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**EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
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**EXXON VALDEZ OIL SPILL SETTLEMENT
Trustee Council**

Simpson Building
645 "G" Street
Anchorage, Alaska
September 21, 1992
8:30 o'clock a.m.

IN ATTENDANCE:

United States Forest Service, Alaska Region	MR. MICHAEL A. BARTON Regional Forester
State of Alaska	MR. CHARLES E. COLE Attorney General
United States Department of the Interior	MR. CURTIS McVEE Special Assistant to the Secretary
National Marine Fishery Service	MR. STEVEN PENNOYER Director
Alaska Department of Fish and Game	MR. CARL ROSIER Commissioner
State of Alaska Department of Environmental Conservation	MR. JOHN SANDOR Commissioner

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P R O C E E D I N G S

(On record - 8:37 a.m.)

MR. PENNOYER: I'd like to get this started, if you're ready, gentlemen. This is a continuation of the meeting recessed on September 14th of the Exxon Valdez Oil Spill Trustee Council. All Trustee Council members are present, and we have an agenda today that is the '93 Draft Work Plan; the Status Report on the Walcoff EIS Contract; and a Public Comment Session, scheduled for 4:30 to 6:00 this afternoon.

I'd like to finish this agenda today, and if we finish early, I'd like to even start the public hearing earlier this afternoon -- we could at least start it here in Anchorage since, I think, the teleconference net won't come on until 4:30.

So, if anybody has additions to this agenda that they would like to propose at this time? If not, we can start down through it and pick things up during the course of the meeting and add to it, if we feel it's necessary.

The first item on the agenda is the '93 Work Plan. At the last meeting we were handed a couple of large notebooks which, because of shortness in time, most of the Trustee Council members have not had a chance to review. For that reason, we recessed the meeting to reconvene today for this specific purpose. I hope you've all had a chance to go through it.

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1 At the last meeting Mr. Gibbons presented us some lists
2 of criteria that we used for the Work Plan. Are there any
3 other documents appropriate to that? Mr. McVee, you're passing
4 something out to us.

5 MR. McVEE: That came from Mr. Gibbons, but

6 MR. PENNOYER: Oh, it came from Mr. Gibbons. Okay.

7 MR. McVEE: I'd like to make a comment before we go into
8 the

9 MR. PENNOYER: We're one short, Mr. Gibbons, on that
10 handout.

11 DR. GIBBONS: I'll get some copies made -- an additional
12 copy. I have one.

13 MR. PENNOYER: Okay. Well, we can share. So,
14 Mr. McVee.

15 MR. McVEE: Yes, Mr. Chairman. I'd like to make a
16 comment and then conclude that with a motion.

17 Trustee Council operates under the State of Alaska's
18 Open Meeting Law, and I think we need to build within our
19 schedule or to set deadlines for preparation of submission of
20 material to be considered at our public meeting. If we cannot
21 meet those deadlines, the item can be removed from the agenda.
22 I think the public is entitled when it serves to focus comments
23 to be more useful to the Trustee Council if the materials are
24 available in advance.

25 I think we are all very serious about the public

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1 comments that we receive at each meeting, and we as Trustee
2 Council members need this information in advance to prepare for
3 our meetings, and these advance materials should also be on
4 file at OSPIC, and, therefore, I'd like to move that the
5 Trustee Council procedures requires supporting materials for
6 agenda items must be provided to the Trustee Council and made
7 available to the public at least five days in advance.

8 MR. PENNOYER: A second for discussion then?

9 MR. SANDOR: I'll second it.

10 MR. PENNOYER: Any discussion? Mr. McVee, how inclusive
11 is that recommendation? A lot of things -- we get materials
12 on, like a letter or something or a short document at the time
13 of the meeting?

14 MR. McVEE: I mean the basic handout materials that are
15 provided to the Trustee Council prior to their meetings to take
16 action on for information purposes. Granted, there may be
17 correspondence or something of that nature that we can deal
18 with, but maybe there has to be some judgment -- there should
19 be some judgment exhibited, but I feel like the public does not
20 have this information in advance, or if we as members of the
21 Trustee Council do not have it in advance, we cannot do justice
22 and the public cannot have the information they need to make
23 comments on.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: I think the thought is salutary, but I wonder

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1 if five days is enough. In the first place, we need more time
2 to be able to prepare for these hearings, based upon,
3 particularly, the quantity of materials which we receive, such
4 as this, number one. Number two is I think that the public is
5 in the same fix. They need a little more time than just five
6 days to be able to review these materials and make comments to
7 us, if need be, via telephone call, via fax, as to evaluate it.

8

9 I would suggest we lengthen the time.

10 MR. PENNOYER: Further comment? Mr. Ros- -- Mr. Sandor
11 first.

12 MR. SANDOR: Well, if Mr. McVee would be agreeable, I
13 would propose that we insert in the motion prior to the word
14 backup materials -- primary backup materials, and then to
15 accommodate last minute materials that might legitimately come
16 along, and then propose the extension of the time period to 10
17 days, as opposed to five.

18 Do you agree?

19 MR. McVEE: I would agree to insert the word primary
20 supporting material for agenda items, and 10 days in lieu of
21 five days.

22 MR. PENNOYER: Mr. Rosier.

23 MR. ROSIER: Thank you, Mr. Chairman. Yeah, I hope that
24 -- I concur with the idea of extending the time for us to
25 prepare, giving the public the opportunity to prepare as well.

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1 I certainly hope that this is in no way a criticism of me.
2 Certainly the staff work that we've been doing -- I think the
3 staff has been really doing a tremendous job of putting
4 together a large amount of material in a brief period of time.
5 And I would hope that we would hear when we're making some of
6 the demands on staff during the course of the meetings, that we
7 make that -- that we given them the opportunity to respond in
8 developing the time frames -- the meeting time frames that
9 we're talking about here.

10 MR. PENNOYER: Mr. Gibbons, does the Restoration Team
11 have any comment on this -- on the proposal?

12 DR. GIBBONS: I don't, Mr. Chairman.

13 MR. PENNOYER: Mr. Cole. Well, I agree with you, with
14 the concept. I think being presented with this much material a
15 few days before the meeting is probably not adequate for the
16 public or the Trustee Council to review. Recognizing the
17 pressure we put on the Restoration Team, it's simply not a
18 criticism. We need to schedule our work so that we can
19 accomplish this objective.

20 I guess I would hope that the motion is not an ax edge,
21 because there are times when we've got to take action and we
22 need, I think, to be able, from a policy standpoint, to look at
23 the situation and make a judgment, and that should be our
24 policy, this is what we want. But, hopefully, there are times
25 when we are required to take some kind of action and we'll have

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1 to make some judgment calls.

2 Mr. Sandor.

3 MR. SANDOR: That would be accommodated, Mr. Chairman,
4 by the insertion in front of the motion that except under
5 extraordinary circumstances.

6 MR. PENNOYER: I would be agreeable to that. Is that
7 acceptable?

8 MR. ROSIER: Yes.

9 MR. PENNOYER: Are there any objections to the motion?
10 Thank you. Motion carries.

11 Anybody have any additional comments before we start on
12 the '93 Work Plan? Mr. Barton.

13 MR. BARTON: Yes. As we work through the day, I hope
14 that we all keep in mind that we're not taking final action on
15 these proposals today, but really reviewing them in preparation
16 for putting them out to public comment, and we'll, no doubt,
17 have very detailed discussions after we get public comment back
18 on these various proposals.

19 MR. PENNOYER: Very good point. Mr. Sandor.

20 MR. SANDOR: Building on that, Dr. Gibbons, can you
21 outline the projected scenario of what happens with the
22 materials here and when -- or is this part of your
23 presentation?

24 DR. GIBBONS: Yeah, there's one precision point that the
25 Trustee Council has to make that affects what goes to the

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1 public. What we propose to do is to go forward to the public
2 with all 64 projects, with a recommended package and then a
3 package that was not recommended but is part of the 64.

4 That's one of the decisions the Trustee Council has to
5 make. And then we're going to go for a 45-day review period
6 and then come back and analyze the public comments, come back
7 in front of the Trustee Council again with the package,
8 incorporating the comments before approval of the package.

9 MR. PENNOYER: Mr. Gibbons, can you give us an idea of
10 the time table; when it will be back before us?

11 DR. GIBBONS: Well, we're trying to shoot for going to
12 the printer around the early part of November, and -- if we can
13 get there, or sooner, and we would like to have it in December.
14 We'd like -- excuse me. The printer is in October; November, a
15 review period; and then December, back in front of the Trustee
16 Council.

17 MR. PENNOYER: Mr. Sandor.

18 MR. SANDOR: The action by the Trustee Council would
19 take place in what month?

20 DR. GIBBONS: December.

21 MR. PENNOYER: December.

22 MR. SANDOR: Thank you.

23 MR. PENNOYER: Mr. Gibbons, in consideration of these
24 projects a lot of the comments have to do with how they will
25 affect restoration of different species. Where will we be on

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1 the Restoration Plan at that point? Will the Trustee Council
2 have made initial decisions on the Restoration Plan at that
3 point?

4 DR. GIBBONS: There should be a rough cut of the draft
5 Restoration Plan done in November that will be -- you know, it
6 will not be the draft. The draft is scheduled for completion
7 in February to go to the public, but there will be a rough cut
8 of that done in November.

9 MR. PENNOYER: I guess the question I was asking, at
10 what point will the Trustee Council be making decisions on the
11 restoration criteria to go into that plan before it goes out to
12 the public? So we've got, at least, a first shot at discussing
13 some of those concepts and making some of those decisions maybe
14 before we finalize the '93 Work Plan.

15 DR. GIBBONS: Yes, we hope so. At the next Trustee
16 Council meeting, we should have that available for you to
17 review.

18 MR. PENNOYER: And then while it's going out to the
19 public, we will make some initial decisions as to what we want
20 to go out to the public so we'll at least discuss restoration
21 concepts for that plan at that time, before we do the '93 Work
22 Plan?

23 DR. GIBBONS: That's correct.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: I'm not sure I understand the position of the

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1 Restoration Team regarding the -- all 64 of these plans. What
2 I thought I heard Dr. Gibbons say is the proposal to send out
3 all 64 of these projects, but I wonder, having looked at them,
4 whether we should send out projects in which the project
5 received less than at least four affirmative votes by the
6 Restoration Team. I have in mind, for example, 1, 10, 14, 19,
7 20, 26, -- et cetera. What is the director's spot in the

8
9 DR. GIBBONS: That was the question. In the past we've
10 just gone to the public with the recommended work plan. This
11 is a little different this year, and the question to the
12 Trustee Council is do you want to go forward with just the
13 recommended work plan, which would be -- our recommendation
14 presently is all 5-1 and 6-0 votes or do you want it to go
15 forward with an entire package that includes the 4-2 to 3-3 and
16 the rest of the votes as well, but label those as not
17 recommended for work in 1993?

18 MR. PENNOYER: Maybe we'll feel easier on that decision
19 after we talk a little bit about the procedure and why certain
20 votes were reached or what the chief scientist's recommendation
21 is on certain projects in that.

22 MR. COLE: Okay.

23 MR. PENNOYER: Any further comment?

24 MR. SANDOR: Perhaps not right now, but before the
25 conclusion of the meeting, I'd like to know, too, the Public

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1 Advisory Group, what sort of time table on its interface in
2 this whole process is.

3 MR. PENNOYER: It might be good to know that now. We
4 have tagged recommendations on the '93 Work Plan as well before
5 we do a final sign-off in December? I assume we would.

6 DR. GIBBONS: We're sure hope so.

7 MR. SANDOR: I think that the term that we need to

8
9 MR. COLE: That's essential.

10 MR. SANDOR: Yeah, we think we need to actually put that
11 on the action for a specific due date in time as well. And
12 maybe that's an item that we can work toward after lunch and
13 maybe develop a time table action series -- critical paths,
14 target dates or bench marks to reach these decisions, one of
15 which must surely be the recommendations of the Public Advisory
16 Group on the proposals -- no doubt after the general public
17 comment review.

18 And the next question is when is the present target date
19 of getting this out for public review again?

20 DR. GIBBONS: October.

21 MR. SANDOR: October?

22 DR. GIBBONS: Well, it depends on how many changes are
23 made here today. We'll put the package together as soon as
24 possible, give it to the printer for two weeks, and mail to the
25 public for 45 days.

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1 MR. SANDOR: Okay, thank you, Mr. Chairman.

2 MR. McVEE: Mr. Chairman.

3 MR. PENNOYER: Yes.

4 MR. McVEE: I'd like to comment on the Public Advisory
5 Group in the sense that the Interior lead agency, that
6 responsibility is that there an amendment to the Charter -- a
7 minor amendment to the Charter to accommodate the change from
8 three to five public at-large members, and then the package of
9 nominees will go forward to the Secretary. Hopefully, that
10 will be done this week, and I'll ask for expedited review and
11 approval of the Charter amendment and approval of the signature
12 on the appointments so we'll have that as soon as possible. I
13 think the only other requirement is that we have to have a
14 notice. I think it's a 15-day notice before a meeting has to
15 be mailed out. So I think within that time frame that Dr.
16 Gibbons described, it will be possible to have the Public
17 Advisory Group appointed in a meeting.

18 MR. PENNOYER: Yeah, I would assume, as Mr. Cole has
19 stated and Mr. Sandor, that that is absolutely essential to get
20 that type of review of the '93 Work Plan. That should probably
21 be one of their first review recommendations to us, so it
22 sounds to me like the time table for getting the group formed
23 and setting up a meeting falls well within the amount of time
24 Mr. Gibbons indicates for public review. So that should not be
25 a problem.

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1 In relationship to what Mr. Barton said, we would have
2 that review as well, of the summary of all these projects, by
3 the time we came back and considered final action.

4 We have a considerable body of information in front of
5 us, relative to these projects. We have -- Mr. Gibbons, if you
6 will help me out with this. We have, of course, the
7 Restoration Team's summary of the projects and several
8 different cuts as to their order and selection by species
9 groups, selection by vote category and just generally in order.
10 We have a package of backup; several pages of description of
11 each project; we have a detailed budget that's been developed
12 for each project; we have a series of other ancillary notes and
13 letters from people, including a review of the status of the
14 '92 field projects which will lead into some of these; and we
15 have this morning received a memo from Dr. Spies, chief
16 scientist, giving a category recommendation for each of the
17 projects, all 60-whatever there is of them.

18 So, Mr. Gibbons, is there anything else we should be
19 considering as background to these, which is in front of us, as
20 we talk about them?

21 DR. GIBBONS: That being the case, I have more copies of
22 the project on shellfish mariculture. I'll pass these down for
23 those who didn't get one.

24 MR. PENNOYER: Okay. Thank you. We just have -- we
25 probably need four more at this end of the table. That's fine.

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1 Okay. So, conceptually, the Restoration Team has asked us
2 whether it's appropriate to send all these out, and I guess in
3 terms of looking at these, perhaps -- how do you want to
4 proceed? Do you want Dr. Spies to outline the criteria?

5 Go ahead, Mr. Barton.

6 MR. BARTON: I would move that we send all 64 projects
7 out for public review, identifying those that are recommended
8 by the Restoration Team for adoption, include with that packet
9 Dr. Spies' letter that we got this morning so the public has
10 that information as well.

11 MR. McVEE: Second it.

12 MR. PENNOYER: Discussions or questions? Mr. Barton,
13 when you say send them out indicating the Restoration Team's
14 recommendation so we would, in essence, send a table out with
15 the vote without indicating how we feel about them at the time?

16 MR. BARTON: I don't know that we need the table with
17 the votes, but I think they could force them into two groups;
18 recommended and not recommended.

19 MR. PENNOYER: By the Restoration Team?

20 MR. BARTON: By the Restoration Team.

21 MR. PENNOYER: Any further discussion on Mr. Barton's
22 motion?

23 DR. MONTAGUE: Mr. Chairman.

24 MR. PENNOYER: Mr. Montague.

25 DR. MONTAGUE: I don't know if it was a misstatement,

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1 but it was our intention that the draft '93 Work Plan have the
2 approved projects -- the recommended projects of the Trustee
3 Council, not the Restoration Team's, so we would propose that
4 the list that you all determine at the end of today, as opposed
5 to the one we've given you at the moment.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: As I understand the motion is if we vote
9 affirmatively on it at this stage, there'll be no further
10 discussion today to the individual plan; it will just be
11 wholesale sending out of all 64 proposed budgets, period. Do I
12 understand that correctly?

13 MR. PENNOYER: Mr. Cole, I think that is the motion.

14 MR. COLE: Okay.

15 MR. PENNOYER: Now that doesn't preclude, of course,
16 further discussion of the concepts or criteria that we're going
17 to ultimately use in evaluating them, but there would be no
18 selection other than what's on the list right now and in the
19 order that they're on presented (ph).

20 MR. COLE: Mr. Chairman. In my view, it essentially
21 will -- any further discussion about the criteria today, that
22 we would eventually employ would be essentially meaningless
23 until we receive the Public Advisory Group's comments and the
24 public's comments, and I think it would simply be needlessly
25 stirring the pot. But that would be my reaction to the

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1 affirmative vote on the motion.

2 MR. PENNOYER: Mr. Sandor.

3 MR. SANDOR: Mr. Chairman, if that's that restrictive, I
4 would oppose the motion. I had hoped -- if it's that
5 restrictive and if the restrictions are what I think I'm
6 hearing, I think, as a minimum we ought to go through the total
7 projects, not necessarily one by one, but I have questions
8 about certain groups of them, and some specific ones that --
9 some of them relate to policy issues that -- the archaeological
10 project raised, you know, just some questions of some
11 background and rationale. Project 28, 29, I think, on the
12 areas uplifted by earthquakes, not damaged by the Spill, I had
13 some questions certainly about Dr. Spies' memo.

14 Am I to understand that this presentation would not be
15 -- it would be deferred or -- in other words, I want some
16 discussion on this before we abandon ship.

17 MR. PENNOYER: Mr. Barton, do you want to clarify your
18 motion?

19 MR. BARTON: Well, it was not my intent to restrict
20 discussion. I thought we would probably vote at the end of
21 discussion.

22 MR. COLE: Mr. Chairman.

23 MR. PENNOYER: Mr. Cole, do you have further comment?

24 MR. COLE: Well, if we're going to send them all out,
25 I'm not saying what my reaction is or how I vote, but if we're

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1 going to send them out and say, look, here they are to the
2 Public Advisory Group, give us your comments on it; send it out
3 to the public, say give us your comments on it; and we decide
4 to send all 64 out, I mean, it seems to me that we should
5 simply send them all out and that's that. I mean, to sit here
6 and discuss them and then send them all out for comment seems
7 to me is a needless exercise. I mean, we ought to either send
8 them all out or we ought to not send them all out. I
9 personally would have no objection to say, look, send them all
10 out, let the public and Advisory Group give us their comments,
11 and then we'll decide on them. But, anyway, I just raised this
12 to make sure we at least have our theories sort of straight.

13 MR. PENNOYER: Mr. Barton, maybe your motion is
14 premature. Maybe to understand voting on your motion in the
15 affirmative or negative, I need to have a better understanding
16 of what some of the criteria might be or some of the concepts
17 or concerns Mr. Sandor has. Maybe we should defer your motion
18 until we have an initial discussion of the list of projects of
19 the various criteria that seem to have gone into the RT vote
20 and to Mr. Spies' memo, and then as we get into that
21 discussion, a vote on your motion would be more appropriate.
22 I'm afraid I'd have to vote against it right now.

23 MR. BARTON: I agree, that's what I said. That we can
24 vote at the end of the discussion was my basic assumption,
25 whenever that ended.

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1 MR. PENNOYER: Okay.

