings and finding out what the actions are that have been
18 taken.

19 So if you will forgive me for asking a few bonehead
20 questions, I would just like to get caught up on what you've done
21 today. First of all, I was wondering who the additional Advisory
22 Group nominees are for the remaining seats that were left open.

23 MR. PENNOYER: Yes. We had a brief review, upon request
24 from one other person, and normally -- and I'm sorry I omitted
25 that when I asked Mr. Gibbons to review the actions taken during

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1 the day, we did not do that at this time.

2 And Mr. Gibbons, would you care to respond with the names
3 of the additional nominees?

4 MR. GIBBONS: Sure, Mr. Chairman. For the position of
5 Recreational User, James Diehl; for the position of Sports
6 Fishing and Hunting, Rupert Andrews. It was moved to extend the
7 Public-at-Large group from three to five. The five names
8 selected from the Public-at-Large group, James Cloud,
9 Richard Eliason, Lou Williams, Paul Gavora, and Vern McCorkle.

10 MR. PENNOYER: In answer to the other questions, we also
11 dealt with habitat protection process and other review of the
12 process, including the eminent threat work that's been done for
13 us, and in that process approved two projects -- cost-share
14 projects with the Nature Conservancy for the acquisition of data
15 on land acquisition. Those will go forward as part of the court
16 requests for the balance of our '92 budget. We also discussed
17 the Financial Operating Procedures, and adopted those. We
18 reviewed the draft Restoration Plan and got an overview of it and
19 the timing on it. There were no action items on that. And we
20 also discussed the 1993 draft Work Plan, but only as to how it's
21 developed. We postponed taking action on the '93 draft Work Plan
22 in regards to what's going to be sent out to public review till
23 next Monday, and we will recess this meeting tonight after the
24 public hearing and then reconvene it here in Anchorage next
25 Monday to discuss the '93 draft Work Plan.

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1 Dave, did I miss anything?

2 MR. GIBBONS: No, you got it all.

3 MR. PENNOYER: Thank you. Do you wish to go ahead then,
4 Ms. McBurney?

5 MS. MCBURNEY: Yes. Secondly, it's come to my attention
6 that there is -- the Oil Spill Recovery Institute is, I guess, in
7 its formative stages right now, and I know that the Prince
8 William Sound Science Center is quite active in its formulation.
9 And I'm having a difficult time trying to figure out how this Oil
10 Spill Recovery Institute and its mandate under open (ph) 90 is
11 going to be interfacing with the Exxon Valdez Oil Spill Trustee
12 Council, and specifically how that organization -- the Recovery
13 Institute is going to be dovetailing with the Public Advisory
14 Group.

15 MR. PENNOYER: I believe this has been discussed by the
16 Restoration Team. I know that the Oil Spill Institute has not
17 had its first meeting of its board of directors but has appointed
18 a board. It was originally scheduled for, I believe, this week,
19 and it's been postponed now for an additional week or two to --
20 I think two weeks before they will meet. So I don't think they
21 have reviewed their charge or discussed their role at this time.
22 I don't have the charter in front of me. The Oil Spill
23 Institute, I think, was created by legislation to deal with
24 partially the restoration monitoring in Prince William Sound. I
25 don't believe we -- the Trustee Council, has taken any position

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1 on how that interacts or how that might be funded at this stage.

2 MS. MCBURNEY: Finally, I understand that there has been
3 discussion recently about the disposition of the remaining
4 \$50 million on the federal side for their criminal settlement,
5 and I was just wondering what's it done as far as figuring out
6 how that's going to be divided among the three involved agencies,
7 and what the status of that settlement is and when the monies are
8 going to be made available for various projects.

9 MR. PENNOYER: The question was on the federal side.
10 There have been meetings and discussions. At the present time,
11 we have a working group looking at that, and the three federal
12 agencies are in the process of actually developing an MRA between
13 the agencies to deal with the expenditures of the restitution
14 funds. That planning process has not been completed at this
15 time, so I can't answer your question as to where we stand up.

16 Mr. McVee or Mr. Barton, do you wish to add to that? Any
17 further testimony?

18 MS. MCBURNEY: No, not at this time. Thank you, very
19 much, for your time.

20 MR. PENNOYER: Thank you. I'll come back to Anchorage
21 now.

22 MR. SELBY: Thank you, Mr. Chairman, members of the
23 Council. My name is Jerome Selby; that's S-e-l-b-y. I'm the
24 mayor of the Kodiak Island Borough. I'm going to, for the sake
25 of brevity, limit my comments tonight, pretty much, to FY-93 work

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1 plan, and then a couple of comments for you on the acquisition.
2 I guess I should bring a longer list to beat up on you with, but
3 I didn't tonight.

4 First of all, we appreciate some of the projects that we
5 submitted that are, in fact, in the '93 Work Plan. And we'd like
6 for you to consider next week some projects that are not in the
7 draft Plan that's in front of you. At the moment, I don't know
8 why they're not there. We have been told now that we will be
9 able to see those review comments concerning the other projects,
10 and those should be mailed out to us Monday or so. But -- or
11 later this week, I guess, Dave was saying. But without that
12 knowledge, we would request that Monday when you meet that you
13 take a serious look at some other projects, and let me give you
14 just a bit of background.

15 We have a pink salmon fishery that's in serious trouble
16 in Kodiak that we just discovered this summer. We had a
17 projection of 12 million -- 12 to 15 million fish return for the
18 commercial fishing industry this summer. They were able to catch
19 something slightly over 3 million fish before they closed the
20 fishery.

21 To me, that's a pretty significant hit on a very
22 important fishery in our commercial fishing industry. We don't
23 know why. I certainly can't sit here tonight and tell you that
24 it is in fact a result of the Exxon Valdez Oil Spill. It is
25 significant that, obviously, those adult fish returned in '89,

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1 through the Spill, may or may not have been impacted. I do not
2 know.

3 But we do have some other projects -- five projects, in
4 fact, dealing with pink salmon. A total of \$154,000.00 of
5 expenditures for all five projects that we would really like you
6 to take a serious look at next Monday, of adding to your Work
7 Plan.

8 There are two more pink salmon stream projects that add
9 up to \$75,000.00 for the two of 'em. For some reason, two of the
10 four that we had requested are in the Plan, and two are not.
11 Again, I don't know why, but we would like you to look seriously
12 at adding those other two projects in.

13 MR. COLE: Mr. Selby, excuse me, just a minute. I'm able
14 to use this fine work product here that's been provided to us,
15 and under your name are listed two, four, six, eight -- I don't
16 know, about 15 or 16 projects. If you could tell us specifically
17 which ones they are, I think we will then have a good opportunity
18 to take a look specifically at those ones that you want us to
19 look at. Would you like to see this?

20 MR. SELBY: I've seen the list. There's a little
21 problem, Mr. Cole.

22 MR. COLE: Okay.

23 MR. SELBY: The list that we submitted in total, from
24 Kodiak Island Borough, included all of the agencies on the
25 Borough. What you have there are not all of the projects that

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1 were submitted under my name. The two that I'm referring to,
2 particularly at this moment, are under the Fish & Game request,
3 and it's back earlier in the document, so I'd be glad to give you
4 that reference if it was listed in there, but those two, in
5 particular, aren't.

6 One of 'em is the Horse Marine Pink Salmon project. I
7 just blanked the other stream's name out, but they're all listed
8 under Fish & Game together, the four of them, just straight down
9 the page. So I think you'll be able to find 'em.

10 MR. COLE: Okay.

11 MR. SELBY: Another one, similar, is the Uganik River
12 Fish Weir, and I think that one is listed under my name, for
13 \$28,000.00. There's the Ayakulik Fish Evaluation project for
14 \$6,000.00, a very small project, and there's the Kitoi Bay
15 Hatchery, which is listed, I think, actually under the Kodiak
16 Regional Aquacultural Association project, for \$45,000.00, which
17 has to do with the pink salmon work there at the hatchery at
18 Kitoi.

19 So, again, we'd really appreciate it if you could take a
20 real close look at, perhaps, adding some, if not all five of
21 those projects, for a total of 154,000 to your 1993 Work Plan.
22 And certainly -- you know, I don't know where you sit on the
23 money for '93, I haven't heard that today. I know Mr. Cole
24 usually has a running track of that, it seems, as far as what
25 might be available. Certainly, though, all the projects are on

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1 the 1993 Work Plan list.

2 I'd put this project well ahead in priority of the 3.7
3 million that's targeted for the hatchery at Fort Richardson's
4 pipeline. If you need to raise additional sockeye salmon, I
5 think there may be some other more prospective alternatives.
6 Particularly, we have a sockeye hatchery at Pillar Creek, in
7 Kodiak, that -- for sockeye salmon, I think, you could put more
8 fish out of that particular hatchery for a whole lot less than
9 \$3.7 million. We haven't got \$3.7 million in the total for that
10 hatchery. And so I think there may be a more prospective way of
11 coming up with some sockeye salmon to put in the Kenai River for
12 the sports fisherman than spending 3.7 million.

13 So let me leave that thought with you, as you look at
14 that list next week also.

15 Also, I understand -- and the weir site acquisition --
16 the acquisition and habitat, I understand and appreciate the care
17 with which you folks are working through that. That is a very
18 significant issue for the state.

19 I would suggest to you, over on your habitat chart --
20 summary chart, though, that you take the \$120 million off the 412
21 that you looked at today, because it's duplicatory on this list,
22 and so you really have something less than 300 million worth of
23 projects that you're looking at here with what you've got listed.

24 Now, I would suggest that you add -- target back
25 somewhere around 400 million and put some projects on here from

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1 Prince William Sound, because there are none here. And I
2 realize, again, that it's partly because you're more concerned
3 about looking more into those in-depth.

4 I think that a lot of the comments that you're getting on
5 folks on habitat has to do with the fact that the Council -- and
6 I understand your reluctance, it hasn't really given any
7 commitment at habitat acquisition, and basically to me that's a
8 philosophical issue at the moment, more so than to say that
9 you're going to buy a particular habitat acquisition project. I
10 think what the people and the people in this room and the people
11 in Alaska would like to see you folks say is that you're gonna
12 target and decide philosophically what you want to target for
13 habitat acquisition.

14 In my mind, if Mr. Cole's number of 625 million is left
15 to spend that he threw out earlier today is correct, then I'd say
16 400 million out of that for habitat acquisition would be a pretty
17 good target to hit. It doesn't mean that you're gonna spend
18 exactly 400 million, but it would be a signal to folks that
19 you're serious about committing a substantial amount of the
20 remaining funds towards acquisition of the habitat. Granted, we
21 all know that we could bring in two or \$3 million worth of
22 acquisition projects. There's not that many to buy. So you're
23 gonna have to go through and select the best out of what's
24 available and what should be purchased, even with 400 million,
25 but I'd encourage you folks to have that discussion and give it

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1 the signal so folks know.

2 I think that would also help the people who own the land
3 to know that yeah, this is a serious discussion taking place and
4 they aren't sitting around hoping that this might be an
5 acquisition and at the moment there's no commitment that there
6 would really be any money spent on acquisition.

7 I would -- and there are two other projects that we would
8 like you to consider, and that we were very disappointed did not
9 show up on the '93 Work Plan at all, and that's the Fisheries
10 Industrial Technology Center development in Kodiak and the museum
11 in Kodiak for the artifacts. And let me just comment, briefly,
12 about those and I'll go away and give somebody else a chance.