2 MR. SANDOR: I second the motion to table until the
3 discussion is complete.

4 MR. PENNOYER: Well, either way, Mr. Barton's motion was
5 open to discussion. I think his discussion was that discussion
6 would be the very one we're talking about undertaking. So, in
7 any case, we'll defer a vote on that until we have the adequate
8 discussion which we'll incorporate in the discussions by
9 Mr. Gibbons and Mr. Spies -- Dr. Spies, and so forth.

10 So, how do you suggest we approach this discussion?
11 Mr. Gibbons, go ahead.

12 DR. GIBBONS: Yes, Mr. Chairman. I've got a a brief
13 overview here and then I'd suggest that Dr. Spies maybe follow
14 that up with an explanation of his package, to give you an
15 overview of how we got to where we are here.

16 MR. PENNOYER: Why don't you go ahead. Thank you.

17 DR. GIBBONS: Dr. Montague, last week, presented the
18 process for preparing the 1993 Work Plan, the criteria and so
19 forth, and I won't go into that, but I would like to give you a
20 brief overview on how some of the thoughts that the Restoration
21 Team had concerning the package.

22 The basis for the Restoration Team recommendations for
23 the 1993 Work Plan is a balance -- we feel, a balance concerted
24 inter-agency program. Following the assumptions that were
25 presented to the Trustee Council on June 29th, the package is

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1 aimed at providing the timely information necessary to support
2 subsequent decisions about future restoration options. The aim
3 was to limit these activities to those that were:

4 One, time critical; would a delay in the project result
5 in further injury to the resource or service or would we forego
6 our restoration opportunity.

7 Two, no long-term commitments until a Restoration Plan
8 is completed, annual restoration activities requiring a
9 long-term commitment should be limited to those projects that
10 do not have irretrievable commitment of funds in the future
11 years.

12 And, three, provide for some small scale restoration
13 manipulation and/or enhancement project that we feel competent
14 that will be supported by the public before a Restoration Plan
15 is completed.

16 And those were the three basic ones that we considered
17 when developing the package. The Restoration Team recommended
18 the 1993 Work Plan is a composite of all the 5-1 votes and 6-0
19 votes by the Restoration Team. It contains 42 projects,
20 comprising two damage assessment continuation studies, and four
21 restoration -- 40 restoration projects covering monitoring,
22 management actions, manipulation and enhancement, habitat
23 protection, and technical support.

24 In addition to the process, the project review,
25 conducted by the Restoration Team, approximately \$2.5 million

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1 was reduced from the proposals that you have in front of you at
2 the present time.

3 Supporting the evaluations and documentation of some of
4 the comments by the chief scientist and peer reviews were
5 handed to you in a separate package last week, and it talks
6 about all 64 projects.

7 Last week there was some discussion on project 64, which
8 was the habitat acquisition -- imminent threat to habitat
9 project that had listed \$5 million in it. The habitat
10 planning/working group did a little bit more work on that and
11 we would like to present some more thoughts on that project to
12 you.

13 Marty Rutherford was going to present that, but she is
14 speechless -- yeah, I won't add anymore to that. And
15 Art Weiner will give us a brief overview of project 64, to give
16 you a little bit more feel for what that project is about, our
17 thinking on it.

18 MR. PENNOYER: Okay, do you want to go ahead with that
19 now then?

20 DR. GIBBONS: Sure, and then we can lead -- that will
21 lead into Bob Spies' discussion of the package.

22 MR. PENNOYER: Okay. Mr. Weiner, do you want to go
23 ahead and do that?

24 MR. WEINER: My name is Art Weiner, Department of
25 Natural Resources. I'd like to present for you gentlemen the

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1 thinking of the Habitat Section Subgroup in regard to this
2 project, and I'll try to be as brief as possible, because I
3 know most of you are intimately familiar, as is the public,
4 with what we're proposing here. It's an integral part of the
5 overall process of habitat protection that was reprinted in the
6 Restoration Framework Supplement that went out to the public
7 about six weeks ago, and we subsequently received comment on
8 that.

9 What we're asking for here, basically, is the
10 wherewithal to go out and deal with lands that contain habitat
11 that are linked to the injured resources. A number of the
12 resources, marbled murrelet and anadromous fish have --
13 certainly have recognized habitat studies linked to the upland
14 areas in the effected areas.

15 The fact that these habitats were not directly affected
16 or injured by the oil isn't what we're dealing with here. What
17 we're dealing with here is protection of habitats that if
18 injured by other types of activity -- development activities,
19 would exacerbate the injury that was suffered by resources as a
20 result of the Spill.

21 What we're asking for, primarily, is the ability to go
22 out into the community, work with willing land owners, assess
23 their land, and to determine whether or not there are on these
24 lands habitats that are linked to these injured resources. If
25 these habitats appear to us, after a threat analysis, to be

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1 suffering or will be suffering from development which would
2 result in adverse impacts to these habitats in the immediate
3 future, i.e., imminent threat, then we would like to be able to
4 negotiate with land owners to be able to take options or use
5 other types of stop-gap measures to allow us to go into the
6 field to assess those lands to determine whether or not, one,
7 in fact those habitats occur in those upland properties, and,
8 two, would those habitats be adversely affected by the
9 anticipated activities that are in the process of being
10 conducted or permitted by the agency for the permittee.

11 So, basically, to use a rather banal metaphor, we're
12 asking you for the ability to go play poker with the
13 landowners, but we need the money to ante up. If we don't show
14 a willingness in a forthrightness to the public, I don't
15 believe, and I don't think the Habitat Subgroup believes that
16 we're really going to be able to come to the table and play
17 because we haven't shown them that we have the wherewithal or
18 the willingness to come to the table and be serious about this.
19 I think the community feels that perhaps government hasn't been
20 very serious and forthright in the way they've dealt with
21 property owners. I'm relatively new to this state, so I don't
22 really have the experience to understand those issues. But it
23 seems to me, from my experience in other parts of the country,
24 that if you're talking about land acquisition, you have to give
25 the folks who own the land the feeling that they'd be

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1 comfortable with you, that you're serious. And that's,
2 basically, what we're asking for you all is the wherewithal to
3 go out into the community and be a proper link with the
4 landowner.

5 Any questions, gentlemen?

6 MR. PENNOYER: Can you describe what the \$5,125,000.00
7 came from as the appropriate figure? There was some discussion
8 at the last meeting as to why a particular number was
9 appropriate versus sort of a place holder idea -- a concept
10 idea. Why the 5 million?

11 MR. WEINER: The original 5 million was thought to be,
12 you know, on the part of the Habitat Subgroup, a number that
13 would allow us to do some basic work based upon what we
14 perceived as the imminent threat lands. We subsequently felt
15 that this was far inadequate. Once we get a detailed review of
16 the properties in the imminent threat category, the range of
17 values that was provided to us by the folks who did those
18 assessments, I think you were -- that was made available to you
19 at the last meeting, a copy of the values of those lands that
20 were prepared by John Harmony, and the range of values was
21 startling. The range, I forget, I don't have it off the top of
22 my head, but when you start multiplying that range of values by
23 the number of acres that we feel are imminently threatened, the
24 numbers went way beyond the \$5 million figure.

25 It is very difficult to come up with a natural figure

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1 because of the variance in the land. There's a great deal of
2 land out there, but we don't know very much about it. We don't
3 know whether we're going to be interested in making an offer to
4 a landowner to ask them to halt their activities to assess the
5 land, nor do we know the value of those lands that we might be
6 able to negotiate with them. What we're looking for is the
7 flexibility to go into negotiations with the landowner feeling
8 comfortable that we're serious negotiators.

9 Five million, we felt, was inadequate after subsequent
10 review to do that in a purposeful manner. We don't really know
11 what the top end would be, however. You know, we have to have
12 enough to negotiate, but we don't know ultimately what we're
13 going to need to consummate this process, especially if we
14 start talking about fee simple acquisition. Right now we're
15 talking about a holding action to do the necessary assessments.
16 Once we start moving into actually making offers on land, then
17 20 million will certainly not be adequate.

18 MR. PENNOYER: So the 5 million was basically to allow
19 you to start to negotiate things like options rather than
20 actual purchase?

21 MR. WEINER: Yes, sir, that's correct.

22 MR. PENNOYER: And you still think the 5 million is
23 adequate for that purpose?

24 MR. WEINER: No, sir, indeed not. Based upon the
25 subsequent review and looking at the values of the lands and

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1 the amount of land that we may have to consider, we do not feel
2 5 million is adequate.

3 MR. PENNOYER: But are you proposing a different number
4 then for this '93 Work Plan?

5 MR. WEINER: We prefer not to put a number -- an actual
6 cap on this year's work. We would, basically, look to you to
7 create a mechanism, perhaps a fund, that would allow us to go
8 into the fund and draw on that fund to pull out those monies
9 that we think, on a site specific basis, would be necessary,
10 with your approval, to hold a piece of land for us to conduct
11 the necessary assessments.

12 The top end of the fund, none of us, I think, are
13 prepared to give you that kind of a number. We just don't have
14 the data to even speculate to that. We have to have enough
15 money, and I think we have to have enough money that gives the
16 public the message that we're serious about what we're doing.
17 Habitat protection is a very, very serious restoration
18 strategy. You know, if we don't come to the table with enough
19 money to ante up, I don't think they're going to take us
20 seriously.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: I think it's a terrible idea, spin bottling.
23 I think we're getting far ahead of ourselves. I think if we go
24 out there waving a 5, 10, 20, \$30 million check, that, well,
25 we're going to make some terribly improvident decisions. I

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1 don't think that I will approve that regardless of public
2 clamor and the public pressure that is descended upon us,
3 particularly me.

4 Let me tell you why. I mean, we have to have some plan,
5 some general plan, overall plan with regard to the acquisition
6 of habitat. We cannot go and just go streambed by streambed
7 and say, well, we'll get this one here, that one there and then
8 the next six months later there'll be another stream over here
9 which is threatened to be lost. You know, we're going to be
10 chasing our tail around Prince William Sound for years. I tell
11 you, it's so clear to me that it's a tragic mistake to proceed
12 in this fashion. And furthermore, I think that before we go to
13 any landowner and say we want to buy the stream or lands around
14 this anadromous stream, we have to have an overall pattern of
15 what we're going to do with that particular landowner's
16 property. And therefore if we don't, I mean, we're just going
17 to lose all our money and wind up what happened to it quickly.

18 We have got to get an overall plan, a solid plan for the
19 acquisition of land or habitat in Prince William Sound and the
20 other affected Oil Spill areas. And I, therefore, would be
21 strongly inclined to vote against 64 for those reasons. We're
22 getting ahead of ourselves.

23 Thank you.

24 MR. PENNOYER: Mr. Sandor.

25 MR. SANDOR: I question the projects 93059 and 060,

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1 which went to the Nature Conservancy for the workshops to
2 identify injured species habitat requirements and the rate and
3 degree of recovery, and 60, which was the accelerated data
4 collection. And since from the last meeting I asked the
5 question when will that 59 project be completed, I think I
6 wrote down in my notes mid-December, and for 060 the answer was
7 results over the next six months.

8 Is not this information from 59, 60, essential for the
9 negotiation?

10 MR. WEINER: Absolutely. But what it does do, it
11 provides us with what's already out there and an overview of
12 existing information and from the experts existing opinion.
13 And it's my view, and I think it's a view shared by many of the
14 folks I work with, that this review is going to reveal a great
15 many data gaps in our information base. Even subsequent to
16 this review.

17 The review is basically going to tell us, facilitated by
18 the Conservancy, what we know and what we don't know, and we're
19 anticipating to finding out from this process that we don't
20 know a great deal about what's on these lands.

21 MR. SANDOR: Mr. Chairman.

22 MR. PENNOYER: Mr. Sandor.

23 MR. SANDOR: Doesn't it really follow though that we
24 really shouldn't be negotiating with anybody, the landowners,
25 until we have this information? I'm not sure

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1 MR. WEINER: I can answer that question. The answer is
2 no because we do know that their proposed projects are on-line
3 right now that, in our opinion, may -- and that's a very strong
4 word, may have adverse impacts that would result in
5 irretrievable losses to these habitats if in fact they occur on
6 these properties. The problem is we don't know if these
7 habitats, in fact, occur on these properties, so you're taking
8 a gamble. You're spending some money to protect lands that may
9 in fact contain these habitats in the hope that if they're
10 there and the willing seller is willing to negotiate at a
11 reasonable price, you can then go to the next step and
12 negotiate for ultimate protection for your acquisition or
13 something short of fee simple acquisition.

14 Because we don't know what's on the land, we have to
15 purchase a holding action in order to go out and do those
16 assessments that will fill the data gaps that we recognize from
17 those two projects. It's sort of like being grey; we don't
18 know what's out there, but if we don't find out and it is in
19 fact out there and it's adversely impacted by development
20 activities, we lose.

21 MR. PENNOYER: You're not suggesting that we just take a
22 gamble blindly and go out and buy options, are you? You're
23 going to have some idea of what we are looking for

24 MR. WEINER: Absolutely.

25 MR. PENNOYER: you're not going to buy a mountain

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1 peak or something.

2 MR. WEINER: No, that's why 59 and 60 are going forward.
3 We have some reasonable amounts of information, you know, in
4 our databases. We just haven't collected them and reviewed
5 them.

6 MR. SANDOR: Mr. Chairman.

7 MR. PENNOYER: Mr. Sandor.

8 MR. SANDOR: I've tried the series of questions, but the
9 next question then is if in fact we're waiving 59 to 60 in
10 mid-December, when during this period of time is this money in
11 this negotiation and discussion with landowners to be
12 conducted; at what period of time?

13 MR. WEINER: It would be my view that during the period
14 of time that 59 and 60 are going on, we will probably enter
15 into negotiations with those landowners that have already come
16 forward. As a matter of fact, we recently have received some
17 correspondence from large landowners in the effected area to
18 indicate a willingness for us to go out and look at their lands
19 and see whether or not these habitats exist there. By the same
20 token, we're going to find out information during the course of
21 this process that would lead us to perhaps look at lands that
22 at this point in time don't contain those affected habitats or
23 those linked habitats.

24 MR. SANDOR: Well, Mr. Chairman, the comment is may be a
25 cart and horse situation/chicken and egg, but I think two

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1 things: One, we do need to identify for '93 a period of time
2 this activity -- and I believe we should give some tentative
3 allocation of monies. But I believe it would be premature to
4 enter into negotiations without the 59, 60 project information.
5 That's all -- I would be uncomfortable endorsing this without
6 further discussion, Mr. Chairman.

7 MR. GIBBONS: Mr. Chairman.

8 MR. PENNOYER: Mr. Gibbons.

9 DR. GIBBONS: If I can interject a little bit here. I
10 think what Art's expressing is maybe not entirely flushed out
11 yet. The Habitat Protection Working Group is planning to meet
12 next week to talk about this process, and I'm not sure, you
13 know, that's all been worked out. Another point that I'd like
14 to make is on project 64, we're asking the Trustee Council on
15 funds from zero to 20 million, and it's up to -- we'd like to
16 have the Trustee Council make that decision and not the Habitat
17 Protection Working Group or the Restoration Team. So there's a
18 lot of unknowns here. The negotiations, we haven't flushed
19 that out entirely. We definitely need project 059, we have to
20 have data in front of us before we start doing anything with
21 the landowners, so I just wanted to help clarify that a little
22 bit, if I could.

23 MR. PENNOYER: Mr. Barton.

24 MR. BARTON: Yes. It sounded, from your discussion,
25 Art, that you've already identified the imminent threat lands,

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1 and I thought we were establishing the process to do that.

2 MR. WEINER: I think the presentation that was made at
3 the last meeting by Kim Sundberg and Walt Sherrenden explained
4 to you some of those areas that were in fact we have identified
5 imminent threat, but the problem is, however, we don't know --
6 although those lands are threatened, we don't know the nature
7 of the habitats that are on those lands. That would be the
8 next step. In order for the land owners to agree for us to go
9 out and do those assessments, what we're looking for is a
10 mechanism to negotiate with them to get the permission to go
11 out and do those on the ground assessments if necessary, and to
12 ask them to hold up on their proposed development activities
13 until we've conducted those assessments.

14 MR. PENNOYER: So the money is not to do the
15 assessments; the money is to simply buy an option with them to
16 put plans on hold while you do the assessments?

17 MR. WEINER: Right.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: It seems to me that we don't need to talk
20 about money to these landowners now. We can move very quickly
21 in the Trustee Council, notwithstanding public observations or
22 comments, but, I mean, I don't foresee anybody in December or
23 January going out and logging these lands. I mean, is that a
24 serious threat, somebody going out and start logging in
25 January, December?

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1 MR. WEINER: I couldn't answer that. Dave, have you got
2 any ongoing projects that would actually conduct work in the
3 winter?

4 DR. GIBBONS: You mean as far as harvesting

5 MR. COLE: Yeah. I mean, you know, we're talking about
6 imminent threat. I'm saying what is the imminent threat in
7 December or January, or February, for that matter?

8 DR. GIBBONS: I sincerely doubt that there's any
9 activities going out there in December.

10 COURT REPORTER: Or January?

11 DR. GIBBONS: Or January.

12 MR. COLE: So everybody understands where I'm coming
13 from. I'm not opposed to habitat acquisition. I'm not opposed
14 to even booking broader, but I am concerned about getting the
15 maximum amount of habitat in lands or timber, if you will, for
16 our money, and it seems to me in order to do that, we must very
17 carefully plan our strategy for the acquisition beyond simply
18 going out and saying, look, I've got this checkbook here, and
19 I've thought, and I've said before that I think we need to have
20 a broad plan and seek expert advice and council on how to do
21 that, because I think that we will wind up with acquisition
22 acreage, whatever, far short of what we could get for our money
23 if we don't do it carefully. And I realize that the public
24 says, gee, you people aren't moving fast enough, but I hope
25 they recognize that it's three or four or five months while we

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1 think about how we're going to acquire the most for our money
2 is very valuable. I simply foresee ourselves spending money
3 and waving our checkbook, like I say, around and getting
4 battered month after month or meeting after meeting with other
5 threatened habitat. I think we have to go to these landowners
6 and say, you know, what are you going to do with your lands in
7 the next bay or the stream that's a little north or a little
8 south, because we know that we're not going to have enough
9 money to buy it all.

10 So, I think that we should get some of this data before
11 us to see what we can possibly do sooner, and I can't believe
12 that these landowners will say you can't even send a scouting
13 party up there to take a look at what's on this land without
14 giving them several million dollars in the interim. I just
15 have deep reservations about where we're going, and I'm not at
16 all certain how I would vote on 64 until we've given it a lot
17 more thought.

18 MR. PENNOYER: Mr. Barton.

19 MR. BARTON: Yes, I think it's important not to lose
20 sight of the fact that we can amend the budget at any time if a
21 need arises to do that. Secondly, I'm a little troubled by the
22 discussion we're having. It sounds as if we've decided the
23 acquisition of the habitat is the only means of protecting it,
24 and I think we talked earlier that it is not, but in some
25 cases, it may be. And we need to determine that through some

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1 very deliberative process. I would support putting a modest
2 amount of money -- or budgeting a modest amount of money for
3 this project, but certainly not something in the neighborhood
4 of \$20 million or \$10 million.

5 MR. PENNOYER: The questions asked at the last meeting,
6 Mr. Gibbons, was problems we run into with the federal OMB
7 process and having our place holder amount of money and
8 amending it later, and Mr. Cole, at the last meeting, suggested
9 perhaps we wanted an open-ended project that had -- so we have
10 enough money for data acquisition and surveys and whatever,
11 that it was open-ended in terms of either purchase or other
12 right acquisition. And there was a question of how we would
13 deal in our budgeting process with something that didn't have -
14 - either didn't have any money or had a much lesser amount with
15 a possible expansion later.

16 Can you elaborate on how you would handle that in the
17 budget?

18 DR. GIBBONS: Well, my feeling on that is that we would
19 have to -- on the federal side we would have to notify OMB and
20 notify Congress again and the appropriations committees for an
21 appropriate amount of time before we took any action, in
22 addition to the court petitions and so forth. So there would
23 be some time delay to actually getting the money on the federal
24 side. The state side would be -- the state trustees know
25 better than I do, but it would be a quicker process,

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1 MR. PENNOYER: Mr. Sandor.

2 DR. GIBBONS: I would envision.

3 MR. SANDOR: Mr. Chairman, I think that it would be wise
4 to defer action on this till later this morning, particularly
5 till we look at several specific projects. But as Mike Barton
6 points out, we're looking at other things beside acquisition.
7 I think we're not only talking about easements, but we're also
8 talking about moratorium potential. I want to quote imminently
9 threatened area or one of the examples of potential imminently
10 threatened areas is the Katchemak Bay proposal, and the
11 landowners there have asked for some signal, I think, by
12 October 1, and I guess that signal -- whether or not that time
13 is appropriate or not is another question. But at least
14 actions have already been deferred and permits are underway for
15 that and other potential areas, perhaps, for, you know, the
16 option of a moratorium might be explored. Anyway, I would ask
17 that we not take action on this item now until later this
18 morning.

19 MR. PENNOYER: I think that would be fine. Any further
20 comment?

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: Mr. Cole.

23 MR. COLE: Here's what I'm sort of getting at, as I
24 think about it. If I want to acquire parcels A and B, owned by
25 the same landowner, and I go to him first and say, let's just

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1 make a deal on parcel A. So we agree on \$10,000.00. Then when
2 I go to buy parcel B, you know, he will say, now I know you
3 want both of these parcels, so I can charge and hold you up for
4 more for parcel B than I can for parcel A. It seems to me,
5 that's just in the realm of negotiation. So, I mean, this sort
6 of thing -- as well as we're really interested in parcel A.
7 When we make the deal on parcel A to get an option for a fixed
8 price on parcel B, you see, that's the sort of thing I'm
9 thinking about as we go through this process.

10 And I think that we should have a very deliberate
11 strategy, a strategy formulated by the Trustee Council or by
12 expert consultants on land acquisition. How we're going to
13 make these acquisitions with either fee simple title or either
14 timber rights or view easement, all of those mechanisms we
15 should seriously consider from the standpoint of very large
16 tracks of land, and say this is what we want to do with say
17 Afognak Island or Knight Island or Montague Island and, you
18 know, make a broad policy decision on how we're going to deal
19 with these various very large tracks in strategy.

20 Rather than going out and say, gee, here you're
21 threatened to, you know, log this track -- this 10- or 20-acre
22 track, let's acquire it. See, I think that's a mistake. I
23 think we have to be very careful and very deliberate as we make
24 these decisions.

25 Now, that's my view of how we ought to go about it.

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1 That's all I'm saying.

2 MR. PENNOYER: Well, I think we'll make a final decision
3 on this one later in the meeting. That seems to be where we
4 want to go. From my standpoint, we have put in place an
5 imminent threat strategy, and we are looking at something
6 called imminent threat. Now, imminent threat to me means we're
7 identifying things that can't wait until we get all the data
8 and all the plans, but there shouldn't be so many or so large
9 as to preclude our taking considerate action on the balance of
10 this restoration strategy at a later time when we have the
11 Restoration Plan complete and the whole property analysis
12 question done.

13 But I think it would be a shame if we left the stable
14 and for '93 didn't sent out a strong signal that for imminent
15 threat property acquisition or other methods of protecting land
16 that may be valuable or important to the restoration of injured
17 species is not provided for in this plan. So, I don't know how
18 we do that, whether it's an open-ended thing or a particular
19 amount of money for seed money that can be amended later, but I
20 think we need to send a strong signal that we are serious about
21 that threat. So I think I would very much favor doing
22 something along the lines of project 64, although that may not
23 be the right amount of the right configuration.

24 Mr. Gibbons.

25 DR. GIBBONS: Mr. Chairman, yeah, let me clarify that a

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1 little bit more, and you hit it right on the head that the
2 Restoration Team is looking at this as seed money. Now, to
3 stop, you know, potential threatening activities in the short
4 term until we can get the work done and get the analysis done
5 and then go

6 MR. PENNOYER: I would anticipate what you're talking
7 about is a selective strategy. You're not talking about large
8 tracks

9 DR. GIBBONS: That's correct.

10 MR. PENNOYER: or large amounts of money. That I
11 would wait till if it was even appropriate -- would wait until
12 a final analysis was done. So, I don't know how we do it, but
13 sometime before the end of the meeting, I hope we can deal with
14 how you do put this place holder and it does send a signal out
15 that we're strongly serious about this strategy, if we are.

16 Okay, thank you, very much, and we'll go on now. And,
17 Dave, do you have a suggestion on how to go further, or should
18 we go right to Dr. Spies and let him explain his categorization
19 of projects?

20 DR. GIBBONS: Mr. Chairman, I think it might be best to
21 go to Dr. Spies now to get his feelings on the projects that
22 are before you. I know he's got a letter dated September 20th
23 that has a comment concerning the projects, so

24 MR. PENNOYER: Dr. Spies, you're on the floor.

25 DR. SPIES: Thank you. And, again, unfortunately, I

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1 haven't had as much time as I'd like to prepare this and get it
2 to you with some leeway before the meeting, so I just finished
3 it yesterday and it is before you this morning.

4 What I'd like to do is just go over the criteria that
5 I've developed for evaluation of the '93 Work Plan, and without
6 going into each of the projects, that will take some time, and
7 we've already identified the process for dealing with the
8 package as a whole rather than just my input.

9 For the 56 projects or so that remain in the package
10 after the Restoration Team and with input from myself and the
11 peer viewers, culled through the public and agency projects
12 that were submitted. I assume that the purposes of the -- that
13 you wanted the funds spent for restoration were:

14 1. To define the nature of the damage from the Oil
15 Spill and differentiate it from other sources of variability in
16 populations and communities of organisms in the Oil Spill area.

17
18 2. To document the rate of recovery of populations and
19 communities where measurable damages has been documented.

20 3. To supplement natural recovery processes or prevent
21 further degradation of habitat that would negatively influence
22 recovery of injured resources, or

23 4. Help in the regulation of the harvest of natural
24 resources to contribute to recovery of injured species.

25 I think that we all recognize that natural recovery is a

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1 very potent tool in this process and that many times we're
2 really working kind of around the edges of nature here.
3 Nature's really doing most of the job, and I try to make that
4 point in how I've approached this whole package.

5 I've used a scoring system for evaluating the projects,
6 where a "1" is given to -- as a highest score, a project would
7 contribute directly to the restoration of injured species with
8 a high probability of success.

9 "2," the project may help in restoration of the injured
10 species through management actions, or it provides a better
11 understanding of the nature of the injury or is a restoration
12 feasibility study or, finally, documents the course of
13 recovery.

14 "3," the project has a low probability of contributing
15 to recovery.

16 "4," a project is inappropriate for a restoration
17 program as it is not -- as it will not contribute to the
18 recovery of injured resources.

19 And, finally, two designations, an "E," where the
20 project may enhance natural resources, but is unrelated to the
21 recovery of injured resources. That's an enhancement project,
22 as I would interpret it under the terms of a settlement.

23 And, an "S," some kind of special consideration. I
24 thought in several occasions inappropriate for me to try to
25 comment on things like subsistence and damage to recreation or

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1 educational activities and so forth, that that was a
2 non-technical issue.

3 So those are the -- that's the kind of approach that
4 I've taken in evaluating the program with input from the peer
5 reviewers. And then the balance of the memo provides each
6 project, how I evaluated it with a score and then some brief
7 comments after each one.

8 MR. PENNOYER: Perhaps it would be best to ask you some
9 questions about your criteria, if we had them, and then proceed
10 to ask you questions maybe, in particular, where you disagreed
11 with the Restoration Team for some elaboration.

12 Would that be a reasonable way to proceed? Do you have
13 questions about Dr. Spies' criteria that he used initially?
14 Mr. Rosier.

15 MR. ROSIER: Thank you, Mr. Chairman. Dr. Spies, the
16 bottom line, I see, in your memo here on this thing is that
17 none of the proposals received a score of "1".

18 MR. SANDOR: Yeah, right.

19 MR. ROSIER: I was interested in that particular comment
20 and was wondering exactly what that, in fact, meant. It's
21 obvious that you subjected all the projects to very severe
22 scrutiny here, and if none of them made the "1" there on that,
23 that kind of dismays me, frankly.

24 DR. SPIES: It's kind of a philosophical point. I
25 suppose that nature is doing most of the work and hasn't put

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1 any projects in, really.

2 MR. PENNOYER: Well, Dr. Spies, doesn't item 1 apply
3 more to damage assessment, and since we're phasing it out, it
4 says, -- oh, I see what you're -- contributes directly. I'm
5 sorry. I was in the wrong one.

6 MR. ROSIER: Directly to the restoration, Mr. Chairman.

7 MR. BARTON: Mr. Chairman.

8 MR. PENNOYER: Mr. Barton.

9 MR. BARTON: Did they fail because they don't contribute
10 directly, or do they fail because of the high probability?

11 DR. SPIES: Either one of those, yeah.

12 MR. PENNOYER: Along the same line, do you have a
13 feeling for the direction we're going that we're not? I mean,
14 if in fact all this list of projects, none of them get a 1,
15 what are we missing? I mean, 1 is a criteria that you don't
16 think will ever be fulfilled. You think it's going to be
17 natural restoration is your comment.

18 DR. SPIES: Well, I think nature is doing most of it for
19 us. I mean, there's a couple things we can do; we can document
20 the course of recovery and try to figure out if there's
21 something we can do. If you look at sea otters, we can't make
22 them reproduce any faster. We can't protect habitat, it's kind
23 of an indirect sort of thing. The same with sea birds. We can
24 regulate harvest somewhat, and for some of these species, it's
25 kind of an indirect action.

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1 MR. PENNOYER: Mr. Sandor.

2 MR. SANDOR: Dr. Spies, this is fairly consistent, I
3 think, with what I heard -- I thought I heard you say in your
4 summary of the relative recovery of species last January and
5 February, or sometime in there, early in the year, in which you
6 outlined what species were recovering naturally, and then most
7 species had lingering recovery problems. I guess I may be
8 misinterpreting this, but I read this as sort of an extension
9 as to what you reported at that time, and I guess the question
10 is -- and I was hoping at some time, maybe not the end of this
11 year, but early next year, we could have a -- sort of an
12 update.

13 But of those species that you identified that there were
14 lingering problems and those that you said natural recovery was
15 occurring -- it appeared to be occurring -- what I'm hearing is
16 that this pattern is, in fact, continuing. And are those
17 species that you identified as lingering problems, isn't there
18 something that we can do to those -- for those lingering
19 problem areas that might, you know, go into item 1, or -- I'm
20 thinking of the harlequin -- and of course you mentioned the
21 otters.

22 DR. SPIES: I think there's things that we can do to
23 help those species. Well, first of all, to answer your
24 question, we don't have a lot of new information because we're
25 essentially finishing up the field season. A lot of the data

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1 hasn't been processed and so forth, so I don't think that there
2 has been major changes, that I'm aware of, from talking to the
3 principal investigators as far as what species continue to be
4 injured. I think there are things that we can do in terms of
5 regulating harvest and protecting habitat and other sorts of
6 management actions that could assist nature in its recovery
7 certainly.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: Mr. Chairman, I find that particularly
10 troubling that none of these projects received a 1. As long as
11 Dr. Spies approves them, recommends them, gives them a 2,
12 that's enough for me. A 1, of course, is a category which
13 contributes directly to the restoration of the injured species
14 with a high probability of success. You know, that's a pretty
15 stringent test.

16 DR. SPIES: That's a tall order.

17 MR. COLE: Pardon me?

18 DR. SPIES: It's a tall order.

19 MR. COLE: Yeah, having a high probability of success.
20 I think it's difficult to formulate restoration projects with a
21 -- under the circumstances, with a high probability of success.
22 As long as it's a recommendation that we proceed, that's
23 sufficient for me, and I'm comfortable with that.

24 MR. PENNOYER: That's sort of why I asked the question,
25 if we missed something, are we missing a number 1. I think we

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1 have not. What Dr. Spies is saying, in his judgment natural
2 recovery is going to be -- either take place or we probably
3 can't do anything about that particular item anyway. Like
4 we're not going to get sea otters to breed faster was your
5 comment, although, in fact, protecting the sea otter habitat
6 might make sense, it might not be terribly direct. So you
7 haven't ruled out restoration, but I think you have maybe put a
8 factor in front of the Trustee Council, we're going to have to
9 deal with the question of equivalent services, resources, and
10 enhancement at some point -- a policy standpoint, because we're
11 not going to plant so much beach grass that we're going to
12 restore beaches in the Sound by doing that in a very meaningful
13 way.

14 So we have services that were damaged, we have people --
15 tourism, persons that were injured, we have things that
16 happened that aren't necessarily equivalent to stocking fish or
17 planting beach grass, and you've written E next to a large
18 number of these projects. I assume that's what you're getting
19 at. It's not necessarily restoration of the directly damaged
20 species, but it may be an enhancement of a service or
21 enhancement of a resource that provides a service.

22 DR. SPIES: Right.

23 MR. PENNOYER: Any other questions on item 1?

24 MR. SANDOR: Item 1 being what?

25 MR. PENNOYER: This contributes directly to Mr. Rosier

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1 about the

2 MR. SANDOR: Oh!

3 MR. PENNOYER: question of why there were no item
4 1 factor scores.

5 MR. SANDOR: None on that from here, Mr. Chairman.

6 MR. PENNOYER: Now, the project 4 -- category 4 is
7 projects inappropriate for restoration program as it will not
8 contribute to recovery of injured resources. Inappropriate,
9 in your view, specifically from your evaluation, you don't have
10 some services or enhancement or other restoration items that
11 are

12 DR. SPIES: No, and perhaps some of the other projects
13 could have qualified either for E or 4.

14 MR. PENNOYER: Either way?

15 DR. SPIES: Right, right. And that's a judgment call I
16 made. There may be some differences of opinion on that.

17 MR. PENNOYER: Any other questions about Dr.

18 DR. GIBBONS: Yes.

19 MR. BRODERSEN: Mr. Chairman, I'm a little concerned
20 about getting too far along on this. Unfortunately, I haven't
21 seen it any earlier than you have. I think we need to go back
22 to the four basic things that the chief scientist was saying
23 that the money needs to be spent on, that they strike me as way
24 too narrow, and that we need to be careful about allowing
25 policy to be set by our being silent on speaking to maybe

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1 perhaps broadening this out a little bit.

2 The thing that really concerns me is that lacking out of
3 there is monies to be spent on the restoration of services.
4 This seems to be almost entirely devoted restoration of
5 resources. And, quite clearly, the settlement is also to be
6 for the restoration of the service which may or may not be
7 through the direct restoration of resources, that there are
8 other methods to get that, restoring some of these services,
9 replacing them or other things. I'm fearful of us just passing
10 over this and accepting these as what the Trustee Council
11 intends for purposes of restoration. And then if one then
12 looks at that and then goes over to the second page, on the 1,
13 2, 3, 4, E, and S, again with this same idea in mind of the
14 lack of services, but perhaps these categories really need to
15 be broadened out in terms of the Trustee Council application of
16 what the chief scientist is telling us.

17 I'm not trying to change what the chief scientist has
18 down here, but when we review what he has, I think we need to
19 keep in mind this apparent lack of services orientation in his
20 review.

21 DR. SPIES: I was not trying to really establish the
22 criteria for the Trustee Council to act on; I was just trying
23 to present kind of where I'm coming from, the technical point
24 of view of the injuries to the resources.

25 MR. PENNOYER: Mr. Sandor.

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1 MR. SANDOR: Well, I think that's very appropriate. I
2 think the services must be kept separate. To me this is very
3 helpful, and I think what we really should do -- and, quite
4 frankly, with respect to these items, 1 through 4, on the first
5 page, it seems to be on target. Perhaps, with one question I
6 had with respect to item 4, help in the regulation of the
7 harvest of natural resources to contribute to recovery --
8 contribute -- I guess harvest is one form of management of
9 natural resources. There are other ways in which injured
10 resources can be manipulated or modified, and I presume in that
11 term of harvest it is essentially -- it's some other management
12 activity that is actioned by man would contribute and that
13 would meet that test.

14 So I don't really have a problem with those four items,
15 and I think the Trustee Council needs to either agree with them
16 or at this point in time discuss them and see how we disagree
17 with them.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: Yes, Mr. Chairman. I want to comment,
20 briefly, on Mr. Brodersen's observation that we have not
21 mentioned services in this work project. Obviously, that's one
22 of the statutory criteria for our assignments as trustees.
23 Although I think that direct restoration probably has the
24 highest of priorities -- direct restoration of the injured
25 resources, certainly the acquisition of alternative services --

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1 alternative services is not to be overlooked. And I find -- I
2 don't want to say nothing, but very little, if anything in that
3 category for the 1993 Work Plan, and I wonder whether we should
4 not ask the Restoration Team to take another look at that for
5 '93. You will recall, I mentioned that subject with respect to
6 the contingent valuation studies which were done in support of
7 the settlement of the Exxon litigation. I think we should keep
8 that in mind as we formulate projects for '93, as well as the
9 succeeding years.

10 MR. PENNOYER: Mr. Brodersen was basically not saying
11 that we hadn't done something -- we hadn't thought about that.
12 I think he was saying before we adopt Dr. Spies' criteria as
13 our criteria, they're a rather focused look on the direct
14 action on injured resources, and don't deal very much with
15 services or acquisition of equivalent resources or enhancement,
16 although Dr. Spies does have an enhancement category, it's not
17 in this criteria, he has an enhancement category, and I think
18 enhanced category plus land acquisition questions do deal with,
19 I think, alternative services or enhancing resources. So

20

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: there maybe some in here that do
23 that.

24 MR. COLE: Mr. Chairman, you mean some of the 64 do
25 that? I've looked at the 64 very carefully, word by word, and

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1 I don't find it there. And I'm supporting Mr. Brodersen's
2 observation that there seems to be a notable absence of the
3 acquisition of alternative services, and, furthermore, I
4 understand Dr. Spies not addressing it because he's -- as a
5 policy matter, he's not assigned to look at that category of
6 the use of the funds. But when he talks about enhancement,
7 he's talking about enhancement more of direct natural
8 resources, as I read this report.

9 And all I'm saying is that I think -- well, for example,
10 project number 1, recreation damage assessment, and I see the
11 project got zero votes, for reasons I'm not quite sure. But I
12 think that we need to take a little broader look at this. Here
13 we are. I don't see the sportsman, for example, and the
14 recreational user and the one who simply wants to kayak out
15 there and say isn't this one of the worlds great water courses
16 and what are we doing to preserve it as such. I don't see that
17 fellow, he gets much consideration in what we're doing here.
18 And I think he should.

19 DR. SPIES: I was in on some of the meetings where that
20 particular project was discussed, and I think one of the
21 reasons it got a negative vote is people felt that there had
22 been quite a bit of work done under -- in the litigation mode
23 to assess the damage to recreation. All of that information
24 wasn't public, and it was three or four years after the fact
25 now. It would be very difficult in some ways to go back and

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1 reconstruct what the damage was to recreation by way of
2 interviews and so on and so forth, that kind of approach. But,
3 perhaps, there's a lot of sympathy in the Restoration Team for
4 maybe just taking -- spending some money directly on doing
5 something; building a cabin or trails or whatever could be
6 done.

7 MR. COLE: It's not in here, that's the point.

8 DR. SPIES: Yes.

9 MR. PENNOYER: Wasn't one of the comments we got back on
10 project one that it was duplicative of the studies done under
11 damage assessment and that we were still seeking a release of
12 the damage assessment information; until that happened, until
13 this evaluator has been (indiscernible - coughing) fund a
14 project of that nature?