13 The Fisheries Industrial Technology Center, the expansion
14 of that facility would allow us to do a lot of the analysis
15 that's gonna need to be done on some of these other research
16 projects here in the state of Alaska. At the moment, a lot of
17 that work is gonna get contracted out Outside of the state of
18 Alaska. And I would just ask you folks, while we're doing this
19 research why don't we build something for Alaska that will still
20 be here when we're through doing the research projects on the Oil
21 Spill. We have that opportunity now. We've got a first class
22 facility that could be expanded and be there forever. I
23 mentioned before that it would give us the opportunity, the
24 ability in the future, if there were -- and God forbid another
25 oil spill -- to do a lot of the analysis on fish and other

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1 substances, other subsistence food, particularly, that we spent
2 all summer during 1989 and never did get an answer till November
3 about whether folks should be eating the salmon or the clams or
4 the other subsistence food. That facility could take care of
5 that.

6 So, we would be building something that could handle a
7 future of that nature. It could do a lot of the analysis or the
8 research projects that are being funded right now out of these
9 projects, and it would be there for other future events. It
10 would also -- it dovetails in with the federal government in
11 terms of what we're trying to get there is the National Marine
12 Fisheries, a new set of labs and work, and that would be in
13 conjunction with this project. That, again, is something that's
14 positive for Alaska way into the future.

15 Now we've got the authorization through Congress and
16 signed by the President for a million dollars a year lease for
17 that part of a facility. So it's a dovetail project that we need
18 the state piece for. It's got all these other pluses to it. So,
19 again, please take a serious look at it, but I really think that
20 we ought to -- instead of making a bunch of laboratories rich
21 down in the Lower 48 with the Exxon Valdez money, why don't we
22 build something that's good for Alaska, past the Exxon Valdez
23 Spill.

24 The other one is the museum. I see that you folks have
25 got a couple \$300,000.00 in the budget for them in the '93

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1 proposed plan to patrol and try to do something with the sites
2 that are being pirated on a regular basis right now. And I tell
3 you folks that we need to learn something from the drug
4 interdiction program that the United States Government has been
5 spending millions of dollars on. You can patrol those sites till
6 the cows come home and the artifacts are still gonna disappear.
7 We need to find a place in Alaska that we can put some of these
8 things so we will have them for the future generations, because
9 they're continuing to disappear folks. I went by one of those
10 beaches again the other day and there was a fresh hole on the
11 beach. Now, you're not gonna be able to stop it. I support, for
12 the purposes of trying to reduce it, patrolling and doing what we
13 can. But the fact is, we're not gonna be able to protect a lot
14 of those artifacts. And, again, we are urging you to build a
15 place that we can keep a bunch of 'em and have 'em for all future
16 generations of not only Alaskans, but the rest of the Americans
17 from this.

18 So, please, consider that when you discuss your '93 Work
19 Plan.

20 MR. PENNOYER: Thank you, Mr. Selby. Questions from the
21 Trustee Council? Mr. Rosier.

22 MR. ROSIER: Yes, thank you, Mr. Chairman. Mr. Selby,
23 you mentioned five projects. I've only got four. You've got
24 Horse Marine, Uganik River, Ayakulik and Kitoi Bay. What was the
25 fifth?

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1 MR. SELBY: The fifth one is another pink salmon project,
2 Mr. Rosier, and I'll go back. I'll slip you the name. It's in
3 the list, but I'm blanking the name out on the stream. It's a
4 pink salmon project. There was Pink Creek, Cold Creek, Horse
5 Marine and there was a fourth one that I've blanked out of my
6 mind here, but I'll get that for you.

7 MR. ROSIER: Thank you.

8 MR. PENNOYER: Mr. Selby, I think, certainly at this
9 Trustee Council meeting anyway, I think some of us taking the
10 actions that we did to hurry up the process and two projects of
11 the Nature Conservancy and approving this by December, getting a
12 readout on eminent threat are, I think, trying to deal with what
13 you are talking about. And when you said there's 400 million,
14 there may be, what where do you spend it, what do you spend it
15 on. There's obviously a lot of land out there that we could buy,
16 and I think the Trustee Council is trying to send the message out
17 that that's part of our restoration process and part of our kit.
18 And I know some of those diagrams and things, perhaps, too
19 confusing for people. We've heard that tonight, but I think
20 we're trying to proceed in a very complex area to make decisions,
21 and, hopefully, we'll be able to show you the fruit of that
22 before very long.

23 MR. SELBY: Well, we appreciate your pursuing it with all
24 due speed. I'm sure most folks in the state do.

25 MR. PENNOYER: Thank you. Mr. Cole.

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1 MR. COLE: Mr. Selby, on the archaeological items, would
2 you support or could you accept putting those in the University
3 of Alaska Fairbanks? For example, to see if we could then go to
4 the University of Alaska in Fairbanks where they may have some
5 space and see if they wouldn't be willing to accept those
6 artifacts.

7 MR. SELBY: Mr. Cole, there have been a number of Kodiak
8 artifacts in that collection. I think what we were suggesting,
9 and what we thought would be appropriate is that those are Kodiak
10 Island artifacts

11 MR. COLE: I understand it.

12 MR. SELBY: Folks that come to Kodiak Island or whether
13 they're tourists or people who live there, they're an important
14 part of the culture of the people who live on Kodiak Island.
15 They've been trying to get back and have an agreement now from
16 the Smithsonian as well to bring home some of the stuff that's in
17 -- been back in Washington, D.C. for the last 200 years. They've
18 agreements with even the folks in Russia to bring some of the
19 stuff back that the Russians took over back in the Czar's days to
20 Kodiak, if we have a place to put them. And to us, it's more
21 appropriate -- those folks' culture is tied to that. So we would
22 appreciate it if we could have 'em displayed in Kodiak where they
23 can make it a part of their culture and part of their pride and
24 their history. It's been kind of stolen from them, and we'd like
25 to put it back.

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1 MR. COLE: Well, I -- you know, I understand that, and
2 that's why I asked that question. If, you know, we could -- if
3 we don't have the money, for example, if the money has a higher
4 priority someplace else is determined by this process, I mean,
5 what about Fairbanks as an alternative of less sort? I mean, I
6 don't expect you to answer that question today, but

7 MR. SELBY: We'll answer it from the perspective that if
8 that's the best we can do and it means that we can preserve some
9 of these artifacts and the rich archaeology that is there, then
10 we better do that. Let's at least do that. If we can't do any
11 better than that, then let's at least do that, 'cause otherwise
12 they're leaving the beaches.

13 MR. COLE: It may be something we could do quickly, even
14 temporarily put them in Fairbanks, you know, and preserve them
15 temporarily until a longer solution can be reached.

16 MR. PENNOYER: Any further questions of the Trustee
17 Council? I'd like to go back then to the net to Seldovia.
18 Anybody in Seldovia wishing to testify? Okay, fine. Kodiak,
19 again, anybody from Kodiak wishing to testify?

20 MR. PATRICK: Yes, there is. Can you hear me okay?

21 MR. PENNOYER: That's fine. Go ahead.

22 MR. PETRICH: Yes, my name is Greg Petrich, and the
23 Conservation chair for Kodiak Audubon. First of all, I'd like to
24 comment on -- the last name is P-e-t-r-i-c-h. First, I'd like to
25 comment on the July 1992 Restoration Framework Supplement, and

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1 under the Habitat Protection Acquisition Process, I'd like to see
2 the entire hierarchal chart on Figure 7 adopted. This would
3 place habitat acquisition on equal footing with all other
4 restoration options. I believe that this is appropriate to
5 achieve the terms of the settlement.

6 Also in the same document you list Alternative Threshold
7 Criteria. Under this, I'd like to see Set A adopted. B and C
8 produce criteria that are progressively more stringent and would
9 make -- given the fact that there's a lot of -- there's a lack of
10 pre-existing data in some areas on the Sound, I believe that the
11 process would be unworkable, and so as a bottom line, I'd like to
12 see Set A adopted. It's the only one that will produce a good
13 product that will meet the terms of the settlement.

14 Now, Mr. Cole has brought up some subjects tonight, and
15 I'd just like to say that this is a public comment forum and not
16 a political forum. He commented on the transfer of the lands to
17 the Native corporations in ANCSA as if there was some directive
18 to develop these in some manner. There isn't. These people own
19 these lands, they can do whatever they want with them. If they
20 choose to sell them for conservation purposes or just sell the
21 rights -- the timber rights, they have the perfect right to.
22 There is no Congressional directive. So, I find that he's using
23 this as a political forum -- it's just not the purpose that this
24 meeting was intended for, and I think we can let that go at that
25 point. In the future, if you just keep it simple, this is public

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1 comment.

2 Now, I'd like to address the letter which Mr. Cole sent
3 the Governor. It's an advisory letter on HB 411. These projects
4 that are included in this bill are from the public, and I see a
5 list of so many of these land areas and projects that Mr. Cole
6 recommended as not lawful. Now, these lands, I know -- I mean,
7 given the instances on Afognak Island that they're a tremendous
8 murrelet habitat on the northeastern corner of the island, and I
9 believe there are some federal studies that will show that to be
10 true. And they definitely need the terms of the settlement under
11 the acquisition of equivalent resources.

12 Now, Mr. Cole had demonstrated his biases tonight through
13 his comments, and I'm just not sure how to proceed at this point
14 other than to say if there's some ideological problem in adopting
15 land acquisition proposals from the public, then excuse yourself
16 from the Trustee Committee, and let someone else judge these
17 criteria. This is public comment.

18 I'd like to hear a response from Mr. Cole. Thank you.

19 MR. PENNOYER: Have you completed your testimony then?

20 MR. PETRICH: No, I haven't. I have more comment for the
21 federal trustees.

22 MR. PENNOYER: Any questions or comments from the Trustee
23 Council? Thank you, very much.

24 MR. PETRICH: Now, the next area I want to comment on is
25 -- this will be addressed to the Department of Interior's

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1 representative Curtis McVee.

2 I'm aware of the fact that the federal trustees have all
3 received Freedom of Information Act requests for information
4 relating to the Federal Criminal Settlement. Now, in previous
5 meetings, there's -- very little information has been given out
6 on the subject. Questions have been more or less dodged and
7 people were given the impression that there's very little work
8 being done in this area. In this FOIA letter, he's denied an
9 individual from Cordova, a Professor Steiner, 27 documents that
10 were withheld under the auspices that they were either
11 pre-decisional or that they're attorney/client privilege. Now,
12 all of these documents show communications between the federal
13 trustee agencies on the subject of the Criminal Settlement.

14 I'd like to ask Mr. McVee how these can be withheld and
15 still stay within the terms of the settlement which say this has
16 to be a public process. Mr. McVee?

17 MR. McVEE: Mr. Chairman?

18 MR. PENNOYER: Mr. McVee.

19 MR. McVEE: I can respond to that that documents under
20 the Freedom of Information Act, you know, documents can be
21 withheld if they are pre-decisional documents, and I believe that
22 reached the point where we've got, you know, draft documents --
23 a draft plan or a draft proposal or reached that point, and
24 Mr. Pennoyer talked about that a few moments ago, that at that
25 point, we will ask for public involvement. I expect that our

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1 draft plan will include a public participation phase or portion
2 of a plan, but, you know, we just started those discussions --
3 start to develop something that we can go forward to the public
4 with. I guess the other option we have is, you know, go public
5 and ask for their comments before we have something for them to
6 shoot at. But I think it's more worthwhile and time would be
7 better spent if we can give them a product to address.