15 DR. SPIES: We've heard that expressed, yes.

16 MR. PENNOYER: The property acquisition, for example,
17 and boat launch ramps or trails, or whatever, we've only dealt
18 with them in the threat, but I assume under property
19 acquisition we'd deal with not just for easements or whatever,
20 we would deal not just with threat but also with opportunity,
21 and I presume our plan is going to look at that, although I've
22 heard no discussion of it.

23 MR. COLE: Well, I'd just mention that we should keep
24 that in mind.

25 MR. PENNOYER: Further comment? Yes, Dr. Gibbons.

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1 DR. GIBBONS: Mr. Chair, yeah. The Restoration Team had
2 quite a discussion on this, and along with the legal team it's
3 the opinion of the Restoration Team that we know enough
4 concerning recreation that we should move forward with projects
5 rather than a damage assessment study, and while trying to get
6 a hold of the studies concerning recreation to verify that, and
7 we today have not received those yet, we're still trying to get
8 those. But the intent of the Restoration Team would be to go
9 do direct restoration projects rather than trying to study it
10 at this point.

11 MR. PENNOYER: What's the holdup on getting information?

12 DR. GIBBONS: We're trying to get the federal economic
13 studies -- we're trying to get them.

14 MR. PENNOYER: What is the barrier to getting those?

15 DR. GIBBONS: I'm not quite sure. We've requested them,
16 so we'll keep on that trail.

17 MR. COLE: Maybe I could ask, do we have a problem?

18 MR. TILLERY: Justice has the studies.

19 MR. COLE: What about our study?

20 MR. TILLERY: We don't have a recreation study.

21 MR. SWIDERSKI: Tourism would be the closest.

22 MR. COLE: Pardon me?

23 MR. SWIDERSKI: We have a sports fishing study and a
24 tourism study that are the closest thing to recreation. But
25 Justice did a recreation.

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1 MR. PENNOYER: Dr. Gibbons, would you inform the Trustee
2 Council members at some point if there is a hang-up, and
3 perhaps we can find a way to pursue that?

4 DR. GIBBONS: Okay.

5 MR. PENNOYER: In terms of the property acquisition,
6 Dr. Gibbons, or some type of equivalent service property
7 procedure, are we looking at things like recreation; is that in
8 the -- is that in the Restoration Plan to look at that type or
9 property acquisition of land?

10 DR. GIBBONS: Yes, we would look at all types of
11 property.

12 MR. PENNOYER: Were there public proposals at this time
13 that fit what Mr. Cole is talking about, specific things like
14 boat launch ramps or whatever?

15 DR. GIBBONS: I'd have to get into the projects that the
16 public has submitted. We haven't done that, you know, in
17 detail yet, and analyzing first available habitat information,
18 the links, and to determine that, but -- so I can't answer that
19 question at the present.

20 MR. COLE: Mr. Chairman.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: Before I get accused of wanting to build boat
23 ramps before we acquire habitat, I want to say I'm not
24 necessarily in favor of that; I'm simply saying that's
25 something that we ought to study, because it's one of the

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1 direct categories of restoration.

2 MR. PENNOYER: Clearly understood, and I was not
3 proposing boat ramps specifically.

4 MR. COLE: I know. I have to be careful; this is a
5 ticklish area, you know.

6 MR. PENNOYER: There are ideas, and ideas for it.
7 Anyway, that aspect of property acquisition should be certainly
8 be worked on.

9 Mr. Rosier.

10 MR. ROSIER: Thank you, Mr. Chairman. A couple of
11 things, I guess. I think Mr. Cole had indicated earlier that
12 we should look seriously at anything that didn't have at least
13 four votes within the RT. Reviewing the materials that have
14 been put before us here on this, it looks like the services
15 area is one of the areas where we really begin to get
16 divergences of opinion in the voting structure. And I notice
17 that even in the case of Dr. Spies, for instance, the pipeline
18 project here, which is definitely one of a project that named
19 lost services on this, Dr. Spies gave it a special connotation
20 rather than dealing with it as a project -- well, excuse me, he
21 gave it a special connotation here on this rather than giving
22 it some other rating here.

23 MR. PENNOYER: Somewhat negative special connotation
24 here in the comments.

25 MR. ROSIER: Yes.

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1 MR. McVEE: What number?

2 MR. PENNOYER: Number 26.

3 MR. ROSIER: 26.

4 DR. MONTAGUE: Mr. Chairman.

5 MR. PENNOYER: Mr. Montague.

6 DR. MONTAGUE: For the purpose of the record, there are
7 seven projects in there that deal with replacing services, and
8 those are 16, 17, 18

9 MR. McVEE: Wait a minute, please.

10 DR. MONTAGUE: 16, 17, 18, 19, 20, 24, 26, and 31.

11

12 MR. COLE: Well, Mr. Chairman, I would say that that
13 unnecessarily was in my understanding of the term services, but
14 be that as it may. Thank you.

15 MR. McVEE: Mr. Chairman.

16 MR. PENNOYER: Mr. McVee.

17 MR. McVEE: I find the information that Dr. Spies has
18 given us to be quite useful, from the perspective of a
19 technical, scientific review of the projects, and particularly
20 as his comments relate to the linkage to injured resources.

21 I guess one thing I believe we should keep in mind is
22 that we are operating without the final Restoration Plan, and
23 we have not gone through that process, the public review
24 process that will be incorporated into the Restoration Plan.
25 So we should be dealing, it seems to me, like with projects

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1 that are somewhat emergency in nature, that we need to
2 implement them in order to prevent further damage to resources
3 or services, and that, you know, there is some threat of
4 happening unless we take that action, and that those things
5 that we don't have to do immediately, we could postpone until
6 we actually go through the Restoration Plan and have that
7 behind us to support -- further support our actions. Thank
8 you.

9 MR. PENNOYER: Further comment? Maybe it would be
10 helpful if we went through these and if not a project at the
11 time, certainly any Council member can bring up any particular
12 project they have a question on, but I noticed there are some
13 in here that you did disagree rather directly with the
14 Restoration Team, and specifically, apparently, not on matters
15 of alternative services, enhancement or what you call special
16 considerations, but actually the rating relative to a vote they
17 took on a project dealing, supposedly, with direct restoration
18 of a injured species. And that would be useful to go through
19 and let you express your disagreement on those.

20 Anybody object to doing that, on seven or eight of them?

21 MR. COLE: I object to it because I think we ought to
22 just take a vote now and send out all 64 and get on with
23 business of the day, because what are we going to accomplish?
24 At the end of the day we're going to mull these over, talk
25 about it, and at the end we'll take a vote and probably send

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1 out all 64. So why don't we just get it done now and be done
2 with this and get on with the rest of business? Do this
3 discussion later when we have public comment.

4 MR. PENNOYER: I think that the problem is if we send
5 this out, are we indicating that this is just our Restoration
6 Team's viewpoint? Is there anything in here that we strongly
7 disagree with or have a problem with, do we want to send it out
8 and simply say, look, we haven't looked at these, but here's
9 the next?

10 MR. COLE: I strongly disagree with music out there for
11 birds on these cliffs. I think that's the sort of plan that
12 those who award the golden fleece are going to say, see, I told
13 you those guys were loco up there, sending music out so the
14 birds can mate. But outside of that one, I think we ought to
15 send 'em all out and be done with it.

16 MR. PENNOYER: You've identified one so far and others
17 may have others. I don't know that

18 MR. COLE: Can't you just see those people back in
19 Congress saying, I told you so, you know? We really need to
20 pass this one. I mean, that really bothers me, but it's
21 recommended by the Restoration Team, so

22 MR. PENNOYER: Mr. Rosier.

23 MR. ROSIER: Thank you, Mr. Chairman. I would -- I tend
24 to agree with Mr. Cole at this point in terms of moving ahead
25 with the original motion. It seems to me that at this point

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1 we've gone through the process of looking at roughly 468
2 proposals, I believe, was the total number. Out of the 468,
3 we've now narrowed it down to 64, some of which are still
4 somewhat in the air in terms of total support, one way or the
5 other. But it seems to me, from my standpoint, that I would
6 much prefer to have, you know, the input from the Public
7 Advisory Group as well as the general public comments on these
8 things before further narrowing this. I think we've got a good
9 selection of -- cross-section of projects here at the present
10 time, and I would certainly like to move ahead with putting
11 those 64 out to the public.

12 MR. PENNOYER: So you would characterize these as not
13 Trustee Council projects at this time, it's just a list that
14 you do embrace the narrowing from 468 down to 64 without any
15 Trustee Council discussion?

16 MR. ROSIER: That's correct.

17 DR. MONTAGUE: Mr. Chairman.

18 MR. PENNOYER: Mr. Montague.

19 DR. MONTAGUE: Dave, maybe you can correct me if I'm
20 wrong, but I do believe that for the matters of preparing our
21 budget we need a recommendation of projects. Am I wrong on
22 that?

23 DR. GIBBONS: We need some kind of an estimate to give
24 to the various -- to the state and federal OMB office.

25 MR. PENNOYER: Now before public review?

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1 DR. GIBBONS: To give some kind of ballpark figure
2 there, yes.

3 MR. McVEE: What time?

4 MR. PENNOYER: We need it before the public --
5 Mr. Barton.

6 MR. BARTON: I think the original date was September 1.

7 MR. PENNOYER: We missed that one. Well, what's the
8 preference of the group? We've heard some comments that maybe
9 some of these aren't -- do we want to send something out as --
10 this is not a Trustee Council proposal; this is a Restoration
11 Team plan proposal with the chief scientist's recommendations
12 attached to it. That was the original motion. Do you wish to
13 do that with all 64 of these without any further discussion?

14 MR. COLE: Mr. Chairman.

15 MR. PENNOYER: Mr. Barton was first, I think.

16 MR. COLE: Sure.

17 MR. BARTON: I think we could send these out and
18 characterize them as windowing (ph) from the original 400-plus
19 proposals that we are seeking public comment on, not
20 necessarily that we endorse them or don't endorse them, but
21 we'll make that decision after hearing from the public. That
22 is one approach to it.

23 In terms of the budget number, it may be possible to
24 approach that, as I understand it, the federal OMB, at least,
25 is not seeking precision down to the last decimal point. We

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1 could provide our best estimate by using those projects -- the
2 bottom line for those projects which the RT has recommended go
3 forward. That might satisfy that requirement.

4 MR. PENNOYER: For the whole 34 million, including the
5 projects that got zero votes?

6 MR. BARTON: No, no. The ones that the RT recommended
7 go forward, which is what six 0s and five 1s.

8 MR. PENNOYER: I have a problem with that. I'll discuss
9 at least one project before we get out of here, if that's the
10 case. Any other comments?

11 MR. McVEE: Mr. Chairman.

12 MR. PENNOYER: Mr.

13 MR. COLE: No, I have nothing. Thank you. Mr. Barton
14 said what I was about to say.

15 MR. PENNOYER: Mr. McVee.

16 MR. McVEE: Yes. In going forward with public review, I
17 think that it would be important to kind of do something more
18 than we've done in the past, instead of just saying here's our
19 proposal, tell us what you think, but that we should provide a
20 focus, maybe through a series of issues or questions. This is
21 not unusual to give the public some questions to respond to,
22 and I think that that would help us, you know, focus the public
23 comment in such a way that would be extremely useful. I don't
24 want to limit, you know the areas that the public can comment
25 on, but I think it would be very useful to provide that kind of

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1 a target for the public to shoot at.

2 MR. COLE: Mr. Chairman.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: You know, I think the text of what we say
5 when we send this out for public comment is very important, and
6 I think each member of the Trustee Council should have an
7 opportunity to review that before it's sent out. I think we
8 should make clear that these have not been approved by the
9 Trustee Council, they've been submitted to us, there may be
10 strong objection to some of these projects by members of the
11 Trustee Council, but nevertheless, we'd like, you know, public
12 comment. I think that's important as to what we say -- very
13 important.

14 MR. PENNOYER: Mr. Sandor.

15 MR. SANDOR: And the public has got to be informed of
16 the role of the Public Advisory Group, the way in which that
17 information be obtained and the process by which ultimate
18 decisions will be reached. So I would want to see that
19 statement that goes out as well.

20 MR. PENNOYER: Well, I think the statement of what we
21 intend to get comment on is important. I guess I'm still
22 having a little trouble with the public commenting meaningfully
23 on these things without knowing which of them the Trustee
24 Council has problems with. And maybe -- and if we sort of
25 divorce ourselves from the Restoration Team vote and an

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1 evaluation of Dr. Spies's comments, we're sending out, in some
2 cases, a conflicting message, and I don't know how we get
3 around that. I thought at the end of all this we would end up
4 sending all 64, maybe minus one or two, out, but I thought we
5 might have at least highlighted some of our concerns or areas
6 of concern for public input. They don't know for sure which of
7 these we're serious about or which ones we might have problems
8 with. We're not sending a message that they need to help our
9 thinking in an area or might not agree with our thinking in an
10 area, so I'm having a little trouble with the idea that, as Mr.
11 Cole's identified, there may be a few projects in here some of
12 us might have problems with, and others we may think are not
13 necessarily appropriately right. And I don't know exactly how
14 the Restoration Team is going to word this except just as a
15 Restoration Team project -- product.

16 Mr. Cole.

17 MR. COLE: I have the same general concerns as you, but
18 I see no way around it. I mean, other than to go through them
19 project by project and sort of take a non-binding sense of the
20 Council vote, but that's the reason I say we just as well send
21 them all out at this stage, because I don't think there's much
22 of a way around that unless we give each one a principal focus,
23 and furthermore, I think that maybe I, for one, have missed
24 something in evaluating -- formulating my views on some of
25 these projects, and I would like to hear what others say,

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1 starting and taking each one with an open mind and responding
2 to the public comment. I don't see any way around it. That's
3 what troubles me.

4 MR. SANDOR: Mr. Chairman.

5 MR. PENNOYER: Mr. Sandor, then Mr. McVee.

6 MR. SANDOR: I hope we have yet time today to either
7 consider dropping or adding one or two items. I have a major
8 modification of one specific project or perhaps the addition of
9 one for consideration before this goes out. But I don't see
10 anything wrong with the track we're on. In fact, I think it's
11 -- I think we have to be careful of trying to reach a prejudged
12 conclusions on any of these projects before we have the Public
13 Advisory Group's comments, before we have the public's
14 comments. I think there's also going to be an opportunity, you
15 know, for a a discussion on the total Trustee Council, each
16 project after we get the Public Advisory Group, then the public
17 comments at-large.

18 What I want to specifically suggest, Mr. Chairman, is
19 that prior to our public hearing thing which begins either at
20 3:30 or 4:00 -- we're going to try to move that up and at least
21 get some of the comments here. I wish we could, perhaps, have
22 a draft of the statement that is going to go out.

23 Is it possible, if that hasn't -- that surely must have
24 been thought about. Could we at least have a draft or an
25 outline of what it is to be covered that we can discuss and

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1 give tentative approval say by 3:00 o'clock?

2 MR. PENNOYER: Dr. Gibbons. If we take about a two-hour
3 break? I think what we're going to do now, before we vote,
4 Mr. Sandor has brought up and I have concerns, too, -- there
5 might be additional projects or additional changes individual
6 Trustee Council members may like to see, even if we don't
7 review the individual projects, and I think we'll do that
8 before we decide to vote on the total package -- then we'll
9 have the total package in front of us when we're done with
10 that. But if we do end up with a couple hour break between the
11 public hearing and the recess of this meeting, would you be
12 able to produce a that for the Trustee Council to look at and
13 decide on before we get into the public hearing process?

14 DR. GIBBONS: Mr. Chairman, we'll sure give it a whirl.

15 MR. PENNOYER: Okay. Well, then, I take it, we'll --
16 there's no -- Mr. McVee. I'm sorry, I forgot you.

17 MR. McVEE: I think we're on the right track here.
18 There are some really major inconsistencies, I think, within
19 the budget, and I assume we're talking about just the project
20 budget this time. We're going to deal with the administrative
21 budget as a separate discussion. But in the project budget, I
22 think there are inconsistencies between the attention that
23 we're giving to damaged resources, and I was hopeful that the
24 Restoration Plan will help balance that out. It seems to me
25 like, for example, that the inventory of anadromous streams,

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1 we're walking on streams, identifying habitat, and not
2 providing that same level of attention in terms of inventory of
3 habitat to some of the other damaged resources. It seems like
4 that maybe is the kind of an issue that gets flagged for the
5 public to look at. We ask them to look at the consistency of
6 the program as we don't have the Restoration Plan to guide us,
7 that maybe that is where we get the balancing effects, from the
8 public review.

9 MR. PENNOYER: Is there further comment on the general
10 approach?

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: Yeah, I would like also to, as we prepare
14 this draft, that we say, look, don't just say, you know, you
15 approve of the various groups, favor them all, for example,
16 unless they do. The problem is our hard decisions is achieving
17 the balance. I mean, you can't buy all the habitat, and we
18 can't do all the studies, so we need some form of, I think, to
19 ask the people to give us a sense of your priorities. I mean,
20 the hard decisions are do you spend money recognizing that if
21 you spend money studying the killer whales, that takes away
22 from the acquisition of habitat. I know -- I know, you want
23 killer whales. We go through this every month. Eventually,
24 they'll get it.

25 MR. PENNOYER: We have to reach a successful conclusion

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1 and I'll quit talking about it.

2 MR. COLE: But, you know, it's hard to say. I would
3 like to see some requests put out for that. Also, I would
4 really think if we're dealing with individual ones, we should
5 eliminate number 48, that's the \$10 million for a
6 communications system in the Sound. The Department of Law is
7 looking at that very carefully in connection with other issues,
8 and we find that it's simply not feasible, I think, even to the
9 extent of \$10 million. So,

10 MR. PENNOYER: But you're going to leave it in for this
11 round?

12 MR. COLE: I think we really ought to take it out
13 because we've studied it very carefully. A lot of money has
14 been spent on that, number 48.

15 MR. PENNOYER: Well, you're down to the stage of
16 individual Trustee Council members

17 MR. COLE: Well, I just mentioned that as an aside. I
18 have -- get to be inconsistent once in a while.

19 MR. PENNOYER: I think also when we did the statement on
20 program review, we need to somehow put in context for the
21 public, Mr. Gibbons, where we are in the process. I mean, a
22 lot of projects proposed originally to us are things that
23 presumably might fit very well under Restoration Plan or a '94
24 Work Plan or some subsequent action, and somehow rather than
25 just go out and indicate to people of the 64 where we are and

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1 the other 400 don't have merit, in our view, we should indicate
2 where we are in the process. And some how -- you don't have to
3 do that this afternoon, but characterize where we are in the
4 process and the fact that we just aren't to the stage yet of
5 making some of these decisions.

6 DR. SPIES: Mr. Chairman, I think it might also be
7 helpful for the public to focus public input to restate the
8 terms of the settlement in very simple terms, what the
9 allowable expenditures really are.

10 MR. PENNOYER: Mr. Barton.

11 MR. BARTON: I think Dr. Spies's advice is very sound
12 and we should adopt that.

13 MR. PENNOYER: Okay. Do the individual Trustee Council
14 members have problems or suggestions or additions to this list
15 that they need -- would like to bring out? Mr. Cole, you
16 brought up the \$10 million project. Do you wish to elaborate
17 on that and decide whether we want to take that out or does the
18 0-6 vote from the Restoration Team represent the bottom part of
19 the list?