8 MR. PENNOYER: Thank you. Mr. Petrich, does that
9 complete your testimony?

10 MR. PETRICH: No, sir. I'd like to go back to this same
11 subject. We're looking at pre-decisional documents here, draft
12 interagency agreements, faxes from the Governor's office for
13 inquiries from the Department of the Interior, these give clues
14 as to how this process is working. We see decisions made all the
15 time for the roster of projects that go forward that during 1992,
16 but little reflection of public requested projects. Now, these
17 go all the way back to October 1991, and go month by month
18 showing that there's been extensive discussions between the
19 agencies.

20 Now, I'm going to ask Mr. McVee again, do you believe
21 that the public process is best served by withholding these
22 documents, and if you're challenged legally, do you feel strongly
23 enough that you would still withhold them? Go ahead.

24 MR. PENNOYER: Again, as we come -- I'll let Mr. McVee
25 comment on it. I know of no decisions that have been made for

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1 the federal restitution funds at this time, so I -- Mr. Barton.

2 MR. BARTON: I was just wondering if he was going to
3 testify, Mr. Petrich. Is Mr. Petrich going to testify or is he
4 going to ask us -- interrogate the Trustee Council?

5 MR. PENNOYER: I think we are approaching 6:50. We're
6 going to have to talk about how late we want to go here. I
7 haven't even gone around the net one time yet.

8 Mr. McVee, do you wish to comment or just proceed?

9 MR. McVEE: The comment was that he had -- we have our
10 solicitors -- our legal people review the documents and the
11 process we're going through.

12 MR. PENNOYER: Mr. Petrich, do you have anything
13 additional?

14 MR. PETRICH: No, sir. I'm gonna request these documents
15 through another means, and I expect them to be released. It's
16 part of the public process to understand what the agencies are
17 saying, and I'll just leave it at that. Thank you.

18 MR. PENNOYER: Thank you. I understand that I skipped or
19 wasn't informed that Soldotna was on the line. Is there anyone
20 in Soldotna that wishes to testify?

21 MS. WILSON: Yes, we are here. Thank you. My name is
22 Narda Wilson, and Soldotna did not get a lot of the information
23 that's been under discussion tonight, and one of the primary
24 interests that I have is the Katchemak Bay State Park State
25 buy-back. I got a letter from Steve Gibbons stating that it

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1 would be under discussion as a component of the 1993 Eminent
2 Threat Analysis project. Can you tell me if -- in what way, if
3 any, was Katchemak Bay State Park buy-back discussed by the
4 Council today?

5 MR. PENNOYER: Except to identify it as a possible
6 project in a list that has been sent us by the public process, it
7 has not been discussed specifically whether to put money into it.
8 Mr. Cole indicated at one point that he personally favored it,
9 and that the Governor favored some form of Katchemak Bay State
10 Park land buy-back as well. But we took no action on it -- we
11 took no action on the '93 draft Work Plan at this time, which has
12 some dollars set aside in the draft we've received for a possible
13 land purchase for eminent threat.

14 We did take action to review the habitat protection
15 process, and the request we've made to the Restoration Team to
16 find a way to expedite review, particularly of lands that might
17 be classified as the subject to eminent threat.

18 We did fund two proposals of the Nature Conservancy to
19 speed up the acquisition of data on such lands, and have been
20 informed that we will have a report and recommendations some time
21 in early December.

22 And other than that, we took no specific action on land
23 acquisition.

24 MS. WILSON: Okay, thank you. I'm here to express
25 support for the buy-back as, you know, you probably are already

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1 aware. I found a couple things rather disturbing tonight that
2 came out. One of 'em is the reluctance on the part of the
3 Council to fully embrace the concept of how that acquisition is
4 part of the replacement and enhancement criteria that was set
5 forth in the agreement.

6 Another thing that I found disturbing was Mr. Cole's
7 comment that someone needs to come up with a way to fund these
8 projects. That seems to me that that should be the job of the
9 Legislature and the Council. We are simply citizens attempting
10 to participate in a public process. Last year during the
11 Legislative session it was an extremely frustrating process for
12 those of us to try to see the project through. We thought we'd
13 come up with a plan and something that was feasible and agreeable
14 to all parties, and then we get into some sort of legalese, under
15 Mr. Cole's interpretation, that this wouldn't be allowed for one
16 reason or another. Well, like I come back to, our job as
17 ordinary citizens of the public is not to try and figure out
18 what's gonna fly and what's not gonna fly legally. I think that
19 that's unfair of the Council to expect us -- us, meaning the
20 public, to come up with a way to acquire these lands.

21 Another thing that -- and I don't mean to complain, but
22 I do think that there are ways around this, such as Seldovia's
23 Native Association request that a 10% down payment be made in
24 good faith by October 1st in order to secure future negotiations
25 for these lands. I don't think that's unreasonable. And I do

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1 think that SNA and Timber Trading Company have attempted to
2 negotiate in good faith with the State. However, I'm beginning
3 to question the good faith on the part of the State. It seems
4 like they're just stringing this thing along and hoping that
5 maybe one day it will die for lack of action. But, hopefully,
6 that won't happen.

7 And the reason that we are appealing to the Council at
8 this point is because we have been shot out of the water by
9 Governor Hickel, by Charlie Cole, and by the attempts of the
10 Republican Party during the legislative session. So the reason
11 that we are so strongly appealing to the Trustee Council at this
12 point is you're like our last hope.

13 I do think that habitat acquisition falls under the
14 enhancement and replacement criteria that was outlined in the
15 agreement. Katchemak Bay State Park was heavily oiled, although
16 not in the specific area that is under consideration for
17 purchase.

18 Just one more technical detail, as far as the decision
19 making process of the Council goes, I don't understand how a body
20 of more than three people would hope to approve projects on the
21 basis of unanimous consent rather than a majority. It just seems
22 like it would be really difficult to get anything done, and I
23 question how that came about.

24 Can I get a response to that?

25 MR. PENNOYER: Before we continue, we only have the

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1 teleconference net through 7:00 p.m. It's now about three
2 minutes to 7:00. I don't know the Trustee Council's desires
3 here, and ask the moderator if we can continue past 7:00 and then
4 inform the network as to how long we want to continue. Do you
5 have a feeling from the Trustee Council members?

6 MR. BARTON: Mr. McVee and I have a subsistence board
7 meeting this evening.

8 MR. PENNOYER: Okay. So how late do you wish to go then?

9 MR. BARTON: Not very much longer.

10 MR. PENNOYER: Shall we try and keep the net until 7:30
11 then? Is that very much longer in your criteria, too, or is very
12 much longer five minutes from now?

13 MR. McVEE: That will be fine.

14 MR. PENNOYER: Moderator of the teleconference network,
15 can we continue through 7:30?

16 TELEPHONE OPERATOR: Yes, that's fine.

17 MR. PENNOYER: Fine. Thank you. Anybody want to respond
18 to Ms. Wilson's question? Would you care to continue your
19 testimony?

20 MS. WILSON: Really, that practically concludes my
21 testimony, but I would like the Council to reconsider their
22 position on trying to get a unanimous consent on getting these
23 projects through because it just seems like a very -- it's a
24 cumbersome enough process to begin with, as far as public
25 participation and diversified interests and what should be

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1 priority, what the money should be spent on. I'd like them to
2 reconsider that policy.

3 And, again, is there some sort of a legal reason that
4 this was adopted or was this simply a matter of preference as far
5 as the Council members go. Can anybody answer that question for
6 me?

7 MR. PENNOYER: Mr. Cole, would you care to answer where
8 the unanimous consent came from?

9 MR. COLE: No.

10 MR. PENNOYER: Thank you. We've certainly heard your
11 testimony, we've listened to the remarks in regard, particularly,
12 to the land acquisition, and I think that is a topic for our
13 discussion next Monday in terms of the '93 process, and I think
14 continuing in regard to the eminent threat and other processes.
15 So, I think this Council has not taken a position on exactly how
16 we want to approach that, except that I think we have agreed it
17 is certainly in our kit of restoration tools.

18 Do you have further remarks, Mr. Rosier?

19 MR. ROSIER: Yes. Mr. Chairman, I didn't get the name of
20 the last individual that testified.

21 MS. WILSON: My name is Narda Wilson. I'm a resident of
22 Soldotna. I'm P.O. Box 3206, Soldotna. I've written letters to
23 the Trustee Council and I'll be in further touch in the future.
24 Thank you for the opportunity to speak tonight.

25 MR. PENNOYER: Thank you. Just for notice, I've been

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1 around the net once. Kodiak has had two opportunities. I'm
2 probably not going to have time to do that more than one more
3 time. I think I'll take one from Anchorage and then try and go
4 around the net completely. Yes, sir.

5 MS. MILLER: I'll make this brief. I'm pleased that the
6 Trustee Council approved the two projects for the Nature
7 Conservancy's work to assist the Trustees in this cumbersome
8 habitat acquisition process. I'm pleased there.

9 In terms of looking at what the Trustees were faced with,
10 these reams of paper, I think the thing that is lost in the reams
11 of paper is the voice of the people, which I'm pleased you're
12 able to hear, especially from the outlying communities tonight.
13 The reasons why people care so much about seeing habitat
14 acquisition, the rationale for why it makes sense, some of that
15 is in there, and I think it gets translated into a series of
16 tables and machinated this way and that way by the computer, and
17 the human element of the public interacting with the Trustees is
18 lost.

19 I would like to say that 90% of the just plain comments
20 from the public related to habitat acquisition, and that over
21 \$2 million worth of projects were proposed by both agencies, I
22 assume, and the public for habitat acquisition. There are
23 tremendous opportunities that we have not seen for the region
24 that unfortunately was affected by the Oil Spill, and that the
25 species that were injured stand to benefit over the long-run by

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1 having habitat available to them.

2 I guess I'm concerned because of the bureaucratic process
3 of OMB's involvement and the Trustees needing -- at least on the
4 federal side -- needing to get a list to them by a certain date
5 and if indeed what will be decided on Monday is what's going to
6 go to OMB, then the fact that there's only the \$5 million
7 proposal for habitat acquisition which is not enough, we believe,
8 would be a start to do eminent threat analysis, may not even get
9 on there is quite disturbing. What's more disturbing is the
10 chart has little asterisks for the fact that habitat acquisition
11 projects are just not listed. So instead of having price holder
12 on a proposed budget to OMB for 200 -- well, it can't be
13 \$200 million. You only have \$100 million this year, but you need
14 to have a place holder up about 50% of your total product money
15 for habitat acquisition.

16 Now, you may not be able to spend that in this time
17 period, and that will be fine. You can go back and say we did
18 not spend that, we've got it for something else for the next
19 year, but if it's not in that place holder in your budget, we've
20 already ruled out what we might spend money on next October or
21 December or whenever the fiscal year ends.

22 So I urge you to seriously look forward for what
23 opportunities you may have to do restoration work. And I realize
24 that Trustee Council doesn't want to speak back to the public.
25 It's our opportunity to present some things to you. I will

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1 present a proposal by the public for a proclamation that the
2 people in the outlying areas may not have the benefit of seeing.
3 I will give a copy of it to the public record so that it will go
4 in, but it's something we thought would be tangible steps that
5 Trustees could take to show that they are committed to habitat
6 acquisition as a part of the restoration process, that there are
7 concrete opportunities we can take now.

8 Finally, I'll say our society and all the people in this
9 room share many values. We share concern about the environment,
10 we share that American trait that money talks, money has value,
11 and what the Restoration Plan is to me right now is that is that
12 Trustees do not value habitat acquisition if there's no money
13 shown for it.

14 Thank you.

15 MR. PENNOYER: Would you, please, state your name for the
16 record?

17 MS. MILLER: Oh, I'm Pamela A. Miller. I'm representing
18 the Wilderness Society in Alaska.

19 MR. PENNOYER: Mr. Cole.

20 MR. COLE: I'd like to say that we had some concerns
21 about federal OMB's involvement in the process, and as we did
22 State appropriation process through the legislature, budget and
23 audit committee. But we satisfied ourselves that we could work
24 through the federal OMB process. Frankly, I guess, there was no
25 way around it. But I think that it will work out right.

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1 Isn't that about where we were with the gentleman? I
2 think so. We did address that carefully, 'cause we did not want
3 OMB or the State OMB, for that matter, to be in the position of
4 being able to approve or reject with finality our proposals and
5 our decisions. So, you know, -- and like you say, it's little
6 solace to you, but nevertheless, we've seen some of these issues
7 and we've looked at them very carefully.

8 MS. MILLER: Well, I appreciate that, and hope you'll put
9 the place holder in there for habitat acquisition.

10 MR. PENNOYER: Thank you. Next, I'll go back out to
11 Homer. Anybody else from Homer wishing to testify?

12 MS. WIELAND: Yes. As a matter of fact, there have been
13 14 people here, and there's several of here still left. This is
14 Anne Wieland; and that's A-n-n-e W-i-e-l-a-n-d. And I would like
15 to thank the Trustee Council for this opportunity to address you.

16 My testimony today is about the need to purchase habitat
17 eminently threatened by logging. Perhaps, the most highly
18 visible and of greatest concern to the public are the private
19 lands within and adjacent to Katchemak Bay State Park. Private
20 lands within this park are eminently threatened by logging by
21 Timber Trading Company. This is pristine land of great value to
22 wildlife injured in the Oil Spill, as well as to humans.

23 The coastline on both sides of Katchemak Bay was oiled in
24 1989. The Center for Disaster Assistance in Homer documented the
25 arrival and impact of the Exxon Valdez oil in as far as Bear

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1 Cove, which is way up at the head of the bay, and daily bulletins
2 from May until June. Many species of wildlife were injured by
3 the oil in Katchemak Bay, including quite a number that are
4 outlined in your three green volumes.

5 Murrelets, in particular, would be injured again if
6 private in-holdings were not acquired and logging were permitted
7 on Seldovia Native Association land. Marbled and kiplet
8 murrelets congregate at the mouth of Shady Cove, in Neptune Bay,
9 at the mouth of Wosnesenski River, off Glacier Spit, as well as
10 elsewhere in Katchemak Bay. It's not surprising that no nests
11 have been found in Katchemak Bay uplands in all those trees, as
12 there's only been about 30 nests ever found in the entire region
13 from Northern California to the Gulf of Alaska in the last 18
14 years. But juvenile marbled murrelets are seen in Katchemak Bay
15 every year, and they undoubtedly nest in both private and park
16 uplands. As Prince William Sound populations were damaged
17 considerably, Katchemak Bay uplands can serve as an excellent
18 equivalent habitat for maintaining sufficient numbers of
19 murrelets in the Gulf of Alaska while Prince William Sound
20 populations slowly recover. I guess they only have one egg a
21 year, at the best.

22 Archaeological resources were damaged elsewhere in the
23 Spill area. Katchemak Bay archaeological resources are numerous
24 and contain evidence important to the records for all of the Gulf
25 of Alaska pre-history. Some of these resources are threatened by

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1 inundation. Others would surely be harmed by associated
2 activities if logging were to occur on the south side of
3 Katchemak Bay where the great concentration of known and yet
4 undiscovered sites occur.

5 Recreational interests were damaged in the Oil Spill.
6 For example, the Center for Alaskan Coastal studies had to cancel
7 its entire summer's program in 1989 because of a lack of
8 transportation to its field station. Above all, the heart and
9 soul of Homer was damaged by the Oil Spill. Many here spent the
10 summer of 1989 concentrating on trying to heal the damage done to
11 Katchemak Bay State Park, Katchemak Bay State Wilderness Park and
12 surrounding areas by the Oil Spill.

13 We and other volunteers collected oiled, dead and living
14 sea birds and otters from the beaches of Katchemak Bay, from
15 Bishop's Beach to Diamond Creek and elsewhere. We collected
16 plastic bags full of oil and oiled debris from Homer Spit, Mud
17 Bay, Neptune and China Poot bays and other beaches. Some of us
18 experienced first-hand a task involved in cleaning up 100% oiled
19 beach and volunteer work at Mars Cove in Port Dick within
20 Katchemak Bay State Wilderness Park. Many of us were left with
21 a deep sense of violation and despair.

22 Now, here is a means at hand to make at least a partial
23 restoration for the damage that was done, and that is, of course,
24 the Exxon Valdez civil penalty money. Our backs are to the wall.
25 Private owners of the land and timber rights within Katchemak Bay

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1 State Park may no longer be willing sellers after October 1,
2 1992. Timber Trading Company is aggressively pushing forward to
3 obtain permits to log on private lands within the Park in direct
4 line of sight from Homer, and they were in Seldovia working on
5 the layout of logging roads just two weeks ago. The time to
6 negotiate with them is now, not after they have their permits in
7 hand, perhaps as early as this winter. And why would they want
8 to sell their timber rights after they have gone through all the
9 time and expense of obtaining permits? Surely that extra work
10 would cause them and other logging companies around the whole
11 spill region to want to sell to for a higher price is at all.
12 Waiting until the permits are issued is playing a dangerous game
13 of chicken. One where the stakes are too high. It's like
14 waiting till rigor mortis has set in before administering CPR.
15 We must have funding now to keep the option of purchasing the
16 land, timber and subsurface rights and preserving the integrity
17 of this habitat for the future.

18 Scientific studies are fine, but we're concerned that
19 there will be no more habitat and wildlife left to study if the
20 current trends continue. Logging in Katchemak Bay State Park
21 will be like a second oil spill to many of us whose hearts were
22 broken in 1989.

23 Please, help us. Don't turn us away. The purchase of
24 private uplands, timber and subsurface rights in their entirety
25 within Katchemak Bay State Park are exactly the kind of project

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1 that the penalty money was intended to fund. Future generations
2 of Alaska will appreciate your wisdom in funding this project,
3 and the wildlife injured in the Oil Spill will be given a new
4 lease on life instead of a new death sentence.

5 Thank you.

6 MR. PENNOYER: Thank you. Any comments and questions
7 from the Trustee Council? Thank you, very much. I'll come back
8 now to Anchorage.

9 MS. HOLSER: My name is Karin Holser; K-a-r-i-n H-o-l-s-
10 e-r, and I'm just a concerned citizen, representing myself. I'm
11 going to make it real brief because I know you're running out of
12 time. I would like to go down the budget items, 'cause I know
13 you were gonna do budget. I won't do that. Instead, I will
14 throw out a quick comment. The American Heritage Dictionary
15 defines a trustee as a person, agent holding title or property
16 for the beneficiary. Looking at your budget, your beneficiary
17 are your agencies, and I don't think that's right. I think the
18 beneficiary is Prince William Sound. And Prince William Sound
19 includes Natives. I don't see them represented here. It
20 includes all wildlife, includes water. It includes the people of
21 the villages and the areas of fishermen that were affected. And
22 I see this whole budget pretty much as a funding process for your
23 agencies, and I don't really think that's what a trustee is meant
24 to do, to fund their own agencies. Every single one of 'em that
25 I looked at, I didn't have time to write it all down, but your

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1 agencies are all representative here, and I think -- I think the
2 public deserves a little bit more than that.

3 MR. PENNOYER: Questions, comments from Trustee Council?
4 Thank you, very much. Go back out to, I think, Valdez had nobody
5 the last time. Juneau, any further testimony from Juneau
6 tonight?

7 MR. THOMA: One last comment, Mr. Chairman. This is
8 Mr. Thoma. Just a quick question. Has the Public Advisory Group
9 met yet, and have they adopted a rules of order?

10 MR. PENNOYER: They've still not been up to -- we're not
11 going to get around the net anyhow to -- other people haven't
12 testified yet. The answer to your question is no, there's a
13 charter; they have not met yet.

14 MR. THOMA: Very good. Thanks for your time.

15 MR. PENNOYER: Anybody else from Juneau that wants to
16 testify?

17 UNIDENTIFIED SPEAKER: No, that's it for Juneau.

18 MR. PENNOYER: Okay, thank you. Seldovia, anybody else
19 from Seldovia? Cordova, anybody else from Cordova? Coming back
20 to Anchorage. Anybody else from Anchorage? Yes, sir.

21 MR. COX: My name is Bill Cox; C-o-x. I'm a resident of
22 Anchorage here. I'm a radiologist over at the Alaska Native
23 Medical Center. I'm here just for myself. I just want to make
24 some general comments.

25 I supported House Bill 411. It was not a perfect bill,

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1 but I think it was a consensus bill that went through the entire
2 political process with a lot of citizen input, and I was -- I
3 just want to say I was disappointed in the Governor's veto of
4 that bill. I just want to let you know I support using the
5 majority of these funds for habitat acquisition, including the
6 buy-back of timber rights, and I think this should go a long way
7 towards protecting fishing streams, wildlife, and also enhancing
8 recreation.

9 I would urge you to confine most of your repurchasing and
10 efforts to Prince William Sound area, which is where the spill
11 occurred, and that would also include Kodiak as well.

12 Identify critical areas for repurchase as quickly and as
13 carefully as possible, and then go ahead and complete the
14 purchasing as quickly as possible. I think Katchemak Bay
15 buy-back should be your first priority. This this has been
16 lingering now for over 10 years. It seems to have defied all
17 attempts at resolution. I think Koncor Forest Products and the
18 Native Association have been more than patient, and I think it's
19 about time to get this thing taken care of. And you have -- as
20 I understand it, the power to do that. I would urge you to make
21 that your first project.

22 Governor Hickel wrote a book a while back. I think it
23 was called, "Who Owns America?" And in there, he criticized the
24 US Congress for first authorizing to purchase land which would
25 then drive the price up, and then the appropriations process

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1 would take in with the money. I think that could very well be
2 something for you to think about here as being an example of
3 Katchemak Bay. As time goes by and as the political constituency
4 for protecting Katchemak Bay increases, we're gonna see the price
5 tag on that go up, as it already has. I would just urge you to
6 keep that in mind.

7 I just want to -- I don't really support the idea of an
8 endowment. I think that would just drag things out. Waiting for
9 it to accumulate sufficient funds, you would have inflation,
10 administrative costs working against you. Also, during that
11 time, land prices would be going up, and it would also create
12 another bureaucracy.

13 And to just summarize real briefly here, as we're running
14 out of time, I would just say, please, be careful of doing too
15 much research, and funneling away money into administrative costs,
16 if possible. And I would say spend this money that's available
17 as wisely as humanly possible. And then, you know, put yourself
18 out of business. That's all I have to say.