20 MR. COLE: For that reason, I would. Like I say, in
21 connection with that other matter, we had a lot of money spent
22 on study of an establishment of a communication system in
23 Prince William Sound, and first I don't think \$10 million would
24 come close to achieving any sort of reliable system there,
25 number one. And number two, we also learned that we run into

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1 conflict with the holders for FCC permits to provide that
2 service, and it just creates a lot of problems. We, at one
3 time, thought that that would be desirable, and sought to do
4 that, but we've, after considerable study, effort, concluded
5 that it's simply not feasible. So, I would say we shouldn't
6 seek additional comments on that.

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

8 MR. PENNOYER: I would note that it's about 80% of that
9 category -- 3 project categories that got three or less votes.

10 Any further discussion on that item? Is there any
11 objection to dropping project 48 from the list of those that
12 are sent out? Okay.

13 Next. Mr. Sandor.

14 MR. SANDOR: I just had a question, a follow-up to
15 Dr. Spies. He indicated that the evaluation on these various
16 species that have lingering recovery problems, the data
17 collected for this field year has not been analyzed. When
18 might that be available and when might you be able to update
19 the Trustee Council on the results of the field work that's
20 gone to the Council and then to you -- something comparable to
21 your report that you made, I think, in January or February of
22 this year?

23 DR. SPIES: I think December sometime would be
24 appropriate, maybe December -- yeah, sometime after December
25 1st.

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1 MR. SANDOR: It would really be helpful, Mr. Chairman,
2 to have that -- you know, just before our decision making
3 meeting.

4 MR. PENNOYER: Mr. Gibbons, specifically, when do you
5 think we'll be making the decision on the '93 Work Plan now?

6 DR. GIBBONS: The schedule is in December.

7 DR. MONTAGUE: Mr. Chairman.

8 MR. PENNOYER: Mr. Montague.

9 DR. MONTAGUE: The projected due date for public comment
10 is currently December 5th, so it would be, presumably, a week
11 after that before we would have all the comments, and then a
12 week after that before you could hold the meeting, so it would
13 be on the order of December 20th.

14 MR. PENNOYER: Just in time for Christmas.

15 MR. SANDOR: So 10 days preparation of the supporting
16 documents and 10 days beyond that.

17 MR. PENNOYER: Just in time for New Year's.

18 DR. MONTAGUE: Mr. Chairman, one thing we might offer
19 for the Trustee Council would be that's assuming a 45-day
20 review, and as you've indicated, it's approaching the holidays.
21 Should we consider a 30-day review and have comments back more
22 like November 20th instead of December 5th?

23 MR. PENNOYER: Comment by the Trustee Council? Do you
24 wish a shorter public comment review? Shall we, perhaps, leave
25 that decision until we see how long it takes to get the package

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1 together?

2 MR. COLE: Well, let's just decide it.

3 MR. PENNOYER: Okay. Anybody interested in a 30-day
4 public review period on the package so we can get this -- that
5 would get it to us by about December 15th or so. Does anybody
6 want to propose it? Mr. Montague, I don't think your
7 suggestion was

8 MR. COLE: Well, I'll propose it. Like I say, get it on
9 the table.

10 MR. PENNOYER: Does anyone want to second it for
11 discussion purposes?

12 MR. BARTON: I'll second it.

13 MR. PENNOYER: Okay. It's been proposed and seconded
14 that the comment period be reduced from 45 to 30 days to enable
15 the Trustee Council to get the package and be able to deal with
16 our conflicting time schedules in advance of the holidays. Any
17 further comment?

18 MR. SANDOR: Question. When would that 30- or 45-day
19 period actually be? Would it encompass a major holiday or
20 something that might diminish the opportunity for public
21 comment? What would it be, late November, early December or
22 November totally or

23 DR. MONTAGUE: Mr. Chairman, with a 45-day review, it
24 would be projected October 20th to December 5th; the 30-day
25 would be October 20th to November 20th.

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1 MR. PENNOYER: Thanksgiving.

2 MR. SANDOR: Thanksgiving is the 26th of November.

3 MR. PENNOYER: Oh, okay. So it doesn't encompass any
4 holiday period?

5 MR. SANDOR: That's probably not too bad.

6 MR. McVEE: Mr. Chairman.

7 MR. PENNOYER: Mr. McVee.

8 MR. McVEE: It seems to me like -- and maybe the staff
9 can correct me or comment on this, that by the action that
10 we're basically, I guess, deliberating on here, proposing to
11 take, that the package will not look a great deal different
12 than what we have been given, so that there doesn't seem to me
13 like a lot of rewrite or a lot of modification that's going to
14 be necessary and it's primarily one of -- the problem of
15 getting that package ready for the public is the printing time
16 that's required. Will that shorten -- will that period be able
17 to be shortened because of the action we're taking today?

18 DR. MONTAGUE: Mr. Chairman, currently we were scheduled
19 to have everything print ready by October 6th and assume about
20 two weeks, or the 20th, to get sent out. It's possible that we
21 could improve upon that, you know, getting the document fully
22 edited, which is ongoing now and everything. We were hoping to
23 have it essentially ready by the 29th of September, and we had
24 about four or five days there to insure that there weren't
25 other delays or unsure of what kind of changes we would make

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1 today, so it's possible we could cut four or five days off of
2 it, but still the 6th is probably the most likely delivery
3 time.

4 MR. PENNOYER: You're not going to pick up a full two
5 weeks though anyway. Mr. Cole.

6 MR. COLE: One comment and one question. Obviously, our
7 limits are not necessarily 30 days or simply 45. You know, we
8 could get something in between. How about proposing November
9 25th, that's the Wednesday before Thanksgiving on the 26th?
10 And that would allow us a few more days and maybe be ample
11 time. That's the comment.

12 The question is, by the way, what is going out to the
13 public? All this?

14 MR. PENNOYER: Mr. Gibbons.

15 MR. GIBBONS: Yes, Mr. Chairman. We envision the
16 package with -- not the detailed budgets, but the budgets
17 explaining personnel costs, commodities, contractals,
18 equipment, an explanation of the administrative budget, and
19 supporting documentation. We would have the budgets -- the
20 detailed budgets found in 14 library locations across the state
21 and also at the teleconference sites as well as OSPIC here.

22 MR. COLE: Mr. Chairman.

23 MR. PENNOYER: Mr. Cole.

24 MR. COLE: For example, like project number 22, which I
25 happen to have here, entitled Exxon Valdez Oil Spill Project

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1 Description, consisting of three pages. Now, will all that be
2 sent out?

3 DR. GIBBONS: That's correct.

4 MR. COLE: So, essentially, you'll have a package at
5 least as thick as these materials here. That's what we're
6 doing, isn't it?

7 DR. MONTAGUE: Double-sided.

8 MR. COLE: Maybe not as thick; half as thick but as many
9 pages of written material.

10 DR. MONTAGUE: Mr. Chairman, indeed, it will be thicker
11 than any other draft that we've prepared.

12 MR. PENNOYER: Yes, Dr. Gibbons.

13 DR. GIBBONS: Mr. Chairman, I have been sitting here
14 thinking, and I've been thinking about the process we went to
15 to develop this, and we're throwing dates out in December, and
16 then I remember back on the 10-day review period for the
17 public. I'm getting very uneasy about December. Perhaps, a
18 better approach might be to get this thing printed, get the 45
19 or 30-day period or whatever that is, have us -- the
20 Restoration Team prepare that, have the public review it over
21 the holidays, getting it to 'em for at least a two-week period,
22 maybe a little longer, and then meeting in early January on
23 this package, after some review. That's maybe another
24 approach, because I'm looking at these deadlines and the 10
25 days, and I'm not sure we can turn around all the public

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1 comments in a week or two. There may be a whole lot of public
2 comment on this package.

3 MR. COLE: Pamela has a comment.

4 MS. BERGMANN: Mr. Chairman, I think that a concern with
5 that kind of schedule, when we talked about it originally is
6 that some of the projects need to get people out into the
7 field. You need to get contracts in place like in January or
8 February at the latest. There's some field studies that need
9 to start in March. And so if we wait until January, it's going
10 to preclude our options on a number of studies. That happened
11 to us this year when we were trying to schedule it so that that
12 would not happen to us next year, and that's my concern with
13 letting everything slide to January.

14 MR. PENNOYER: Mr. McVee.

15 MR. McVEE: I would like to see a schedule, and I don't
16 know whether it's possible or not, but that we take a break
17 over the noon break, if we could work up a schedule to take a
18 look at how this thing might develop over the next three or
19 four months.

20 MR. PENNOYER: Well, let's defer the vote on the 30 days
21 until after we take a coffee break and Mr. Gibbons, do you want
22 to take a 10-minute coffee break and give us the schedule, or
23 would you rather do it after lunch?

24 DR. GIBBONS: I think we can do that in 10 minutes.

25 MR. PENNOYER: Okay, let's take a 10 or 15-minute coffee

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1 break. Mr. Rosier, do you have a comment before we take a
2 break?

3 MR. ROSIER: Well, that's all right. I'll wait until
4 after the break.

5 MR. PENNOYER: Thank you.

6 (Off record - 10:34 a.m.)

7 (On record - 10:52 a.m.)

8 MR. PENNOYER: Shall we go ahead with another item then
9 and wait for you to -- until you get the schedule to us?

10 DR. GIBBONS: Yes, it should be ready just anytime now.

11 MR. PENNOYER: Okay. Mr. McVee.

12 MR. McVEE: I'd like to make a motion that -- and I
13 discussed this a little bit before about some major
14 inconsistencies in the budget, both within the project budgets,
15 and also there's the detailed budget information, the
16 administrative budget reflects inconsistencies. For example,
17 the cost of travel to Juneau, from Juneau to Anchorage, it
18 ranges in that budget from \$700.00 to \$2,000.00. Some of that
19 would depend upon, of course, the term the person would be
20 staying in Anchorage if they were traveling from Juneau or vice
21 versa. Also the cost and amount to support items, in terms of
22 services, supplies, equipment and training. It appears to me
23 that in reviewing the administrative budget there is not a set
24 standard of assumptions within the working groups or at the RT
25 level to be used as a basis for those budget estimates. I

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1 realize we're just approving for public review, and then just
2 the '93 -- March 1 to September 30th component, not the '94,
3 the out-year, but I'd like to move that the RT, with the input
4 from the Finance Committee, during the public comment period
5 step back and kind of make a broad overall review of the budget
6 document give specific attention to this inconsistency issue,
7 and also the overall strategy of the program proposed for the
8 last seven months of '93, and for particularly projects to be
9 implemented prior to the Restoration Plan, and resolve to work
10 out any discrepancies that they identify or the Trustee Council
11 to consider at our follow-up meeting on the budget.

12 MR. PENNOYER: Is there a second?

13 MR. ROSIER: Second.

14 MR. COLE: Mr. Chairman.

15 MR. PENNOYER: Mr. Cole.

16 MR. COLE: Isn't that a function of the Finance
17 Committee, too, to review that sort of thing?

18 MR. PENNOYER: I believe the motion included the Finance
19 Committee.

20 MR. McVEE: I wanted to include the Finance Committee,
21 yes.

22 MR. PENNOYER: Mr. McVee, would you elaborate on what
23 you mean by consistency; consistency with what, just
24 consistency in numbers for costs of items or consistency in
25 approach or

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1 MR. McVEE: I think both. There is cost
2 inconsistencies, and without assumptions various working
3 budgets look different. I guess I assume that they're
4 inconsistencies. Maybe there's a reason for it, but -- and
5 then I think that the second part of the motion is to also look
6 at the overall -- the overall project program, and I feel like
7 there's some inconsistencies in that and the way that we're
8 dealing with, for example, habitat inventories, that we've got
9 differing levels of effort going into inventories for some of
10 the species involved.

11 MR. PENNOYER: Are we providing the RT with instructions
12 about what to look for; how do you mean different levels of
13 detail for different species? Are you making reasons for that
14 or are you just looking to see if there are reasons for why
15 we're not?

16 MR. McVEE: There may be reasons for that, but I think
17 we should have reasons of what those reasons are. There are
18 inconsistencies in the projects about the level of detail that
19 we're proposing for inventories for habitat.

20 MR. PENNOYER: Where does such a review get us in terms
21 of the '93 Work Plan, public review process and so forth; are
22 you suggesting this be done before it goes out to public review
23 with changes or

24 MR. McVEE: No, I don't want to delay the public review.
25 I'm suggesting that it be done before the Trustee Council takes

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1 final action. And it seems to me like that is an important
2 step because we do not have a Restoration Plan, so at some
3 point we need to step back and look at the package we have,
4 which is kind of, you might say, piecemeal, as opposed to
5 restoration program for the remainder of '93. We have to step
6 back and see if this is accomplishing it in the priority
7 context in a consistent way, the restoration of resources and
8 services.

9 MR. PENNOYER: Mr. Gibbons, are you clear what the
10 request says and how you carry it out?

11 DR. GIBBONS: Yeah, I think I'm pretty clear with the --
12 to review the inconsistencies in the budget and if they are
13 deemed, explain inconsistencies, if they can be explained, if
14 not, correct them.

15 MR. PENNOYER: The second part -- I guess I was more
16 concerned with the second part of the proposal, which is look
17 at the whole plan for its consistency with our time table, our
18 criteria, and their Restoration Plan. In other words, are we
19 ahead of ourselves in some of these projects, are they really
20 necessary, or should we be waiting until the Restoration -- I
21 thought that was one of the criteria you actually used in your
22 project review to start with, so I'm not clear how you do that.

23 DR. GIBBONS: That's correct. In the book that was
24 passed out last week, it explains the -- all the projects. One
25 of the criteria was time critical, does it need to be done this

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1 year, and if it didn't need to be done this year, it was
2 deferred. So that's been used as a criteria. And if it didn't
3 meet that criteria, like I said, it was deferred until -- if
4 possible, you know, completion next year.

5 MR. PENNOYER: Mr. McVee can elaborate and explain his
6 motion. Do you want to explain to Mr. Gibbons a little bit
7 more?

8 MR. McVEE: I guess my point there was -- is that we've
9 given a lot of time to discussion on this issue of habitat
10 acquisition and habitat protection, and that, I guess, I want
11 to be sure that we are giving equal attention to the inventory
12 or to the information we need concerning all damage resources
13 before we -- you know, before we take final action on the
14 protection of habitat or the acquisition through some
15 management of protection, and I guess I feel like the program
16 we have is not smooth in that regard, that we are providing
17 more attention to some habitats than we are to others, and I
18 think we should step back and take a look at that. That could
19 be done between now and when we take final action.

20 MR. PENNOYER: Yeah, you have in mind that we're looking
21 at anadromous streams too much as opposed to sea otter kelp
22 beds or

23 MR. McVEE: We're walking every -- what I heard last
24 evening, we're walking every mile of anadromous streams to
25 identify specific habitats, and I don't think -- my feeling is

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1 in reviewing the package that we aren't giving that same kind
2 of attention to the other damaged resources. If that's not the
3 case, you know, if we've got enough information on the other
4 damaged resources to go ahead and make habitat determinations,
5 that's fine. Also the process that we're going through, which
6 is very supportive with the Nature Conservancy, is certainly
7 going to help us in a timely manner to take a cut in this final
8 package, and we will have some final identification, hopefully,
9 in that time where there are gaps or information needs.

10 MR. PENNOYER: Mr. Cole.

11 MR. BRODERSEN: Mr. McVee, move your mike closer,
12 please. You're getting feedback.

13 MR. PENNOYER: Mr. Gibbons, do you want to comment?

14 DR. GIBBONS: Yes, I'd like to comment on that. We
15 looked at that as there's two more steps to come about. The
16 State's got an excellent anadromous fish catalog, and we looked
17 at that to determine what kind of information we needed on fish
18 streams, and we had very little information on fish streams in
19 private lands, so we knew there was a need there. And the next
20 step, as far as we can see, is to bring these habitat focus
21 groups, or whatever we want to call them, together and with the
22 Nature Conservancy contract to look at the habitat and data we
23 have for a lot of the other species, also including anadromous
24 fish, and then look at the package -- do we have everything
25 covered, do we have all the data that we need to move forward

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1 in a logical step.

2 We've looked at the habitat package. We're going out
3 and collecting information on harlequin ducks, on marbled
4 murrelets, that's proposed in here. We know we need those
5 needs, you know. This is our best shot at it right now, and
6 we're going to refine it as we go. I guess that's what I'm
7 trying to get at.

8 MR. PENNOYER: Mr. McVee.

9 MR. McVEE: It would help, you know, with the
10 concurrence with whoever did the second on the motion -- I
11 guess I would change the motion to ask for just review on the
12 budget information, the inconsistencies in the budget
13 information, if that's acceptable.

14 MR. PENNOYER: Mr. Sandor.

15 MR. SANDOR: That's acceptable.

16 MR. PENNOYER: It's been moved and seconded that the RT
17 undertake a review of the budget information, both the
18 administrative and project budgets to look at inconsistency
19 between projects and programs in terms of administrative --
20 primarily administrative costs. Any objection to that motion?
21 And they do it by the December meeting before we vote on the
22 '93 Work Plan. Okay. I would assume it still goes without
23 saying, that we are interested in the consistency of the plan,
24 the Restoration Plan process and the rest of it.

25 We now have in front of us the '93 Work Plan schedule

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1 that I believe Mr. Sandor, you requested. This is relative to
2 the amount of time we're going to allow for public review, and
3 when we have to -- or try to make a decision on it, and this
4 has the final decision on the '93 Work Plan being January 4th,
5 that's with a 45-day period, Mr. Gibbons?

6 DR. GIBBONS: That's with a 35-day period.

7 MR. PENNOYER: 35-day

8 DR. GIBBONS: October 20th to November 24th.

9 MR. BRODERSEN: Mr. Chairman.

10 MR. PENNOYER: Mr. Brodersen.

11 MR. BRODERSEN: If I may, I'd like to suggest that we
12 move the date for public comments due back from the public to
13 November 30th. That's the Monday after Thanksgiving weekend.
14 I would hope we weren't going to have staff in here over the
15 Thanksgiving weekend looking at these comments and preparing
16 them, and that does give the public more time to get their
17 comments in, probably working over the Thanksgiving day weekend
18 to accommodate us.

19 MR. PENNOYER: That makes for a 40-day review period.

20 MR. BRODERSEN: Yeah, much closer to the 45, and it
21 doesn't really affect our getting the information to you on
22 December 21st.

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: I think we should work back on the date in

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1 which we think the Trustee Council can meet, too, to get this
2 done. Do we really want to accept the January 4 as the date?
3 Is that the proposed date for a Trustee Council meeting,
4 January 4th?

5 MR. PENNOYER: I think that was the earliest date
6 Mr. Gibbons would be able to get it to us and we would meet as
7 soon after that as we could get everybody together. Is that
8 right, Mr. Gibbons?

9 DR. GIBBONS: That's correct. This is a draft. That's
10 what we figured. We moved from today's date forward with a
11 time schedule. I'm not implying that the Trustee Council
12 should meet on January 4th, but that's the earliest we can
13 probably get it there. That's Monday after the New Year.

14 MR. PENNOYER: We had quite a bit of comment previously
15 about January being too late to approve this plan, but even
16 with a 40-day, instead of 45, we're still into January. And,
17 frankly, if you back it up a week, you're into the Christmas
18 holidays anyway. So cutting it back to 30 or 35 days probably
19 means you'd get it about Christmas Day. So it looks like we're
20 stuck with January.

21 Ms. Bergmann, do you want to comment on that?

22 MR. COLE: Are you cold?

23 MS. BERGMANN: Yes, it's freezing in here. I don't see,
24 you know, what we can do about that. The most we could do is
25 cut it back to a 30-day review period which isn't idea, by any

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1 stretch of the imagination. We'd rather have a 45-day review
2 comment period, but unless there's some way to speed up the
3 printing process, I don't know what else we can do.