19 MR. PENNOYER: Thank you, Mr. Cox. Any questions or
20 comments from the Trustee Council? Thank you, very much.

21 I'll go back to Soldotna. Is there anyone in Soldotna
22 wishing to testify?

23 MS. MULLEN: Yes. My name is Peggy Mullen; M-u-l-l-e-n.
24 I'm a Soldotna resident, and I just have a quick comment.

25 I got here late, and as I was driving over I heard the

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1 comments of Attorney General Cole on the radio, and so I thought
2 why am I even bothering to come here, this is just a farce. I
3 get here and I'm wondering if we're all not wasting our time. I
4 was surprised when I got here to hear that there wasn't any
5 acquisition of habitat in any major way on your list of projects
6 you're now considering, and I would just comment that when we
7 look at the independent relationship between the air, the land,
8 and the water, we're just beginning to know how the health and
9 productivity of one is dependent on the other in ways we're only
10 remotely beginning to understand. So ignoring acquisition of
11 land around the affected areas makes no sense to me.

12 Thanks.

13 MR. PENNOYER: Thank you. Questions or comments from the
14 Trustee Council? Thank you, very much.

15 MR. COLE: I'd like to explain to this listener what we
16 have decided to date to do with respect to acquisition.

17 MR. PENNOYER: Ms. Mullen, did you hear the review of
18 what we did do today?

19 MS. MULLEN: (Pause - no audible response)

20 MR. PENNOYER: I guess not. Well, again, I will repeat
21 that we did review habitat acquisition process -- protection
22 process today. We heard a detailed review. We have decided to
23 proceed with two cooperative projects with the Nature Conservancy
24 to hurry up the acquisition of data regarding a property out
25 there and that it might be available and threats to that

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1 property. It is our intent to have that report back sometime
2 early in December and proceed in the process of where we go from
3 there.

4 We had it pointed out to us there is a very large amount
5 of habitat out there that is potentially available to
6 development, and the choice of which parcels to buy to get the
7 most bang for the bucks is not yet clear to us.

8 We also have the question, the '93 Work Plan, where we
9 haven't taken action yet to purchase property, but the -- a
10 project is listed there as a place holder to provide funding for
11 such acquisition of property that might be subject to eminent
12 threat. We have not yet decided on the amount of that place
13 holder or exactly how we're going to -- whether we're going to
14 adopt it or how we're going to advance it. That will be decided
15 next Monday.

16 So, could we continue with Anchorage -- anybody else in
17 Anchorage? Yes, sir.

18 MR. : Excuse me. I haven't been following today, I've
19 been pretty busy, but I would like to say

20 MR. PENNOYER: Your name, please?

21 MR. SPARLIN: My name is Drew Sparlin. I'm a commercial
22 fisherman and 15-year resident in the Cook Inlet area.

23 MR. PENNOYER: You need to spell the last name, please.

24 MR. SPARLIN: Sparlin; S-p-a-r-l-i-n. With regards to
25 your last explanation, I think that stands pretty prudent that

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1 you would investigate the property before you go buy 'em. I'm
2 not against acquisition, but I definitely think that the wise and
3 slow manner taken in purchasing property without spending all the
4 money we got.

5 What I'm here to explain real quick, we've had, in the
6 fisheries, -- basically, that's what I know, of future
7 forecasting. I'm sure Mr. Rosier is aware of it. It is due to
8 an over-escapement problem, and we're gonna -- also, it's
9 actually in the Inlet, and in-river problems keep going up to the
10 Northern District -- but what I'm trying to get at is that due to
11 the Oil Spill we have a future set of cycle that's died in a
12 declining manner, and it needs to have -- I'm not saying it. I
13 think we had it laid out before of the appropriate funds for
14 research, but we're looking for some sort of coverage for the
15 Department of Fish & Game so we can get some data figures on how
16 to -- and I know that this is what they want in their process,
17 but we could get this declining return rate under some sort of
18 knowledge. Nobody really has a good handle on why. We think
19 it's over-escapement, but it also -- who knows what. We've got
20 a declining rate of 500,000 to 250,000 -- this is in the next
21 three years, and then possibly under 200,000 return in the Cook
22 Inlet, or as far as the Kenai River system. And that's somethin'
23 I have never seen before, and I've been fishing there for 15
24 years. It's somethin' we have to watch out for. We had a fair
25 season this year -- I mean, it's one of those things, but I'm

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1 hoping that some of your funds are played towards the bio-stock.
2 But, basically, some sort of data research so we can start
3 figuring this thing out.

4 That's about it. As far as the land appropriations, I
5 know there's a lot of people all over the countryside that want
6 this piece and that piece to be purchased, and it's gonna be a
7 hard time to ever get anybody happy, but definitely make the best
8 investments.

9 Thank you.

10 MR. PENNOYER: Thank you. Any questions? Thank you,
11 very much.

12 I'll go back out to Kodiak. Anybody further from Kodiak
13 who wishes to testify? Kodiak?

14 UNIDENTIFIED SPEAKER: Kodiak has no further testimony.

15 MR. PENNOYER: Okay. Thank you, very much. Homer,
16 anybody further from Homer?

17 MS. HIGHLAND: Yes. My name is Roberta Highland; and
18 R-o-b-e-r-t-a H-i-g-h-l-a-n-d, and I'm representing myself and
19 the Katchemak Bay Conservation Society.

20 And once, again, we urge you to give priority to funding
21 land acquisition in spill affected areas in danger of
22 clear-cutting or loss through other development. And the subject
23 has been brought up a lot, and I think all has been covered. So
24 we just want to go on record supporting that, and urging careful
25 and responsible use of the Exxon funds.

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1 Thank you.

2 MR. PENNOYER: Thank you, very much. Comments from the
3 Trustee Council? Thank you. Anybody else from Anchorage? Yes,
4 sir.

5 MR. DEBUSMAN: My name is Richard Debusman; D-e-b-u-s-m-
6 a-n. And as Richard Debusman sits here tonight, he wonders who
7 the greater fool is, and, perhaps, it's me. 'Cause last night I
8 spent two hours writing up a article to you gentlemen on which
9 habitat I felt you ought to buy. But now as I look at the
10 budget, project number 93-058, habitat protection has no number
11 there at all. And you gentleman refer to it as a place holder.
12 Well, I have a suggestion. If you don't know what number to put
13 in there, put it all in there, because without habitat, you don't
14 have anything else at all.

15 Thank you.

16 MR. PENNOYER: Questions? Thank you, very much. Homer,
17 one last try?

18 MS. HILLSTRAND: Yes, this is Homer. Can you hear me
19 okay?

20 MR. PENNOYER: Yes, we can.

21 MS. HILLSTRAND: Yeah, this is Nancy Hillstrand; H-i-l-l-
22 s-t-r-a-n-d. And we really -- we need to think on a large scale
23 what will do the most good for the longest periods of time to
24 enhance the diversity of as many of injured species. The obvious
25 choice is acquiring essential habitat and ecosystems. But if

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1 resource agencies have faulty mandates, regulations or motives or
2 if they do not work together to keep in mind all of the
3 cumulative effects of decisions or lack of decisions, we end up
4 with a toxic, fragmented environment which alienates fish and
5 wildlife, regardless of what we do to restore, rehabilitate or
6 enhance.

7 One thing we have to remember is that we're nowhere close
8 to being immune to future oil spills which can once again degrade
9 our ecosystem. So restorative activities may be short-lived. We
10 must begin to think in terms of ecosystems, river systems,
11 watersheds, peninsulas, continents. We have to start thinking
12 large. Systems which work together as a whole to provide a
13 living community of unfragmented working order, which we are a
14 part of, not a part from. Ecosystems are like a helicopter.
15 Tiny cotter pins hold all the bolts in place from shaking loose.
16 If one of these essential components are taken away, the entire
17 system may crash. The more components lost, the more likelihood
18 the system will, for certain, crash.

19 Resource management has evolved through the years
20 tripping over mistakes and learning the hard way at a tremendous
21 loss. Alaska is in the unique situation to revolutionize our
22 methods of resource management ahead of crisis management
23 situations.

24 Do we have the knowledge and wisdom to take the lead and
25 pioneer a new sustainable direction while our ecosystems are

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1 still relatively intact in Alaska? I have faith that we do.

2 Mr. Cole, you were wondering why the people are asking
3 for land acquisition such as in Katchemak Bay State Park. Upland
4 areas are some of the most important areas we have. It's a
5 trickle-down effect, and it has -- we have to have the ability to
6 develop a broader landscape context; precise, specific forest
7 practices to shape the future health of our ecosystems.

8 The upland areas act as a reservoir, storing surplus run-
9 off and dampening discharge fluctuations. The associated
10 vegetation has a profound effect on the physical makeup of the
11 stream habitat as well as a biological communities who utilize
12 these areas. This helps maintain perennial flows during dry
13 periods. Low flows reduce the availability and quality of stream
14 -- in-stream habitat for fish and wildlife populations.

15 Can you see the connection here? The two areas which I
16 think should be set aside is one on Afognak Island. This is an
17 essential ecosystem which embraces a multitude of wildlife and
18 fish. It's sustains life in a balanced design of precise
19 detailed integrity. Please, consider this north Pacific rain
20 forest which was heavily impacted by the Exxon Valdez Oil Spill
21 as a choice of quality habitat acquisition. And, please, contact
22 me if you need any additional information on this area, 'cause
23 I've spent the last 14 years observing this tremendous living
24 ecosystem.

25 Also, the other place is the Katchemak Bay State Park.

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1 This land will be fragmented if logging is allowed. This
2 translates to the fragmentation of an ecosystem not only utilized
3 by wildlife, waterfowl and fish species affected by the Oil
4 Spill, but also by this ecosystem as a living testimony to we
5 humans so deeply, deeply affected by the Spill here in Homer.

6 I really cannot explain how deeply we were affected. I
7 hope you are listening to us, as we are the public, and we are
8 trying to get to you and try to explain to you how we are
9 feeling, and the overall judgment of the people right now is that
10 we feel that habitat is the best way to go. So, please, do
11 listen.

12 And I think you, very kindly, for all this time you're
13 spending listening to us. Good-bye.

14 MR. PENNOYER: Thank you, very much. We're running out
15 of time on the network. I'll take one more from Soldotna, and
16 then we'll come back to Anchorage. I would say we have already
17 agreed to a public hearing on next Monday as well, so for those
18 of you who haven't had a chance to testify, hopefully, you will
19 then. Soldotna, do you have anybody else?

20 UNIDENTIFIED SPEAKER: No, we have no one else at this
21 time. Thank you.

22 MR. PENNOYER: That's fine. I'll take one more from
23 Anchorage then.

24 MR. GIBBONS: See if there's anyone else on the line.

25 MR. PENNOYER: Yes. The question was is there anybody

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1 else on the line before we go off? That's fine. I circled all
2 of the communities. Yes, ma'am.

3 MS. McBRIDE: Thank you, Trustee Council members. I'm
4 Diane McBride, a resident of Homer. I wish to thank you for
5 considering my name for a nomination to serve on the Advisory
6 Council. I was disappointed to see that of the 17 members
7 serving on the Advisory Board, only two are women. I think -- I
8 do not feel that this is totally representative of our population
9 in Alaska, and I would like to encourage you to consider
10 replacements, when they come in. I was distressed that three of
11 the public at-large selections today were nominated or endorsed
12 by Attorney General Cole or Mr. McVee.

13 It was an incredible shock to many Alaskans when Governor
14 Hickel vetoed House Bill 411 last July. He had stated he
15 supported Katchemak Bay State Park buy-back, but it appears
16 that's only through his endowment plan. It indeed is the end of
17 the road for Katchemak Bay. It's becoming a logging road in '93.

18 Katchemak Bay wasn't documented as oil spill affected,
19 and the habitat is critical to wildlife and fisheries, and
20 deserves protection before logging permits are issued, which
21 could be as early as this winter. If December 1st is the date
22 that Fish & Game will submit their list of eminently threatened
23 areas, then we really are short on action time for protecting
24 Katchemak Bay.

25 I urge you to put Katchemak Bay State Park buy-back at

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1 the top of your '93 Work Plan, and let Katchemak Bay have the
2 first dollar spent on restoration. But let's see more than
3 \$5 million spent on habitat acquisition, and right now it appears
4 to be closer to zero dollars funded.

5 Please, begin communications with private land owners
6 and, please, promote restoration through habitat acquisition.
7 Thank you.

8 MR. PENNOYER: Any questions? Mr. Gibbons.

9 MR. GIBBONS: Just a correction. The December decision
10 will come from the Restoration Team, not the Alaska Department of
11 Fish & Game. So it will be by the trustee agencies on the
12 eminent threat processes.

13 MS. McBRIDE: And I'll accept that correction. Thank
14 you.

15 MR. PENNOYER: Thank you, very much. It's now 7:30.
16 What are your wishes?

17 MR. COLE: I think we should hear out everyone who is
18 here, even if they're off the line. I would like to do that.

19 MR. PENNOYER: How many more wish to testify here? Okay,
20 fine. Goodness. Yes, sir.

21 MR. BURKHOLDER: My name is Jim Burkholder; B-u-r-k-h-o-
22 l-d-e-r. I'm a resident of Anchorage. I've lived in Alaska my
23 entire life.

24 After listening to Mr. Cole's comments earlier and the
25 evidence of the budget with lack of money, and I would have to

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1 say unfortunate will on the part of the Trustees for land
2 acquisition, I think it's a sad case. It takes land to have a
3 habitat. Once old growth forests, as in a case that we have in
4 Katchemak Bay State Park or Afognak Island, or any place, once
5 that's gone, it's gone, period. Your lifetime, your son's
6 lifetime, your grandson's lifetime, and maybe even their
7 great-grandson's lifetime, that's it. They're not gonna see that
8 again. And I would especially urge you to try to see your way to
9 saving some of these habitats. And I have always had a
10 philosophy of doing something for the greater good for the
11 greater number. And I think of Katchemak Bay State Park, it is
12 the end of the road where people see it, perhaps, from any other
13 area that we're talking about, as far as impact on the Spill, and
14 I would hate to see a sign at the top of the road, coming into
15 Homer, that would say: This has been renamed. It's the
16 Walter J. Hickel clear-cut. And I think that's a sad testimony.
17 The Governor, Mr. Cole has stated they're in favor for it. Well,
18 fine. Let's have more than just be in favor for it. Let's see
19 you work and do something about it. It may be the last chance we
20 have, because once the trees are cut, they're gone.

21 Thank you, very much.

22 MR. PENNOYER: Questions? Thank you. Who's is next? Go
23 ahead, ma'am.

24 MS. TAYLOR: I'm Connie Taylor, and I'd like to address,
25 briefly, the land acquisition and timber buy-backs. I see

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1 something missing from the whole equation that I hear discussed,
2 and I've been watching the Trustee Council since it was
3 disappointed, and that is the jobs that are going to be lost as
4 a result of this land acquisition and buy-back. These jobs are
5 going to be lost, essentially, forever, and yet I hear no talk
6 about any method of replacing jobs for the people who are going
7 to be displaced. Once the land is removed from the potential of
8 development, no one has an opportunity to work, and those logging
9 jobs -- the other jobs that might be available as a result of
10 that land. I think timber certainly is a renewable resource, and
11 we need to consider it as such.

12 Thank you.

13 MR. PENNOYER: Thank you. Yes, sir.

14 MR. GRAHAMS: Hi. My name is John Grahams, and I was
15 born and raised around here, and I was curious why you didn't
16 entertain public taking in eminent domain. And I have a letter
17 here to you that you should consider that as an alternative, and
18 particularly like in the Katchemak Bay State Park that would be
19 a fair and equitable means of acquiring that property.

20 The property right across the street, the Municipal
21 parking lot, was acquired by Mayor Tony Knowles from
22 Chancy Croft. The big advantage to the seller is that they don't
23 have to pay taxes on that money, which is a tremendous advantage.
24 So they're usually happy.

25 Now, when I was -- I lost property on Fourth Avenue after

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1 the Earthquake, and they took our property by eminent domain to
2 build a buttress there between E and C Street. The only problem
3 with that was that they used post-Earthquake prices. So in case
4 there's -- the values are down after the Oil Spill, then I would
5 recommend that you take pre-Oil Spill prices as well as present
6 comparable sales in order to get a fair market value, and here's
7 my letter.

8 Thank you.

9 MR. PENNOYER: Thank you. Next? Yes, ma'am.

10 MS. POST: My name is Sue Post; P-o-s-t. I grew up in
11 Homer, so I've spent quite a bit of time down there. I know the
12 area very well, and I don't believe that logging is the answer.
13 I think there's a lot more than can be gained with the tourism
14 and the education aspect of it. I currently am the director of
15 Trailside Discovery Camp, an environmental education camp based
16 here in Anchorage. And we have used Katchemak Bay, and most
17 recently Prince William Sound quite a bit this summer, probably
18 one-fourth to one-fifth of our camp residents spent their time
19 down in Katchemak Bay.

20 I can't explain the joy to you that seeing those
21 children's faces after a week of kayaking and also camping out in
22 the Katchemak Bay area, also in the Prince William Sound area.
23 The children are like flowers that blossom in their week down
24 there, and when they get back up to Anchorage, they're a whole
25 new person. They've found a whole sense of joy and peacefulness

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1 within. I also have spent a lot of time in the public schools --
2 teaching in the public schools up here in Anchorage, and don't
3 see that same joy. The kids need to get outside, they need to
4 see that. We spend a lot of time at our camp trying to teach 'em
5 about habitat, teaching them about how everything is all tied in
6 together. The plants are all tied into the people which are all
7 tied into the water which are all tied in to the Earth. It's
8 really hard -- it was -- I talked about the joy I saw on these
9 kids' faces after a week. At the same time it was really hard to
10 describe the disappointment I saw in their faces when we told
11 them that this area might possibly be logged here in the future.
12 I am an educator, and I do believe that the children are our
13 future, but I don't think that it's fair for us not give them a
14 future to look forward to.

15 Thank you.

16 MR. PENNOYER: Any questions? Thank you, very much. I'm
17 told that through some miracle of modern technology, Homer is
18 still on the line. Is there anyone from Homer that wants to
19 testify?

20 UNIDENTIFIED SPEAKER: Everyone from here now has
21 testified. There were several others, but I did fax their
22 testimony to your office, and they have left at the present time.

23 MR. PENNOYER: Thank you, very much. Appreciate that.
24 Who is next from Anchorage?

25 MR. COUMBE: My name is Mike Coumbe; it's C-o-u-m-b-e.

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1 And I just wanted to say that if you want to do something to show
2 that you're interested in getting this repurchase of lands within
3 the state park at Katchemak Bay going, put something -- when you
4 meet on Monday, put something in the budget. Make a statement.
5 I mean, put -- put some money in for a negotiator to meet with
6 the parties to come up with the proper price for the land, the
7 land of timber and subsurface rights. Let them know that you
8 actually do want to get this process going.

9 That's all I have to say.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: Let me say that the process has not been
12 allowed to lie fallow. The Governor's former chief of staff and
13 senior counselor, Max Hodel, has been meeting with people from
14 the owner groups, and I'm sure he's continuing to do that. I
15 don't know where it is right this date. The last I knew about it
16 was a week or 10 days ago, but I do know that efforts are
17 continuing.

18 MR. COUMBE: I applaud that. Thank you.

19 MR. PENNOYER: Thank you. Any other questions? Thank
20 you, very much. Other testimony? Yes, ma'am.

21 MS. DAWSON: My name is Belle Dawson; D-a-w-s-o-n. I've
22 been an Anchorage resident for 20 years, and I continue to be
23 frustrated and I just feel like it's a waste of time talking to
24 people who are really not interested in enhancing the environment
25 or in preserving the habitat or anything. They are totally

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1 interested in their own greed, as it were. I really am just very
2 frustrated about it. It's very magnanimous of Mr. Cole to listen
3 to us, getting past the time, but I find it appalling that you've
4 been working on this for a number of months and -- how long has
5 it been now -- over a year, and nothing, apparently, has
6 happened. Has it? I can't see that. You say it's being
7 negotiated, but I don't see anything happening. I certainly urge
8 you, as everybody else has, to fund what needs to be funded and
9 seriously consider the buy-back of Katchemak Bay. I just feel
10 what somebody else said, without habitat there is nothing,
11 because wildlife needs a place to live, and here you have an
12 opportunity to do something concrete that would show the people
13 of Alaska, many of whom you have heard representatives today, and
14 I'm sure it has gone in one ear and out the other. I watched
15 Mr. Cole twitching and squirming, but I don't think any of it
16 really sunk in. And I just -- I just feel very frustrated about
17 it, and I would love to have you prove me wrong. I would love to
18 see some serious -- you know, some serious action to acquiring
19 critical habitat and making a difference. I know the government
20 and the Governor doesn't want to do that, but he -- you know, in
21 the political process, he should be able to get around that. I
22 don't think we can look for any help from Mr. Cole. Prove me
23 wrong.

24 Thank you for listening, if you are, indeed, listening.
25 If you have any questions, I don't imagine what they would be,

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1 but if you have any questions, please ask them.

2 MR. COLE: Do you think you've helped the process by your
3 remarks this evening?

4 MS. DAWSON: I hope so, but I doubt it very seriously.

5 MR. COLE: I would suggest that you might be right.

6 MS. DAWSON: Yeah, I doubt it. Because I have come from
7 similar meetings and I always have the same impression, that
8 people are conducting the meetings are doing it because it's a
9 requirement and that they're required to have public input, and
10 they just go on and do what they were going to do any way. So,
11 well, I probably haven't helped, but I -- I don't know. What
12 would help, Mr. Cole? Well?

13 MR. PENNOYER: Thank you, very much.

14 MS. DAWSON: Well, what would? You tell me,
15 Mr. Pennoyer.

16 MR. PENNOYER: Well, I think that we certainly have --
17 although we didn't buy anything today, I think we certainly
18 initiated some projects and some steps, and I don't think it's --
19 I know we certainly have a lot of public input as to property
20 they want to see bought. We also have maps shown to us that have
21 a lot of other property that could be bought that also will be
22 subject to potential development at some point down the line.

23 MS. DAWSON: Good, well,

24 MR. PENNOYER: We still need bang for the bucks in terms
25 of restoration, and I hope that we will show you it within the

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1 next few months that we have the will to do what information
2 shows us we should do.