4 MR. PENNOYER: Well, even cutting it back to a 30-day
5 review period, you still would be getting it Christmas week,
6 December 21st, correct? On the schedule you've got here, if
7 you cut it back -- your's is 40 days, you cut it back to 30
8 days, only 10 days, that get's it to you on Christmas Day, so
9 you haven't done much with the 30-day either.

10 MR. COLE: Mr. Chairman. It's just another illustration
11 of us taking much too long to get our business done. I mean,
12 look, you know what will happen. People will say pretty soon,
13 well, gee, we can't get back in January 4th, people are taking
14 Christmas vacations over the New Year's, they won't be right
15 back, furthermore they're Outside, can't get on a plane to get
16 back. I've been through this, so we can't do it that week.
17 What we'll have to do is -- well, we'll have to put it back at
18 least to the 11th or 12th, you know. I mean it just goes on
19 and on every meeting. I just think we have to get things done
20 more rapidly.

21 MR. PENNOYER: Mr. Cole, I agree with you.

22 MR. COLE: We complain about saying, well, we don't it,
23 we don't get this thing done, and one of the reasons is we just
24 don't get our business done. I mean, we're talking about
25 October, November, December, half a day in January, that's 30,

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1 60, 90, 100 days. They fought the war in the Middle East and
2 got it over in 100 days. I mean it just takes us -- I mean,
3 here it is four months. It's just too long. We've got to get
4 things done.

5 MR. PENNOYER: Mr. Cole, I'm very willing to meet the
6 week of December 21st or the week of December 28th if
7 Mr. Gibbons can rearrange his schedule, maybe including a
8 shorter public review period to get it to us one of those two
9 weeks.

10 I haven't -- I guess, Mr. Gibbons, I'm asking for some
11 help here. If you go out September 21st, we make the decision
12 today, we've got to go into the printer October 6th, Mr.
13 Montague said that might be moved up three or four days, but
14 not much, and then you've got two weeks to get it printed. I
15 guess we can't do much about that. And then you've got 40 days
16 here for public comment. You have 30 days for public comment,
17 you get it back November 20th. Could you get it to us by the
18 week of December 21st?

19 DR. GIBBONS: What we could do is

20 MR. PENNOYER: That still leaves somebody working over
21 the holidays.

22 DR. GIBBONS: Excuse me, Mr. Chairman.

23 MR. PENNOYER: Go ahead. I'm sorry.

24 DR. GIBBONS: If we limit it to a 30-day period, that
25 would push it to November 20th. For the '92 Work Plan, the

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1 Restoration Team worked almost night and day to analyze the
2 comments over the weekends and stuff to get that collated for
3 the '92. Three weeks is minimum. That pushes us, perhaps, to
4 the 11th of December. Using the direction for a 10-day public
5 comment period, we could meet December 21st or 22nd.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8
9 MR. COLE: Let's talk about when we get the public
10 comments back. I mean, how many public comments do you expect
11 we would receive, and how many pages -- pieces of paper do you
12 expect that it would include?

13 DR. GIBBONS: Mr. Chairman, I can relate to that. Last
14 year, I think, we had over 90 comments that were about two or
15 three inches of material. We wanted first to synthesize them,
16 summarize them and categorize them and then in regards to the
17 studies, they come in -- they tend to come in on the last day
18 or two days after the closing period, so it doesn't allow us to
19 analyze them during the period. And so it's just extremely
20 difficult. If it came in over the period, it would be much
21 easier, but if we set the date for November 20th, they'll be
22 coming in on the 18th, 19th and 20th, 21st, 22nd, and 23rd.

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: Here's my thought. I mean, if each Trustee

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1 member got a set of the whole package, two inches, we could
2 take it on a Saturday morning and Sunday evening, we could have
3 it all read, each one of us, individually, you know. But what
4 we had for this meeting, you know, take two days, take a
5 weekend, get it all done. Why do we need three weeks to a
6 month reading this? Let's get the real flavor itself. So you
7 don't get it synthesized and you see just what people are
8 doing, how they're doing it, you understand it. I'm prepared
9 to read it all over the weekend and meet on it the following
10 Monday. That's the way I think we should be doing this. I
11 appreciate the staff review, and they do an excellent job. I'm
12 not being over-critical, but I mean, I just don't think we have
13 the luxury of all these times to do these things. Just read it
14 and decide.

15 MR. PENNOYER: Well, I'm not sure which part of this
16 process we can cut back. You're talking about not having a
17 written response to public comments by the administration team?

18 MR. COLE: See, my view is if we got comments on the
19 21st -- 25th, okay, here they are, a little late, but all the
20 pieces of paper come in prior to that date, Xerox 'em and send
21 'em out. Thanksgiving day, Friday, Saturday, Sunday, by the
22 following Monday, we get them all read. That's not
23 particularly difficult. A little bit of work but just have it
24 all done. Be prepared to vote on November 30th. That's they
25 way I would do it, but

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1 MR. PENNOYER: Do we have some legal requirement to have
2 written response to public comments or do we?

3 DR. GIBBONS: I'm not sure. We responded to the other
4 work plans with response to the public comments, but I'm not
5 sure of the legal requirement.

6 MR. PENNOYER: Mr. Sandor.

7 MR. SANDOR: Mr. Chairman, I think there's an
8 obligation, it might not be legal, but to demonstrate or
9 illustrate how, in fact, the public comments were dealt with
10 here. We do have a Public Advisory Group that's, you know,
11 willing to be more responsive to the public-at-large.

12 It occurs to me that most of the material that we're
13 sending to the printers is not going to change, and some of
14 that actually -- I don't know why it couldn't go to the printer
15 this week, with a smaller package going -- you know, that's
16 added. I would have hoped, as well, that we might have, quote,
17 a working session on the Trustee Council with Restoration Team
18 at some point in this calendar such as we talked about last
19 meeting, you know, and that can be accommodated. I would
20 remind ourselves that we, at the beginning of this meeting,
21 passed a motion that we would try to have these supplemental
22 materials give 10 days in advance, so we've got that -- we
23 can't have it both ways. You can't impose these deadlines on
24 the Restoration Team and staff and not incorporate them in the
25 guidelines. I think, one, we ought to get this Work Plan to

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1 the printer -- perhaps the bulk of it earlier than October 6th,
2 and maybe we can get this out to public review even before
3 that, but I'm in favor of a shorter period of time for public
4 comments because we've got the Public Advisory Group in place,
5 and that's helpful. I have no problem meeting your -- meet
6 December 21 -- the 22nd is my birthday, so I can have a cake.

7 MR. ROSIER: We will even sing.

8 MR. SANDOR: But anyway, I share this thing. We really
9 want to have this before Christmas. Santa Claus should bring
10 us this package.

11 MR. BARTON: Mr. Chairman.

12 MR. PENNOYER: Mr. Barton.

13 MR. BARTON: Yes. I think that we could speed this up,
14 in terms of the analysis of the public comments. By not having
15 as much analysis and synthesis on the part of the RT as we've
16 normally enjoyed, and I'd suggest we set a date that we want to
17 meet on and adjust the schedule according to that.

18 MR. PENNOYER: Within what range?

19 MR. BARTON: Well, December 10th, for example, that
20 would give the RT time to just compile the comments and get
21 them out to us for the 10-day period, which we just requested
22 from them.

23 The further thought that occurs to me is that in order
24 to bring this thing into sync with the federal budget cycle,
25 which we've been asked to do, you know, we have three of these

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1 work plans to do in a two-year period, and if we continue to
2 take a year and a half to do each one, we'll never make it.

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: Take Mr. Rosier.

6 MR. PENNOYER: Mr. Rosier.

7 MR. ROSIER: Thank you, Mr. Chairman. I would like to
8 say one thing here in terms of shortening the period. I like
9 the idea of a work session here, and perhaps being able to
10 curtail something between this November 25th and December 21st,
11 but I'd like to say this: I don't think that in terms of
12 public comment we should cut it any finer than what's provided
13 for in this schedule. The reason being a lot of the user
14 groups that are in fact associated with the projects and so
15 forth, they've got other things to do as well. We've got
16 almost -- on the State side we've got almost continuous Board
17 of Fisheries and Game meetings, starting the 27th of October
18 and running through essentially the entire month of November.
19 Many of the user groups are going to have an interest in these,
20 are going to be effected if we -- in fact, we do set some. We
21 can reduce something in there after the 25th, I would strongly
22 support that, but not the public comment period.

23 MR. PENNOYER: Mr. Gibbons.

24 DR. GIBBONS: Well, I heard something very encouraging.
25 It was a compilation of the comments rather than an analysis,

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1 and that will speed the process up quite a bit. To give you a
2 table of contents and some thoughts on what's there and then
3 give you the packages would greatly speed that process up.

4 MR. PENNOYER: Mr. McVee.

5 MR. McVEE: Mr. Chairman, I guess this was what I was --
6 some of what I was getting at in earlier comments. I was
7 talking about of having questions, you know, so the public
8 comment would come in somewhat structured. It would be easier
9 to analyze, and if there were some specific questions that were
10 asked in areas that we wanted the public to address, not of
11 course restricting them to -- in any way to what they want to
12 respond, but it probably would help speed up this review.

13 MR. PENNOYER: Well, let's take a previous suggestion
14 and see when we could meet or we set this deadline and we can't
15 show up, that's not going to help much either. Can we set the
16 date of the meeting sometime after the 1st of December? I hear
17 we're probably talking about the 10th, at least.

18 Mr. Gibbons, a compilation, would you have that
19 available for us if the public comment process ended on the --
20 I think the 25th was the date you had in there, which is 35
21 days, a compromise. When could we have the package at the
22 earliest to go?

23 MR. COLE: Could we have until after lunch to fix that
24 date? I know there's some things out there that I have
25 scheduled in December, and I don't know the exact date, and I

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1 would like to have the opportunity to just verify those dates
2 that I'm committed to.

3 MR. PENNOYER: That's a good idea.

4 MR. COLE: I don't know about other members in the
5 Council, but they might like that opportunity as well.

6 MR. PENNOYER: Why don't we finish this topic after
7 lunch and if you'll come back with your calendars looked at and
8 figure out when we can have that meeting so we can set the
9 schedule for the staff.

10 MR. COLE: I'd like to say that, you know, I think that
11 the public would like us to individually read their comments in
12 the package without synthesization. You know, they may feel
13 that the Trustees or the Restoration Team, you know, has some
14 particular bias towards some of the various plans being
15 proposed by the state and federal agencies. If we could make
16 the general commitment to read those comments ourselves, I
17 think that the public would feel that this process is more
18 wholesome.

19 MR. PENNOYER: Further comment? Okay, let's leave that
20 one till after lunch. Can we come back to the list of projects
21 and see if there are further projects that individual Trustee
22 Council members want to discuss on this list?

23 Mr. Sandor, you had a request for one.

24 MR. SANDOR: Yes, Mr. Chairman. Actually, this relates
25 to this whole area of habitat protection and, frankly, covers

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1 59, 60, 64, 51 and -- projects. And I might ask Mr. Weiner if
2 he'd join us at the table 'cause this relates to some
3 activities.

4 I'd like to distribute to the Trustees and the
5 Restoration Team members this summary of spruce bark beetle
6 infestation, and I'd requested this information in August --
7 late August, actually for a different purpose, and only going
8 through these projects that came to mind that this is very
9 relevant to this whole question of habitat protection, and
10 we've not addressed -- and this is not an original idea with
11 me. The Kenai Peninsula Borough, and specifically the Mayor
12 Don Gilman and the assembly have formally asked the State of
13 Alaska and the federal agencies to deal with this serious
14 spruce bark beetle infestation, and actually about August the
15 23rd or so attended a meeting which this information from Kenai
16 Peninsula Borough came to our attention.

17 So, I'd ask specifically in follow-up to that meeting
18 what is the extent of infestation on the Kenai Peninsula and
19 particularly the infestation that was detected in the Katchemak
20 Bay State Park in the area, and was the spruce bark beetle
21 migrating into the hybrid spruce areas in the Sitka spruce
22 areas as opposed to the bulk of the infestation taking place in
23 the white spruce areas.

24 In summary, item one points out that indeed the
25 infestation has substantially increased over the last three

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1 years and specifically in the northern Kenai Peninsula to
2 Katchemak Bay to the south, excluding the Chugach National
3 Forest. The infestation has -- that has increased to 300,000
4 acres, up from 187,000 in 1991. Specifically, in the area of
5 the Lute spruce forest north of Homer, that has increased from
6 108 to 284,000, compared to 101,000 in 1991 and 39,000 in 1990,
7 and it wasn't presumed that this infestation would actually be
8 in that area several years ago.

9 With respect to Katchemak Bay, specifically, the
10 infestation has doubled from 6,800 to 12,400 in just this one
11 year. The relevance, I believe, to habitat protection can be
12 considered just in the relative acreage that's infested versus
13 the acreage being harvested, and it's clear that many, many
14 more times -- and I don't know specifically how much more. I
15 would suspect that if my proposal to expand this -- these
16 projects to include this activity is covered, that we will find
17 many, many more times the acreage of habitat threatened and
18 that threatened by the current rate of timber harvesting.

19 The question is does the infestation of the forest pose
20 a threat to habitat of species injured in the Spill, and as in
21 the case of timber harvesting, I think that a case can be made.
22 And there's also a threat beyond the destruction of the forest
23 itself, now 300,000 infestation, and that is the threat of fire
24 that's associated with this. And the Kenai Peninsula Borough
25 and its assembly has voted recently to develop a forest health

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1 plan that will take action to eliminate this threat from forest
2 fires and actually a reduction of property values of the
3 property, but also the spread of the infestation itself.

4 And so, Mr. Chairman, it seems to me that although the
5 projects 59, 60, 64, 51, 61 do not address this issue of the
6 destruction of these forests and the potential for even more
7 massive destruction than fires that stem from it, ought to be
8 enveloped and considered in this.

9 And, I guess, Mr. Chairman, I'd like to ask Mr. Weiner
10 for his views on this problem, and the DNR, I think is the lead
11 agency, insofar as the State has responded in the Kenai
12 Peninsula Borough's request.

13 MR. PENNOYER: Mr. Weiner.

14 MR. WEINER: That's correct. I certainly caveat my
15 response by saying that I am not a forester, and I'm going to
16 make a few remarks and then turn it over to Dave, who has an
17 awful lot more professional experience than I do.

18 But my response would be that if the upland link
19 habitats to the Oil Spill injured resources were placed at risk
20 by the infestation of the consequences of the infestation, we
21 certainly should take this into consideration. The downstream
22 effects of fire in these kinds of forest systems would
23 certainly have serious consequences on anadromous fish habitat.
24 I mean, that's pretty obvious to me. So I would certainly
25 think that this particular idea of Mr. Sandor's is particularly

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1 worthy of consideration because I think there is potential
2 impact on those upland linked habitats, and I'd certainly turn
3 it over to Dave how has much more expertise than I have.

4 DR. GIBBONS: Mr. Chairman, I think that would fall
5 right into project number 60, which is a data collection.
6 We're looking at layers of data, forested types, those types of
7 things, and we could have another layer on infestation, and lay
8 it over with the critical habitat types, and that would give us
9 that information so we could incorporate the beetle information
10 into that analysis.

11 MR. WEINER: One thing that is programmed into our
12 thinking though is that if in fact we did exercise a habitat
13 protection or acquisition option, part of the downstream work
14 would be to develop a management plan that would reflect our
15 knowledge of the condition of the land, i.e., beetle
16 infestation, and a management plan for any lands that we did
17 acquire would have built into it a management plan for
18 management of this type of need. It's certainly something we
19 had contemplated before recommending to you all to go ahead and
20 purchase land. But we're going to have to have some downstream
21 controls over how that land is managed.

22 MR. SANDOR: Mr. Chairman, I think that this is another
23 relevant point in that the way in which these forested areas
24 are treated or managed -- you know, is going to be different
25 than -- there may actually have to be removal of these infested

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1 trees, which will require, I think, management as opposed to
2 controls on, you know, just proposed harvest.

3 The other thing, Mr. Chairman, I guess, Dr. Gibbons --
4 I'd like to see in this data compilation really, you know, a
5 comparison, I guess, of placing of this problem in perspective.
6 This 300,000 acres just in this Kenai Peninsula area doesn't
7 cover the infestations in some of the other areas, and I don't
8 know what the timber harvest is in the areas, but I suspect
9 this is many more times. Perhaps the areas that are planned
10 for timber harvest in the entire spilled area, as much stated
11 about the concerns of timber harvesting on both public lands
12 and private lands, and what's imminently threatened, why I
13 suspect this has a potentially greater impact -- adverse impact
14 on the habitat than timber harvesting itself. I don't know,
15 just on nation forest lands, but lands for harvest or what
16 hasn't been harvested.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: On the Kenai Peninsula, within the Chugach
19 National Forest, there's been a very minor amount of harvest,
20 in the neighborhood of 600 acres. You know, a considerably
21 greater acreage is involved in this insect infestation that
22 need to be harvested.

23 MR. SANDOR: Well, Mr. Chairman, if the Trustee Council
24 would agree just to have these projects that deal with data
25 acquisition and imminent threat, to incorporate this activity,

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1 that would -- and have that reflected in the package that goes
2 out, that would meet what I'm trying to achieve.

3 So, I guess, I would formally move that that project or
4 projects be modified to also include the habitat damage that is
5 occurring as a result of the infestation.

6 Thank you, Mr. Chairman.

7 MR. PENNOYER: Is there a second? Do we need to move
8 that or

9 MR. BARTON: I'll second it.

10 MR. PENNOYER: Is there any objection to that? Mr.
11 Cole. Discussion.

12 MR. COLE: It seems to me that this is an explosive
13 proposition here that's now being presented. It would, I
14 think, dealing with Katchemak Bay itself, affect all of the
15 ongoing -- if that's the proper term, negotiations for the
16 acquisition at Katchemak Bay State Park, would it not?

17 MR. SANDOR: Indeed it would, Mr. Chairman. And I think
18 that's why I believe that it would be appropriate if these
19 various projects dealt with that additional factor. It
20 certainly has the potential of not only the value of the lands
21 involved but in effect what would be necessary to correct the
22 infestation as it continues to spread, if it does.

23 MR. COLE: Let me see if I understand where you're
24 coming from, as they say. Such being the case, would you think
25 that that would cut more toward the acquisition of the state

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1 park or less toward the acquisition of state park property?

2 MR. SANDOR: I think it may be either, and I don't mean
3 to be evasive. I think what it will require is that we not
4 only look at timber harvesting's impact on the habitat, but
5 also the infestations on habitat and what it's going to
6 require. I think, Mr. Cole, it's going to require a management
7 plan, whether it's on lands that are retained by the private
8 sector or in state ownership or not, and an alternative of
9 harvesting the areas that are infested, because it's my
10 understanding that the control mechanisms for dealing with this
11 is the actual removal of the trees. And so to consider
12 acquisition for prohibition of timber cutting of any kind, even
13 for forest health purposes, would be a serious mistake. And as
14 a consequence, this has to be a factor that's consi- -- must be
15 considered, one, the evaluation of the lands and, two, the
16 potentials for management. Under no circumstances should
17 options for no sanitation cuttings or health cuttings be
18 prohibited, from my judgment.

19 (Indiscernible - mike cut-out)

20 MR. COLE: Is the intent of the motion to do this with
21 all of the potential endangered or threatened habitat?

22 MR. SANDOR: For the imminently threatened categories.
23 It will be a guide, of course, for other areas as well.

24 MR. COLE: Have we given any thought to the control of
25 the spruce bark beetle and the regulation of logging even on

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1 private lands in light of the infestation of the spruce bark
2 beetle?

3 MR. SANDOR: I believe that's just being considered.
4 And this proposal from the Kenai Peninsula Borough is very
5 recent. In fact, it comes after, I think, the closing date of
6 project proposals. But the DNR is evaluating that very matter.