3 MS. DAWSON: I know, but the time is so short. You know,
4 it's practically October 1st, and, you know, the summer is not
5 around the corner, and here it appears, you know, you're still
6 dragging your feet, trying to decided amounts and this and that.

7 MR. PENNOYER: I think the recognition of a rather
8 massive amount of information out there on the various types of
9 lands that are available, what they may be subject to, is some
10 indication that you can't just go out and look over your shoulder
11 and write a check.

12 MS. DAWSON: Well, is it possible then to extend the
13 deadlines?

14 MR. PENNOYER: Well, that's been suggested tonight, the
15 question of whether in fact what the time angle is for some of
16 these developments and what we might to do about it. There have
17 been suggestions of various types of moratoria that have been
18 brought up and

19 MS. DAWSON: Yes, well, you can do something about that.

20 MR. PENNOYER: Thank you. Well, thank you.

21 MS. DAWSON: Thank you.

22 MR. PENNOYER: Any other questions? Mr. Sandor.

23 MR. SANDOR: Yes. You mentioned time, and the settlement
24 actually was made late last year. The settlement itself, I
25 think, was a step in the right direction to

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1 MS. DAWSON: I don't think it was merely enough, but
2 that's my opinion.

3 MR. SANDOR: Well, the reason I asked the question was
4 because the Amoco Cadiz, which spilled six times as much oil off
5 the coast of France 14 years ago was in litigation for 14 years,
6 and it was just settled, and settled for only something less than
7 \$280 million.

8 MS. DAWSON: That's a point that I don't think they -- I
9 don't think you can really make a comparison because this is a
10 totally different kind of situation.

11 MR. SANDOR: Well, I guess, the question though is it
12 seems that that was a theft, and I share your frustration that
13 when you put that in perspective, the Governor and Attorney
14 General negotiated this settlement in a remarkably short time,
15 and the alternative of that dragging on for years in litigation
16 must be some sort of consolation to all of us, and that's, I
17 guess, the question: Isn't that an accomplishment that we can
18 put some hope in?

19 MS. DAWSON: Well, I think if the motivation had been
20 there, it could have been a much better settlement. I really do.
21 I think there was a lot of conflict of interest and that kind of
22 thing, and I really think we could have gotten a much better
23 settlement by being a little more firm about it. But, of course,
24 when the litigants on both sides are oil men and, you know, they
25 all have the same orientation, that's -- you know, we got the

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1 best we could expect, which wasn't nearly as good as it could
2 have been.

3 MR. SANDOR: Well, thank you, but, please, do consider
4 the Amoco Cadiz. It was really quite a

5 MS. DAWSON: The Amoco Cadiz, you know, was not in that
6 kind of a pristine critical area. It was not the same thing at
7 all. It didn't destroy the whole fishery for hundreds of miles
8 around. It was just very sad and unfortunate and terrible.

9 MR. SANDOR: Up to 14 years of litigation and \$280
10 million.

11 MS. DAWSON: Yes, but it doesn't have to be like that.

12 MR. SANDOR: I'm just -- thank you. I'm sorry,
13 Mr. Chairman.

14 MS. DAWSON: Well, thank you, very much. I appreciate
15 your taking this much time to listen to me. And I hope you will
16 really -- I know we'll see some action instead of a lot of talk.

17 MR. PENNOYER: Thank you.

18 MS. DAWSON: Thank you.

19 MR. PENNOYER: Next from Anchorage? Yes, sir.

20 MR. MAHAFFEY: My name is Jim Mahaffey. I'm a resident
21 of Anchorage. The spelling on that last name is M-a-h-a-f-f-e-y.

22 Most -- practically every point that I would make tonight
23 has already been covered and covered very well, and so I don't
24 intend to take any more of your time to go into that.

25 There is one point that I -- one exception that I would

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1 make, that being that if you look at logging as an alternative to
2 jobs and economics, that's true, but it's true only in a very,
3 very short run. What are we talking about, four, five, six,
4 seven years on logging?

5 Conversely to that, there's one point that I would bring
6 up and make, and that concerns tourism. Tourism, too, is a
7 viable industry, and I haven't heard that spoken to tonight, and
8 I'm not in the tourism business. It's inconceivable to me, in
9 terms of common sense, maybe not in terms of political machinery
10 and mechanics, but certainly in terms of common sense, it's
11 inconceivable to me that the administration -- the present
12 administration which has been -- and I don't have figures in the
13 millions of dollars, but I know it's more than one, on promotion
14 by television ads in the Lower 48 to promote tourism in Alaska.
15 And then on the other hand, turn around and consider and allow
16 clear-cutting in one of the most beautiful, pristine areas that
17 is readily accessible to tourists who are not on tour ships, who
18 don't have to take a state ferry to get there, they can drive
19 there, if that's the only means that they have, and with a short
20 water taxi that costs 25 or \$30.00, not hundreds of dollars, can
21 be in one of the most pristine, clean environments that we have
22 in the state of Alaska. I haven't hear that spoken to tonight.

23 Cutting it off short, the man from Anchorage, I didn't
24 get his name, who admonished you to do something -- do something,
25 even if it's a 25 cent allocation, do something to indicate to

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1 Seldovia Natives and Timber Trading that the State is in good
2 faith and is proceeding forward with some sort of procedure. I
3 have to go by whatever means of information is available to the
4 average citizen, which is a newspaper and a news release, and if
5 I hear correctly, October 1st is the deadline. If those guys are
6 serious, you better do something.

7 And I would close by saying that you are the trustees,
8 you folks do have the power to do something, and I would admonish
9 you to do so.

10 MR. PENNOYER: Thank you. Questions of the Trustee
11 Council? Thank you, very much. Anybody else from Anchorage
12 tonight? Yes, sir.

13 MR. LEVINE: Hello. My name is Jim Levine. I'll say I
14 just wish to speak to -- add my own weight to the testimony that
15 I've heard tonight regarding acquisition of habitat; be it Prince
16 William Sound, Katchemak Bay or Kodiak, and any of the other
17 areas that were affected by the Spill. I personally spent time
18 in (indiscernible) Cove, which is Katchemak Bay State Wilderness
19 Park, as everyone spoke to, and -- well, I lost a lot of
20 heartfelt times down there. And I'd like to see some of this
21 money -- quite a bit of this money, I should say, spent on that
22 acquisition types of proposals.

23 Thank you for listening to us.

24 MR. PENNOYER: Any questions? Thank you, very much.
25 Anybody else? Yes.

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1 MS. BRODIE: I'm Pamela Brodie; that's B-r-o-d-i-e,
2 representing the Sierra Club.

3 I'd like to thank you very much for appointing me to the
4 Public Advisory Committee. When I first submitted my name, I did
5 not expect that. I would also like to thank you for staying so
6 long to listen to us, and particularly to thank Attorney General
7 Cole, who consistently protects the public's ability to comment.
8 I think, perhaps, Mr. Cole has been unfairly attacked this
9 evening.

10 But I would like to speak to some things that Mr. Cole
11 has said that I disagree with, and one is a matter of Congress's
12 intent in passing the Native Claims Settlement Act. I believe
13 Congress passed that act to compensate the Native people of
14 Alaska for their legitimate claims to land. I don't believe that
15 Congress had an intent for the land to be either protected or
16 logged, that that was to be left to the owners. Since then,
17 Congress has, on some occasions, shown some intent to protect
18 some of that land, including by buying some of it in Southeast
19 Alaska, and recently the House of Representatives certainly has
20 shown an intent to protect some land with the Energy Bill, and it
21 remains to be seen whether the Senate will agree with them.

22 Mr. Cole also mentioned the fact that -- he said that
23 Governor Hickie is very much in favor of protecting Katchemak
24 Bay, but that my understanding -- my inference is that he did not
25 do that because he didn't agree with some other things in House

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1 Bill 411, and, therefore, vetoed it. But the Governor did have
2 -- does have line item veto power in capital budgets, and he
3 could have vetoed some parts of those appropriations and not
4 other parts, including keeping the full 11 million or some part
5 of that for Katchemak Bay.

6 Going on to other things regarding what has happened
7 today, I was very disappointed that the agencies do not -- are
8 not, in their proposal, supporting the proposals for habitat
9 acquisition, except for threatened lands, and I do think that
10 \$5 million for threatened land is completely inadequate. But I
11 also think that it's a very bad precedent to spend money only on
12 land which has an eminent threat, because I think then the
13 message to the owners is you will get action only if you warm up
14 your chain saws.

15 I would like to see the Trustee Council this winter spend
16 some money to acquire habitat, some of it that is threatened and
17 some of it that it is not eminently threatened. I think that --
18 and this is very, very important -- I think that the Trustees do
19 not have to go through the entire process of prioritizing the
20 land before they buy some.

21 I do applaud your actions in funding the Nature
22 Conservancy's projects. I think that that workshop that will get
23 together, the experts, they will be able to agree on some habitat
24 that's very valuable and that the Trustees can go ahead and
25 acquire some habitat in each of the regions that was affected by

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1 the Oil Spill -- the actual areas of the Prince William Sound,
2 the Kenai Peninsula, including Katchemak Bay, and the Kodiak
3 area.

4 It's okay to go ahead and buy some good habitat even if
5 it isn't necessarily the very best that you will find in your
6 ultimate process. I also think that it's important -- very
7 important to start talking to all of the land owners and get the
8 process moving before you decide which is the best land to buy.
9 I think that the flow chart that the agencies have submitted
10 which has talking -- beginning negotiations with the land owners,
11 very far down in the process. It's a very bad idea because what
12 will happen is you choose the land that's the best habitat, but
13 that particular land will become very expensive, whereas, I
14 think, if you talk -- if the agencies are talking to land owners
15 and asking them for prices, and also for conditions under which
16 they will sell their land or development rights, that we can get
17 some prices out on the table before certain areas are selected as
18 being extremely valuable for habitat.

19 When I talk about the parameters, I mean, for example,
20 some corporations will say "we will not sell fee simple title, we
21 sell developing rights." It would be helpful to know that right
22 away. It would also be helpful to know which owners are not
23 willing to sell portions of their properties, they will sell only
24 an entire parcel and not portions of it. There's no use for the
25 agencies spending money to find out exactly the best acre on the

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1 parcel.

2 Another problem with the process that the agencies are
3 proposing is, for one thing, I think the list of species that
4 were -- that use uplands was inadequate, not including harlequin
5 ducks, as Mr. Sandor pointed out, or bald eagles. Also did not
6 include shell fish in estuaries which will be affected if there
7 is logging and erosion, and also, therefore, the animals that
8 live off shell fish, like sea otters, as well as, of course, the
9 humans who use these resources for subsistence and commercial and
10 sport.

11 The damage services seem to have been forgotten by the
12 agencies. They talk about animals, wildlife that has been lost,
13 but they are not proposing studies of the damaged services or
14 compensation, and that would include subsistence and recreational
15 use as well as sport fishing and recreation and tourism that was
16 mentioned in some testimony.

17 I think Mr. Cole's suggestion for a more informal
18 dialogue with the staff is excellent, and I would hope that the
19 Trustees would give the staff directions -- as has been said by
20 some other people to simplify what they give the Trustees,
21 because when you come in to find two inches of pieces of paper of
22 lists and lists of things, it certainly becomes very difficult to
23 make a decision, and I think that the staff could be more helpful
24 in putting forward different choices that you can make.