7

8 Is that not right?

9 MR. WEINER: That's correct. Also DNR has generated
10 some maps, probably from remote sense data, that indicate the
11 extent of the infestation on the Kenai Peninsula, and that's a
12 data layer that's readily accessible from remotely sensed data
13 that we can incorporate into our data layers, too. So we -- at
14 least identifying -- quantify the extent of the infestation in
15 any language that we're proposing for protection or
16 acquisition.

17 MR. COLE: Have any potential control mechanisms been
18 generated in DNR?

19 MR. WEINER: I can't answer that. I'm not privy to the
20 information. What I was made privy to was just the extent of
21 the infestation from maps.

22 MR. PENNOYER: Is the remedy working or the selective
23 cuts slowing down the infestation any? Have they been tried?

24 MR. SANDOR: Mr. Chairman, from my perspective and Mike
25 Barton and others, the assumption was made that these

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1 populations would increase in tracks. And an assumption, some
2 years ago was that this would not migrate into the hybrid Lute
3 spruce or the Sitka spruce, but that would essentially be
4 confined to the white spruce. This has proven not to be the
5 case. And while the propensity for vulnerability to
6 infestation by the spruce bark beetle is greater in white
7 versus Lute spruce and less vulnerable in Sitka spruce, the
8 spruce infestation is now, you know, to the extent that defined
9 in this analysis in the Lute forest, and is now also in the
10 Haines area.

11 So, part of this is a factor of climate -- climactic
12 conditions, particularly the dryness. But the technology of
13 the past or the scientific knowledge in the past suggested this
14 thing would die out of its own accord, that has not proven to
15 be the case.

16 Mike, you might have something to add.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: That's essentially correct. There was sort
19 of a hiatus, I think, in the late '80s and around 1990, and it
20 accelerated again.

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: Mr. Cole.

23 MR. COLE: Maybe could you spray for this beetle?

24 MR. PENNOYER: Mr. Barton.

25 MR. BARTON: There are a number of control mechanisms.

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1 Spraying is one of them, either chemical spray or a biological
2 spray. Ideally, maintaining a thrifty, healthy young forest --
3 managed forest is the best way to prevent this sort of
4 outbreak. We're past that point.

5 MR. PENNOYER: Maintaining a healthy, young forest will
6 control spruce beetles, with the rotation time for growth?
7 What are you saying?

8 MR. BARTON: I'm saying that a young, thrifty tree is
9 much more able to withstand a spruce beetle attack than some of
10 the grey beards out there.

11 MR. PENNOYER: I don't see any problem with looking at
12 all aspects of what's going to happen in habitat before you
13 jump in and decide whether you want to control an activity,
14 however, I don't know that I've heard that if we have something
15 that looks imminently threatened by a practice that could
16 threaten a particular habitat or an area of concern, that the
17 possibility that it might be eaten by beetles, too, should stop
18 us from going ahead and taking an action, so in concluding to
19 this, -- agreeing that this is part of the motion, I'm not
20 implying that I agree that we, therefore, shouldn't buy any
21 land because a beetle might eat it some day. So,

22 MR. SANDOR: Mr. Chairman, that's

23 MR. COLE: It's not the land, it's the trees.

24 (Indiscernible - simultaneous speech)

25 MR. SANDOR: Mr. Chairman, it's just that what has

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1 happened, especially over the last two-year period, as Mike
2 pointed out, there was an apparent lull, and there was a belief
3 there, you know, that the problem wouldn't occur in the
4 Peninsula. Well, it has, and for us to evaluate this
5 imminently threatened habitat from a potential of logging
6 without looking at the impact of this infestation greatly
7 exceeds the acreage, at least currently planned for harvest.
8 You know, it just ought to be looked at together. And that's
9 all that's intended in this proposal.

10 MR. PENNOYER: Mr. McVee.

11 MR. McVEE: Yes, Mr. Chairman. I guess I can follow
12 that logic if timber harvesting destroys habitat. Because it
13 removes trees, I guess I can accept the fact that beetles,
14 since they destroy trees can also destroy habitat. I guess the
15 question I have is are we adding something to these projects,
16 is there a cost increase associated with this in these projects
17 that we should recognize?

18 MR. SANDOR: There could well be an impact -- a
19 financial impact, but I don't know what it is. But it --
20 insofar as the Kenai Peninsula Borough's recent action does
21 have financial implications, and it may or may not most greatly
22 affect what we're doing, but certainly could.

23 MR. WEINER: I would interject that it's going to cost a
24 little bit more money to add a precise data layer to that that
25 depicts the degree of the infestation. I don't think it's all

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1 that costly because it can be detected from remotely sensed
2 information which we already have in hand. It's the question
3 of processing it. But, perhaps, the additional cost, in terms
4 of appraising a parcel of land that's infested, that's probably
5 going to affect the land value considerably. And, again, I
6 don't have expertise in that area, but common sense tells me
7 that kind of appraisal you do on land that's either infested or
8 potentially infested could be quite different from a nominal
9 appraisal, considering the costs of the remedies that are
10 available to us to deal with infestation.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: Commissioner Sandor, could you give me any
14 sense of the degree of infestation of the Katchemak Bay State
15 Park? I mean, is it just a few beetles there in a few trees or
16 is it widespread and intense? So I have a sense of what the
17 magnitude of the problem is?

18 MR. SANDOR: Well, this partially does this. I think
19 the third paragraph of the summary that I passed out that says
20 with respect to Katchemak Bay area itself the increase has
21 doubled from 6,800 acres to 12,400 in '90, from one year to the
22 next. And these are preliminary estimates. The ongoing
23 analysis that DNR has done, particularly by remote sensing, is
24 very easy to spot in the satellite views, so I cannot give you
25 the specific answer to your question other than that that's

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1 incorporated in the second and third paragraph of the summary.

2 MR. COLE: Mr. Chairman.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: It speaks of levels detected, increase in
5 over levels detected from 12 -- 6,000 to 12,000, but, I mean,
6 is that just one beetle per acre or what? That's what I'm
7 trying to see if I can get a sense of.

8 MR. SANDOR: Well, the map sort of shows it's spotty in
9 places, like there and there.

10 MR. COLE: If you can understand this map, you're better
11 than I, but it doesn't seem to show Katchemak Bay.

12 MR. SANDOR: The patterns of the infestation are both;
13 they're spotted but they've spread, and this shows the
14 infestation of '92, and it -- a year or two ago, it looked like
15 this, and it migrates into this kind of a pattern. And I
16 cannot answer the potential threat to Katchemak Bay State Park
17 other than it is there. And the relative threat, I think,
18 needs to be determined by forest entomologists who are,
19 incidently, ready to provide additional information to the
20 Kenai Borough and the state and federal agencies on the whole.

21

22 Thank you, Mr. Chairman. That's all I have.

23 MR. PENNOYER: Further discussion? We have a motion on
24 the floor that we try and incorporate, in particular, the
25 spruce beetle infestation, but I suppose anything else that

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1 might affect habitat use too into the formula of looking at
2 imminent threat in the day to day and surrounding area. I
3 think I heard something about increase in cost. I don't know
4 how we'd handle that. I guess we'll just go ahead and get
5 started and come back and ask for more if we need it.

6 MR. SANDOR: The budget can always be amended.

7 MR. PENNOYER: Is there any objection to this being
8 included in the work assignment? Okay.

9 It's now five minutes to 12:00. What's your pleasure,
10 gentlemen? Break for lunch and then come back? Let's break
11 for lunch and then come back.

12 MR. SANDOR: 1:15?

13 MR. PENNOYER: At 1:15.

14 (Off record - 11:55 a.m.)

15 (On record - 1:20 p.m.)

16 MR. PENNOYER: I think I'd like to go ahead and get
17 started, if we can, and continue to work on the '93 Work Plan
18 document, and before lunch we agreed to go back and look at our
19 calendars and try and pick a date when we could meet to review
20 the public comments on the draft Work Plan and make a final
21 decision as to what it should look like, and it sort of came
22 down to

23 MR. COLE: I need a few more minutes on that.

24 MR. PENNOYER: Give you a few more minutes?

25 MR. COLE: My agent is coming back with that

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1 information.

2 MR. PENNOYER: Okay, we will hold that for a moment
3 then. Mr. Cole is getting some information relative to his
4 schedule, so we'll hold that for a moment and go back to the
5 process of the Trustee Council members pointing out or
6 questioning or discussing individual projects, if they so wish.

7 Do any of the other Trustee Council members have any
8 additional projects? We've had a couple of discussions so far,
9 one on the communications plan of Prince William Sound, we
10 voted to drop that from the list; another adding to the habitat
11 imminent threat discussion, and the question of looking at
12 other alternative impacts on the environment, including spruce
13 beetle infestation. Are there others that we wish to discuss?
14 Other Trustee Council members wish to bring any up?

15 I'll bring one up then.

16 MR. BARTON: Well, we have not talked about killer
17 whales.

18 MR. PENNOYER: Thank you, Mr. Barton. Would you proceed
19 to discuss killer whales?

20 I have a problem with the only 4-2 vote on the
21 Restoration Team and therefore dropped off the list of projects
22 or dollar amounts sent to OMB as to the killer whale recovery
23 monitoring project, and let me tell you a little bit about why
24 I have a problem with that.

25 First of all, last year we dropped it because with some

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1 other projects it was determined that we didn't need to do an
2 annual monitoring or recovery, that we could in fact come back
3 in future time and periodically reassess what's happening with
4 the resource. I don't think there's any disagreement that at
5 least in AB pod, which was in the vicinity of the Spill,
6 there's been a drastic and unexplained, so far, reduction in
7 the productivity of that stock and a direct mortality of that
8 stock. It's actually a rather unheard of level of mortality,
9 20-some percent, compared to a normal background level in
10 killer whales of two or three or four percent or something like
11 that on an annual basis. There may be other causes, and I know
12 there's some disagreement in the scientific community as to the
13 cause of that decline in killer whales.

14 I think Dr. Spies has recommended it be an enhancement
15 project. He doesn't see the direct tie. Other peer reviewers
16 and scientists are not so sure or have come out and said there
17 probably is a direct tie. So it's a mixed bag of understanding
18 why something has happened, but in fact something has happened
19 in that particular pod in Prince William Sound does not seem to
20 be a real issue.

21 It has gone down. I think there are a large number of
22 people that are interested in the fate of orcas, and if you
23 walk around town and look at the various tour boat operations,
24 about half the time you'll see an orca on the cover of their
25 brochure or the window of the place that they do business in.

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1 I think we've got a responsibility to monitor the recovery of
2 the effected spill area, and that includes the environment in
3 that spill area, and certainly one of the major top levels of
4 animals in that environment are killer whales.

5 So, another whole list of 4-2 items that our RT came
6 back and re-voted on, and all but one of them came up with 5-1,
7 and this is still at a 4-2. I have a problem with that. I
8 think we should, this year, go back out again and look at
9 killer whales. I think to have not done it and see if that
10 level of decline continues would be a mistake. I don't know
11 how we're going to -- how or what we're going to evaluate the
12 cause of that but certainly it's a major resource in an area
13 that's providing a service that did decline directly at the
14 time of the Spill. So, I guess my pitch is that we ought to
15 include that one 4-2 project above the line in the total we
16 send to OMB and then evaluate that based on public comment with
17 the rest of comments that come back after we approve all these
18 other projects to go out to public review.

19 So I would move that killer whales be included in the
20 initial package that we send back and the total dollar amounts
21 that go to -- the initial package that goes to OMB and that we
22 then, as with all other projects, evaluate it finally in
23 December, whenever we get the public review.

24

25

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1 MR. McVEE: Second that motion.

2 MR. PENNOYER: Is there further discussion?

3 MR. BARTON: Mr. Chair.

4 MR. PENNOYER: Mr. Barton.

5 MR. BARTON: How much money is involved?

6 MR. PENNOYER: 127,000.

7 MR. COLE: Mr. Chairman.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: Are we going to face this periodically until
10 we say it's all right or, you know, we just as well do it this
11 time so we won't have to face it again in three more months.
12 So, I would say let's vote for it now and placate Mr. Pennoyer
13 and get it behind us.

14 MR. PENNOYER: Well, I think we're going to face all
15 these projects in three more months one more time. The problem
16 is I would at least like to see it on the list at the first
17 level it goes to OMB so it's not sort of precluded from
18 happening by us not delivering that initial estimate, if even a
19 lot of these projects could change in three months, depending
20 on public review and input we get.

21 Is there further discussion? Mr. McVee.

22 MR. McVEE: Yes. I think it's a question, I guess, in
23 looking at some of these projects, I thought maybe killer
24 whales fit into that, that when a damage assessment was going
25 on and, I guess, Steve you'd have the background on this, the

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1 question, I guess, was there a focus at that time to
2 identifying damages that could readily be established because
3 we were in the litigation mode, we were trying to identify
4 damages that we could take before the court that were clear-cut
5 and doing work on those kinds of resources where that was
6 established, and maybe some of the other resources because
7 there was great difficulty in establishing the relationships
8 between the Spill and what happened to a particular species
9 where it dropped off. And I wonder if killer whales fit into
10 that category.

11 MR. PENNOYER: I guess probably somewhere in between.
12 We didn't find too many dead killer whales. It was a little
13 hard to autopsy them or see directly what had happened to them.
14 Last year, I think, we dropped them out of the process. There
15 was a disagreement, and I think there still is a disagreement
16 in the linkage, however, we decided that last year it was
17 appropriate simply to write the report of what we found out in
18 damage assessment and then we could wait a year before going
19 back and reassessing what was happening with the population. I
20 think the reports I've seen are a mixed bag, or there certainly
21 is a direct coincidental tie with the Spill, particularly with
22 this one pod. And so, yeah, I'd say we may be in a different
23 mode now than we were, if that's your point.

24 Mr. Cole.

25 MR. COLE: One of the problems I've had with the study

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1 is what can we do about it if it's true? You know, we lost one
2 whale or two whales. I mean, what do we do about it? I don't
3 see much of a restoration project that we could adopt if we
4 were to approve the study but, nonetheless, your eloquence has
5 persuaded me.

6 MR. PENNOYER: Maybe I should leave well enough alone on
7 that. I guess

8 MR. COLE: I was thinking about that, yes.

9 MR. PENNOYER: I think that's what you were saying.
10 Well, there may be restoration things that will present
11 themselves, more protection to those animals, and a particular
12 pod from other incidental human interactions. There may be
13 things we can do the particular area that they occupy, and if
14 they are an important service that has been lost, for some
15 reason, and coincidentally with the Spill, and there may be
16 actions we can take. Other resources, including, in some
17 cases, murre and sea otters, who we're not sure yet what
18 restoration we're going to take -- activity, however, there was
19 damage.

20 So is there any objection to the motion? Thank you. I
21 appreciate that. Carried.

22 Are there other individual projects people wish to
23 discuss at this time?

24 MR. COLE: Mr. Chairman.

25 MR. PENNOYER: Mr. Cole.

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1 MR. COLE: I just would like a little information. Why,
2 for example, on the bald eagle study, number 52, where it gets
3 zero votes, would we send that out?

4 MR. PENNOYER: Mr. Cole, there are a number of zero
5 votes. Do you wish a review of the RT why the zero votes
6 occurred on the last seven projects?

7 MR. COLE: Well, it's no votes in favor of it and six
8 votes against it, and I would just like a statement of the
9 policy. I've said I would support sending all of these out,
10 but nonetheless, it would be comforting to know why I'm doing
11 it.

12 MR. PENNOYER: Mr. Cole, I very much agree with you, and
13 I think that we haven't reviewed any of the Restoration Team's
14 rationale on the individual projects, but those certainly do
15 stand out. And, perhaps, Mr. Gibbons, would you like to
16 comment on the zero votes; can you give us a generic thing or
17 do we have to discuss the individual projects?

18 MR. COLE: I just want to know why we would send out a
19 project that had no favorable votes and six opposition votes.
20 That's what I want to know, in case somebody asks me that
21 question, why we're doing it. I mean, you've talked about four
22 favorable votes and two negative votes in your situation, yet
23 we're sending out at least one, there may be another

24 MR. PENNOYER: Five.

25 MR. COLE: some of these with zero favorable

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1 votes. There must -- if that's the theory, then these other
2 200 of 350 would seem to qualify. I'd just like to know the
3 answer.

4 MR. PENNOYER: I was sort of asking Mr. Gibbons if he
5 could give me a reason why there was zero, because I don't know
6 the answer to that. I'm not sure exactly why we send out 1-5s
7 either. For that matter, there were a lot of them that had one
8 vote, and I'm not clear yet why one person voted for it. I'm
9 at a loss for

10 MR. COLE: I don't

11 MR. PENNOYER: discuss.

12 MR. COLE: I think I saw only one 1-5.

13 MR. PENNOYER: Was there only one? You're correct.

14 DR. GIBBONS: Mr. Chairman.

15 MR. PENNOYER: Five 3-3s and one 1-5 -- only one 1-5.

16 DR. GIBBONS: Mr. Chairman.

17 MR. PENNOYER: Mr. Gibbons.

18 DR. GIBBONS: Yeah, some of the explanations vary. Some
19 of them are legal. We got legal opinions from the attorneys
20 that said this was not legally possible, so basically we voted
21 0-6 on that. In particular, the bald eagle, both the chief
22 scientist and the Restoration Team found recovery has occurred,
23 and so no further action was needed on that. So, it kind of
24 varies by project.

25 MR. COLE: Mr. Chairman.

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1 MR. PENNOYER: Yes, Mr. Cole.

2 MR. COLE: Or are we being candid with the public if
3 we're saying that restoration has occurred, no need to do
4 anything in sending it out to the public?

5 MR. PENNOYER: Mr. Cole, I agree with you. I don't
6 think we are, and there's only one, two, three, four -- four 0-
7 6s and one -- five 0-6s left and one 1-5. It might not take
8 over 15 minutes for Mr. Gibbons to explain the reasons on those
9 and we can decide if we want to send them out or not.

10 MR. COLE: Whatever the Council would like in that
11 regard.

12 MR. PENNOYER: Would the Council like to hear that type
13 of review and then decide whether we send out the 0-6s and the
14 1-5? Mr. Sandor.

15 MR. SANDOR: Project 019 has six negative votes, but I
16 think it should be sent out because -- and maybe we're going to
17 get into this in project by project review, but that's the
18 Chugach region mariculture project. But the reason why or at
19 least the evaluation comments as a consistency with laws and
20 policies are unknown and approved for economic feasibility
21 studies only.

22 I'll call Trustees attention to Chenega Corporation's
23 memo which -- letter which was given to us this morning and
24 deals with these two projects. I would not want to see that
25 project not sent out or if it in fact is not going to be sent

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1 out, we need to, I think, deal with this unknown legal and
2 policy question, why it's an unknown or legality other than a
3 policy question, and that ought to be resolved. But perhaps
4 rather than doing it, we ought to just send it out earmarked
5 that way. But the point is I don't think we ought not to send
6 that one out, at least; I think we ought to send it out. I
7 think it depends on the reason for the no vote.

8 MR. PENNOYER: Maybe we should just do those. Let's
9 take about 15 minutes or so to do the five of 'em. Are you
10 interested in doing that? Mr. Barton. Mr. McVee.

11 MR. BARTON: Sure.

12 MR. PENNOYER: Okay. Starting with the mariculture --
13 do you want to do the 1-5 of just the 0-6s?

14 MR. BARTON: Why don't we do

15 MR. PENNOYER: Let's do it. The first project

16 MR. MORRIS: I'm sorry. I just want to point out that I
17 think there are no 2-4s even to worry about.

18 MR. PENNOYER: There's a 3-3, the then drops to 1-5 and
19 then 06s. So the first project on the list

20 MR. COLE: We should start with number one, shouldn't
21 we? 01 doesn't have any

22 MS. BERGMANN: 0-6.

23 MR. PENNOYER: Oh, I see, you want to start

24 MR. COLE: That's a 0-6. Let's go down the line.

25 MR. PENNOYER: 01?

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1 MS. BERGMANN: 93001.