25 Oh, regarding the land values. I would respectfully

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1 disagree with the gentlemen who were speculating on the prices
2 that forest lands will command. After all, the prices that have
3 been negotiated on Katchemak Bay and the prices that are being
4 asked on Afognak average about \$1,000.00 an acre less, and yet
5 the gentleman who testified suggested \$1,000.00 an acre was at
6 the lowest end of the price range, and I think it's unlikely that
7 the price that Afognak would be asking in the Katchemak is
8 negotiated at the low end. There is no reason to think that this
9 would not be average prices or more. If we base these -- our
10 ideas of what these lands are gonna cost on timber that has been
11 sold already, remember that the corporations are likely to have
12 logged their most valuable -- most profitable areas first, and
13 that that should not at all be considered average of what forest
14 land will cost.

15 Also, I think Montague Island would be -- would raise the
16 value of -- the price at the high end of the scale, but it is
17 not, according to its owner, even for sale. So that should not
18 be considered as part of the average prices. And certainly the
19 prices that should be considered in determining lands, should be
20 the net profits the companies would make from logging their
21 lands, and some companies have been logging lands and ending up
22 with net losses. And so, in those cases, timber lands ought to
23 be pretty cheap.

24 Finally, in Mr. Montague's presentation, he said that of
25 the proposals, 50% of the money that was being proposed would be

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1 for public and 50% for private proposals. And maybe I'm not
2 following that very well, but it seemed to me strange the way
3 that that was being determined. If my understanding is that any
4 money was going outside of an agency that that then was
5 considered a public expenditure, but the most popular proposals
6 that have been coming from the public are getting so far no
7 funding for acquisition, and I'm glad there is a place holder,
8 but it certainly is not -- the sort of numbers that have been
9 talked about are not anywhere near 50% of the money, and we
10 support more than 50% of the settlement going to habitat
11 acquisition.

12 Thank you.

13 MR. COLE: Mr. Chairman.

14 MR. PENNOYER: Mr. Cole.

15 MR. COLE: I may have missed something here in the day's
16 discussions because in light of much of the public comment, I
17 seem to -- my understanding was that with respect to the money
18 available in the forthcoming year for the acquisition of habitat,
19 no matter what process we employ, was that there was to be no
20 number put in there, that there was to be a provision in the
21 budget in the form of sort of a contingency plan of undetermined
22 amount so that we would essentially have no limit, that the
23 discussion was that \$5 million may be regarded as inadequate by
24 many people, might be regarded as inadequate by the Trustees, and
25 a decision was, as I understood it, was to have that amount

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1 unlimited.

2 Now, did I misunderstand what we did?

3 MR. PENNOYER: Mr. Cole, I think we did not take an
4 action. You certainly made that proposal. I discussed the fact
5 that I couldn't go along with 5 million because I had no idea how
6 that approach -- what the study might show us was required. The
7 staff was instructed to deal with a catch-22 we've got presenting
8 something to OMB, to put a blind number in there and how that was
9 going to foul up our process, and come back next Monday and give
10 us that type of report. At that point we'd make our judgment on
11 whether five, 10, 15 or an open door was the way we wanted to go.
12 We did not make that decision.

13 MR. COLE: That it was not to be zero. It was not to be
14 5 million, but it was to be such a number as after we got some
15 preliminary information we could come up with a number that
16 seemed appropriate. So I think everybody should -- I would like
17 them to have an understanding. That was my understanding.

18 MR. PENNOYER: We did not adopt that proposal at this
19 stage. It's on the schedule for next Monday.

20 MR. COLE: It's an open, sort of, issue right now.

21 MR. PENNOYER: It's an open issue right now, that's
22 correct. The testimony is germane.

23 MR. COLE: We're not boxed in at zero or five or anything
24 else, it's still an open. And, you know, as I recall, let's talk
25 about the public and the private, those expenditures. As I

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1 recall, during the last legislative session when we got this
2 approval of the process through the State Legislature that the
3 legislature insisted that all contracting, except for
4 administrative expenses, be through state and federal agencies.
5 It was not, I think, well received by members of the Trustee
6 Council, but that was a legislative requirement.

7 Am I not right on that? I think so. So that was sort of
8 foist dishonest by the Legislature. And it was, as I recall my
9 testimony, we wanted to write the contract, you know, outside the
10 state and federal agencies where it might be appropriate and
11 didn't get that. So -- and that the decision was well, if it
12 didn't work well during this year, we might go back to the
13 Legislature next year and try to be freed of that restraint.
14 That's item two.

15 Item three is, with respect to this habitat or land
16 acquisition. In a broader sense, it's been my thought that we
17 should try to be creative with respect to habitat acquisition and
18 seek various types of agreements with owners so as to enable us
19 to get a broader bang for the buck. I mean, you know what's
20 troubled me is you look at these lands, Sheet (ph) A and so
21 forth, where we saw on the slides there would be three red -- you
22 know, for threatened acquisition. If we go in and we buy that,
23 you know, then the land owner the next year, I'm sure, will go to
24 the next bay over and say, well, I'm going to log it this year,
25 and then the next year, and we'll be chasing that respective

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1 logging area, you know, interminably. So, it's long been my
2 thought, and I've expressed it here, that we've got to look maybe
3 even in some checker boarding. I'm not sure that's a solution.
4 More than simply seize this particular tract of habitat and have
5 everything else, you know, alongside it six months later or the
6 next year, subject to the chain saw. I mean, we just have to be
7 very, very careful of how we go about the acquisition process.
8 Not only the selection of lands themselves but the selection
9 process.

10 You, in part, touched upon it, but we don't want to get
11 trapped into, you know, paying highest dollar value for some. We
12 have to proceed very carefully if we're going to be able to
13 require the greatest amount of habitat, and it troubles me, and,
14 frankly, I'll say this as we talk about habitat along streams,
15 are we only going to go out -- you know, are we only going to go
16 out -- I mentioned a half-mile or quarter-mile on each side? So
17 that what we have is some strip of greenery along streams and the
18 rest clear cut? I mean, you know, I just -- we just can't do
19 that, in my view.

20 So, I would like people, generally, to know that the
21 acquisition process has to be very carefully done. In my view,
22 we need guidance from experts as to how to do that. What
23 planning should be done so when, in my view, we only identify
24 this habitat, et cetera, et cetera, as how long ago is about the
25 acquisition process. I think we need expert counsel, because

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1 we're -- we need people who do this, as I've said before, for a
2 living to help us formulate what I still call a grand plan.

3 So that's what I will be talking about when we get to
4 that next time, when we get to there in November or something.

5 MS. BRODIE: May I say

6 MR. PENNOYER: Yes, go ahead.

7 MS. BRODIE: I did understand that the Trustees have not
8 yet decided how much money to put into land acquisition, and I
9 was saying I was disappointed in the agency's proposals, that the
10 amount was that limited, and I hope that the Trustees will
11 allocate much more than that.

12 MR. COLE: Excuse me. The reason I mentioned it, I think
13 some of the other people who spoke earlier expressed the view
14 that there was zero there was not enough money aside, but that's
15 an open issue.

16 MS. BRODIE: I've also been disappointed that agencies'
17 proposals, in terms of process, have been, I think, so
18 complicated, and make it difficult, but that's in my written
19 comments.

20 I can't remember what else I was going to say.

21 MR. PENNOYER: I'll give you another shot in time next
22 Monday, I think.

23 MS. BRODIE: I won't be able to be here.

24 MR. PENNOYER: Oh, okay. I will.

25 MS. BRODIE: Thank you.

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21 MR. PENNOYER: I'll give you another shot in time next
22 Monday, I think.

23 MS. BRODIE: I won't be able to be here.

24 MR. PENNOYER: Oh, okay. I will.

25 MS. BRODIE: Thank you.

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1 MR. PENNOYER: Yes, thank you, very much. Anybody else
2 here who wishes to testify? Mr. Parker.

3 MR. PARKER: Good evening, gentlemen. My name is
4 Jeff Parker. I think most of you probably know me by now as a
5 frequent spokesperson before the Council. I have just walked in
6 late, but I did catch the end of Attorney General Cole's remarks,
7 and I would like to simply reiterate a point that I think I've
8 made at various times in prior testimony before the Council, and
9 that is, I think, if you are focussed on acquisition, as I think
10 in substantial measure you will be and should be, there are two
11 questions involved:

12 There's acquisition of lands, where? Habitat bears some
13 relationship to the resources that are injured, and there is
14 acquisition to land -- of lands where the services from the
15 resources that are acquired bear some relationship to the
16 resources or the services that are injured. Because most of the
17 injuries are below the high tide line, it is very difficult to
18 acquire privately owned resources. In fact, there are probably
19 none to replace lost or injured resources, and similarly, even
20 above the -- I'm sorry?

21 MR. COLE: I missed that last sentence. Would you
22 restate that?

23 MR. PARKER: Okay. Because

24 MR. COLE: It's difficult to acquire

25 MR. PARKER: It's very -- lands below the ordinary high

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1 water mark are public lands -- all that?

2 MR. COLE: Okay.

3 MR. PARKER: Are subject to public trust. You don't have
4 lands out there to acquire below the high tide line -- the
5 ordinary high tide line. There are uplands that bear some
6 relationship to resources that are injured, such as fish or some
7 bird species such as harlequins and, perhaps, murrees -- excuse
8 me, marbled murrelets, but the resource -- the habitats there to
9 acquire are probably fairly narrow. And I think you will do much
10 better to focus on acquiring upland lands where those -- the
11 resources upon those lands bear some relationship to the services
12 that were injured and the consent decree accommodates that.
13 Otherwise, you'll be in a position where you will not really
14 effectively be able to spend \$900 million. In other words, I
15 think it's very difficult to buy \$900 million worth of lands or
16 conservation easements on privately owned lands that bears some
17 relationship to the injuries to resources, but it's very easy to
18 buy \$900 million worth of lands that bear some relationship to
19 the injuries to services that the injured resources provide.

20 That's my sole point. I think we all understand the
21 concepts of services and baseline, and we're storing services to
22 baseline condition. If we don't, I'd be pleased to try and
23 explain it further.

24 MR. PENNOYER: Thank you, Mr. Parker. Questions from
25 Trustee Council? Thank you, very much.

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1 MR. PARKER: Thanks.

2 MR. PENNOYER: Anybody else tonight?

3 MR. COLE: Well put. Thank you.

4 MR. PENNOYER: Thank you, very much. We'll see some of
5 you back here next month, I presume, 8:30 in the morning.
6 Trustee Council, any further observations before we quit --
7 recess? Mr. Sandor.

8 MR. SANDOR: Yes, I have a mandatory in Juneau Tuesday
9 morning, and I would trust that the public comment period would
10 be scheduled at a time in which I could at least catch the last
11 plane to Juneau.

12 MR. PENNOYER: I would hope so, too. I have a mandatory
13 meeting here Tuesday morning, and I don't know how long it's
14 going to take us to go through the '93 Work Plan, but we sort of
15 have to do that first. We will do our best.

16 Thank you all. Good night.

17 (Off record)

18 (END OF PROCEEDINGS)

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UNITED STATES OF AMERICA)
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I, Mary E. Miller, 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 14th day of September, 1992, commencing at the hour of 8:30 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 17th day of September, 1992.



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Notary in and for Alaska.
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