2 MR. PENNOYER: Okay, I see your point. Gotcha'. I was
3 looking for the list in the back that had them in order that
4 were 1-5s and 0-6s. Let's start at the top then. I was
5 working from a different table.

6 MR. COLE: I was wondering where you've been.

7 MR. PENNOYER: I happen to have been presented with a
8 lot of material and I've been through it all.

9 (Indiscernible - simultaneous speech)

10 MR. PENNOYER: Okay.

11 MS. BERGMANN: Mr. Chairman.

12 MR. PENNOYER: Yes.

13 MS. BERGMANN: If I could speak to 93001. We talked
14 about it a little bit this morning, but I think one of the
15 important points that was left out on this, and it doesn't
16 appear anywhere in the text, is that the Restoration Team felt
17 that there was sufficient information to indicate that
18 recreation resources in fact were injured, and what we would
19 like to do is have the Trustee Council agree that that's the
20 case. That the Trustee Council agree that there's sufficient
21 information out there to state that recreation resources were
22 injured by the Spill, then in fact we need to go ahead and do a
23 study that would be similar to the one that received a 0-6
24 vote.

25 MR. PENNOYER: Ms. Bergmann, the problem I've got is

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1 that we heard this morning that we haven't been able to get the
2 information back from Justice. I don't think the Trustee
3 Council has got any idea how much information is out there, do
4 we?

5 MS. BERGMANN: Well, I think we have presentation --
6 you're correct, we don't have the specific information from
7 them, but we have all spoken with some of our attorneys who
8 have had the opportunity to look at that information and it's
9 their opinion that there is sufficient information within
10 that -- those documents to indicate that there was in fact
11 injury to recreation.

12 Our feeling was that rather than spend half a million
13 dollars or \$609,000.00 to document that again, it would be
14 better to go ahead and use that money to actually do direct
15 restoration, like building trails or building cabins or
16 whatever. The reason you don't see any of those proposals in
17 here this year is because we felt those were not time critical
18 projects.

19 So the text doesn't demonstrate that if the Trustee
20 Council does not believe that there is or was an impact to
21 recreation sources then, in fact, we do need to go back and
22 demonstrate that. And there are varying opinions among the
23 Restoration Team members about whether or not you can actually
24 do that four years after the fact.

25 As a social scientist and someone who is pretty familiar

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1 with survey research, I think it is possible to do that. It
2 would take a lot of money, and it would take a project that is
3 more focused than the one you see actually in the text in front
4 of you.

5 So that's why we gave the existing project, as written,
6 six no votes.

7 MR. PENNOYER: Further questions? Mr. Sandor.

8 MR. SANDOR: The comment under the evaluation says the
9 link to oil spill is -- the oil spill is unknown. Is that the
10 case then or not?

11 MR. PENNOYER: It's in the blue section? Well, it's a
12 blue

13 MR. SANDOR: But it says EVOS-linked impact unknown.
14 Tailor study to determine whether injury has occurred to
15 recreational services. I kind of question -- it seemed to me
16 that there would be linkage. But is that determination -- has
17 that -- I, perhaps, erroneously jumped to the conclusion that
18 those evaluation comments explained the yes and no votes.

19 MS. BERGMANN: The yes and no votes, you were provided a
20 package at the last meeting, and another black binder, and
21 there were statements that supported the different votes, and
22 those would be the more appropriate statements to look at
23 rather than that documentation you have in front of you.

24 MR. SANDOR: Excuse me. Then conversely, are we saying
25 that the linkage is known or not?

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1 MS. BERGMANN: We're saying that we believe, based on
2 our discussions with the -- our attorneys, that the information
3 that was developed but never completed through the Department
4 of Justice studies would allow us to say that recreation
5 resources were injured and that the Trustee Council, if they
6 agreed with that, rather than spend additional money trying to
7 document that injury, we can just go ahead and get on with
8 restoration.

9 So it's a real unique situation. We weren't quite sure
10 how to handle it.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: I move we delete project number 1, on the
14 ground that we know there was damage to recreational resources,
15 i.e., services, and that we should make a concentrated effort
16 to get that information from the Department of Justice, and not
17 spend the \$600,000.00 that's called for by this study.

18 MR. SANDOR: I'll second that.

19 MR. PENNOYER: It's moved and seconded that we drop
20 project number 1 from the list going out to public review. Is
21 there any further discussion? Is there any objection to that?
22 Mr. McVee, is there discussion?

23 MR. McVEE: Yes, a question. This would not preclude in
24 any way from this project reappearing in '94?

25 MR. PENNOYER: It's a sensitive motion, that we're going

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1 to get the other information and look at it. (Indiscernible)
2 if it's still identified, we could proceed with another project
3 that's equivalent.

4 MR. McVEE: No objection.

5 MR. PENNOYER: Okay. Going down this list, our next
6 project is number 19, a 0-6 vote; Chugach region village
7 mariculture project. Who wants to try that one?

8 DR. GIBBONS: Mr. Chairman.

9 MR. PENNOYER: Mr. Gibbons.

10 DR. GIBBONS: Last week I passed out a memo from the
11 federal attorneys, dated August 27th, and there's a discussion
12 of this project on that list, and the Restoration Team took
13 their advice in regards to the project.

14 MR. PENNOYER: I guess I don't understand the comments
15 in the blue section

16 DR. GIBBONS: Let me summarize that the Restoration Team
17 commented on -- based upon legal opinion, injuries to Native
18 economic well-being and self-sufficiency are not injuries for
19 which the natural resource trustees could seek damages. It is
20 a private cause of action for which the Native interests are
21 seeking damages from Exxon. Use of joint trustee fund monies
22 to restore injuries does appear appropriate.

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: Are those comments from the state attorneys

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1 or the federal attorneys?

2 DR. GIBBONS: This is from the federal attorneys,
3 Mr. Cole.

4 MR. COLE: I'm much relieved.

5 MR. PENNOYER: Do you wish to elaborate on that or is
6 anybody willing to make a motion on this project?

7 MR. COLE: Well, I move to send it out for public
8 comment and we can deal with the legalities as they surface
9 (ph) later.

10 MR. SANDOR: I second that. Especially with Chenega
11 Corp.'s memo and comments.

12 MR. McVEE: Mr. Chairman.

13 MR. PENNOYER: Mr. McVee.

14 MR. McVEE: Yes. Since we probably would not have had
15 legal review of -- collective legal review, at least, of all of
16 the projects on this list, I would propose that we do this and
17 include a statement in the cover letter to -- you know, to that
18 effect, that legal review may result in some of the projects
19 that are being submitted for public review being deleted, or
20 something to that.

21 MR. PENNOYER: Is there a second to that?

22 MR. SANDOR: Second.

23 MR. PENNOYER: It's been moved and seconded that we
24 include Mr. McVee's language, that joint legal review of all
25 these projects has not been possible and may result in some

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1 changes to the final approved list, or words to that effect.

2 Mr. Brodersen.

3 MR. BRODERSEN: We might want to reword that slightly
4 and say it's not completed, because the Restoration Team did
5 request that, and the legal people from both sides have been
6 working on this. I'm just not sure that it's completely
7 finished yet. So there's a slight difference in wording that I
8 think is fairly important.

9 MR. McVEE: Whatever is appropriate.

10 MR. PENNOYER: Any objection to the motion? Motion
11 passes. 19 goes out to public review, caveats included in the
12 total package about legal review.

13 The next 0-6 is restoration of murre by way of
14 transplantation of chicks -- feasibility study, number 21. Who
15 wants to do that one? Dave.

16 MS. BERGMANN: Mr. Chairman.

17 MR. PENNOYER: Did I miss one?

18 MR. COLE: No.

19 MR. PENNOYER: Ms. Bergmann.

20 MS. BERGMANN: That particular project, as we -- it
21 ended up that there was not a brief project description written
22 about that, and we went back and took a look at it and decided
23 that it was a project that was not time critical and that
24 should have been eliminated at -- during the first round of our
25 discussions, and so I think it may have been inconsistently

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1 presented in the text that we had. We basically ended up doing
2 a 0-6. It shouldn't have even been voted on in this round
3 because it should have been eliminated in the first round
4 because it is not a time critical project.

5 MR. COLE: I move we delete it.

6 MR. SANDOR: Second.

7 MR. PENNOYER: In the way of discussion, I note that
8 Dr. Spies says it's not likely to directly relate to
9 restoration of the species.

10 MR. SANDOR: Mr. Chairman.

11 MR. PENNOYER: Mr. Sandor.

12 MR. SANDOR: Yeah. I note Dr. Spies' ranked it --
13 scored it a 3, not likely to be directly affected. Is there
14 any problem in not sending it out?

15 MR. PENNOYER: Any further discussion on that, on
16 project number 21? Is there any objection to the motion?
17 Project 21 will not go out for public review.

18 The next one is 37/55, intertidal and sub-tidal
19 communities, experimental evaluation of oiled/control paired
20 design, 0-6. Dave.

21 DR. GIBBONS: Yes, Mr. Chair. The Restoration Team
22 thought there was no link to restoration. What this is is
23 validating existing designs that were used in the damage
24 assessment study, and was not truly a restoration project, and
25 was not needed for damage assessment.

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1 MR. COLE: Which number is it?

2 MR. PENNOYER: 37/55. Anything from Dr. Spies?

3 MR. COLE: I move we delete it.

4 MR. PENNOYER: I know Dr. Spies said that would not
5 provide the baseline data needed for determining with more
6 certainty the extent of sub-tidal injury.

7 MR. SANDOR: Mr. Chairman, I

8 MR. PENNOYER: He gave it a number 4, which was
9 inappropriate for restoration and would not contribute to the
10 recovery of injured resources.

11 MR. SANDOR: I guess, Mr. Chairman, the first sentence
12 of Dr. Spies' comments is: This project has merit mainly for
13 assessment of future spills. And part of our charge, is it
14 not, to look at future spills and how we respond to them? Is
15 it not?

16 MR. COLE: I don't think so. I mean, our charge is to
17 restore, replace, enhance and require.

18 MR. SANDOR: The Prince William Sound Science Center and
19 for other purposes, we are to also conduct studies and take
20 action which will better enable us to respond to the next
21 spill. Have I missed the boat? Yes, I have?

22 MR. COLE: Well, I'm taking the Fifth.

23 MR. SANDOR: Anyway, that's something then to deal with
24 with regard to the question of -- that basic question. But for
25 this one, everybody agrees it ought to be -- Dr. Spies says

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1 sub-tidal injury will not provide the baseline data, and
2 the

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: This project gets zero votes in the
6 Restoration Team, and Dr. Spies labels it number 4. What
7 justification is there for sending it out? I mean, if there's
8 some, I'll favor it.

9 MR. PENNOYER: I'm not clear that the question of
10 whether we -- some of our work has the effect of better
11 preparing us to deal with evaluation of future spills is not
12 something we should look at but doesn't seem to be time
13 critical in this case anyhow. I would assume there's no need
14 to do it this year.

15 Mr. Sandor.

16 MR. SANDOR: I agree with that, but can someone just
17 explain this blue comment, careful attention to what is an
18 oiled area and what is a control area in the technical
19 approach. What does that mean?

20 MR. PENNOYER: This is one of our projects. Everybody
21 voted against it. Can you tell me about that one?

22 MR. MORRIS: It was a public idea that was assigned to
23 us to denote the project description. I'm not sure what you
24 are looking at there.

25 MR. PENNOYER: This is a blue table comment that is a

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1 reflection of evaluation comments. It says: Careful attention
2 to what is an oiled area and what is a control area in the
3 technical approach. It's an ambiguous statement.

4 MR. SANDOR: I'm trying to figure out what it means.

5 MR. MORRIS: Mr. Chairman, the assumption of the
6 proposal was that you could have differences in control areas
7 regardless of whether they were oiled or not. In the design of
8 the Coastal Habitat Damage Assessment Study looked to control
9 theirs versus those that were oiled. And this project would
10 just look at randomly picked control areas and see what changes
11 occur in the intertidal fauna and flora of them, independent of
12 any oil effect.

13 MR. PENNOYER: Dr. Spies, you have a comment?

14 DR. SPIES: I was going to say, yeah, Byron is
15 essentially correct. They're trying to sort out differences
16 that may occur between areas that were subsequently oiled and
17 natural differences. For instance, if oil was to hit the
18 coastline of an island, mainly just hit the points and not the
19 back bays, there might be some natural differences in the
20 communities of organisms that live on the points in the back
21 bays. One could misinterpret, based on a study that had no
22 baseline data, one could misinterpret the injury as being due
23 to oil -- or differences being due to oil. I think that's one
24 of the basic ideas involved here.

25 MR. SANDOR: Thank you.

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1 MR. PENNOYER: I'm still not totally sure of what this
2 -- I don't know what the words in there mean. Is someone
3 totally sure about the 0-6 vote?

4 MR. MORRIS: They further felt in the vote that the
5 design of coastal habitat study was heavily involved with peer
6 review and was a satisfactory design, and we didn't need a
7 further study to verify that design.

8 MR. PENNOYER: Again, this is something that should be
9 done in the future if we change our view on that? Is this an
10 analysis of past data?

11 MR. MORRIS: This it wouldn't involve an actual field
12 project.

13 MR. PENNOYER: But it's still a field project,
14 differences that could be looked at later?

15 MR. MORRIS: Yes.

16 MR. PENNOYER: It's been moved and seconded that we drop
17 project 37/55 from the list to go out for public review. It's
18 \$201,700.00. Is there any objection to that? The project is
19 dropped from the package.

20 The next one is a 1-5 project, 40/54, long-term
21 ecological recovery monitoring program, what was 1-5,
22 \$234,000.00. Dave.

23 DR. GIBBONS: Yes. This is a continuation of the
24 response study initiated in 1989 by Exxon and then continued on
25 by the HAZMAT group in 1990, and it looks at the effects of

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1 cleaning on the natural recovery, and the Restoration Team
2 thought it was more appropriate to fund this out of restitution
3 funds rather than the joint funds, or another option would be
4 to include it in project 41, which is a development of a long-
5 term -- or a monitoring program. And if needed, it would fit
6 there, but not a stand-alone program.

7 MR. PENNOYER: Maybe I'm confused. If it was melted
8 into 41 would 41 still be \$237,900.00?

9 DR. GIBBONS: Yeah, 41 is a development of a monitoring
10 program plan to tell us that, yes, we need to monitor murre
11 every year, every other year or ever third year, whatever it
12 is. And the monitoring plan would be part of the Restoration
13 Plan. It will lay out a monitoring program, and if it's deemed
14 necessary that the project 040/054 be done, it would be more
15 appropriately included in that. At a later time, after the
16 Restoration Plan is finalized.

17 MR. PENNOYER: So you're asking to do planning under 41
18 first before you do the project that might result from the
19 planning?

20 DR. GIBBONS: That's correct.

21 MR. PENNOYER: Do I have a motion on that one?

22 MR. SANDOR: Move to delete.

23 MR. PENNOYER: It's been moved to delete projects
24 040/054. Is there any further discussion?

25 COURT REPORTER: Mr. Chairman.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: I would just like to observe that in the
3 restoration monitoring comments on project evaluation factors,
4 it says the in-point -- I think it's supposed to be is
5 information that helps determine type and cleanup of future
6 spills. So I think we will want to look at that in the future,
7 from that standpoint as well.

8 MR. PENNOYER: Is there a significant loss in
9 information to be acquired by waiting until 041 is completed
10 before we decide what (indiscernible) we might want to do?

11 MR. MORRIS: Let me speak to that a moment. The focus
12 of this study is the -- basically the effect of the hot water
13 treatment to some of the shorelines had in addition to just the
14 fact that they were oiled, and there seems to be a significant
15 slower recovery of the beach segments that were treated with
16 hot water washing than just the ones that were oiled and either
17 cleaned with cold water wash or left to clean themselves.

18 Depending on the rate at which this depression and
19 recovery continues at these hot water washed sites, you could
20 maybe skip a year and take it out, or it could catch up with
21 the other shorelines segments. In a year, you'd miss that
22 information if you didn't go out there.

23 MR. PENNOYER: Dr. Spies.

24 DR. SPIES: Mr. Chairman, there are other sponsors for
25 this research, so some of it will be carried forward then. I

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1 think the Marine Spill Response Corporation, among others, is
2 sponsoring ongoing studies. Am I clear?

3 MR. MORRIS: That was the information we had a month
4 ago. The latest information is there is no funding for this
5 project beyond this year.

6 MR. PENNOYER: The motion seconded, I believe, to delete
7 this project, pending a conclusion of 041. Is there any
8 further discussion? Is there any objection to it? 040 is
9 deleted from this package.

10 The next project that I have on the list is
11 communications, we already dealt with that one, and then bald
12 eagle habitat, identification and protection, 0-6 vote,
13 188,000. Mr. Gibbons.

14 DR. GIBBONS: Yes, just briefly, the Restoration Team
15 felt that bald eagles seem to have fully recovered, and the
16 chief scientist also indicates that there's no continuing
17 injury there.

18 MS. BERGMANN: Mr. Chairman.

19 MR. PENNOYER: Ms. Bergmann.

20 MS. BERGMANN: I would like to have this particular
21 project go forward for public review because there is a peer
22 reviewer who does not agree necessarily with that assessment.
23 We've been having trouble getting -- he's been doing field work
24 this summer and we've had trouble getting him together with the
25 chief scientist to have a discussion about that. And so before

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1 we eliminate this one for any further consideration, I would
2 like to see it go forward so we have a chance to have that
3 discussion received, if there's additional information we need
4 to take into account for bald eagles, before we shut the door.

5 MR. PENNOYER: One question. Would the difference of a
6 year make a difference or is this a time -- it might be time
7 critical?

8 MS. BERGMANN: Yeah, there's some folks who are saying
9 that we wouldn't start seeing impacts to bald eagles from the
10 nest -- from the failure of reproduction in the Sound until
11 this year or next year, so I would safely like to see this go
12 forward to the public and so we can have some additional
13 discussions of chief scientist and the peer reviewer who holds
14 that opinion.

15 MR. PENNOYER: Dr. Spies.

16 DR. SPIES: I just want to comment on Dave's
17 characterization. One of the principles I've tried to use is
18 we can't measure a population level effect, particularly on the
19 adults of the species. I'm not sure we should be engaging in a
20 recovery type program where we can't measure the effects of
21 what we're doing. One of the principles I've tried to use in
22 the guidelines of the projects, and the bald eagle studies that
23 have been going on are quite good, it's just that there are a
24 lot of variance in the data and it's very difficult to see
25 significant change. But within my judgment, based on the

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1 comments of some peer reviewers and my own evaluation, it's
2 going to be very difficult to detect the sort of change that
3 one might hypothesize could have taken place as a result of the
4 reduced reproduction in '89 and '90, and that success
5 particularly from bald eagles, and that's my recommendation.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: I move, in view of the comments from
9 Ms. Bergmann, that we leave it in, subject to further review.
10 Another reason for that is also the bald eagle is a species, if
11 that's the term, for which the public, I think, has a
12 particular interest, and it would, therefore, be well to have
13 public comment on that.

14 MR. PENNOYER: Mr. McVee.

15 MR. McVEE: I'll second that. My understanding, or one
16 of the problems is that the census is run on birds which have
17 developed the white heads, and that it takes five years or five
18 plus years before they reach that age of maturity, and
19 therefore, you know, we still have this question concerning
20 injury or damage. But I believe the rationale that Attorney
21 General added to the motion, I believe, is apropos, and that,
22 you know, this is a species which has a great deal of public
23 interest.

24 MR. COLE: Yeah, like killer whale?

25 MR. PENNOYER: Well, since you put it that way, how

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1 could I object.

2 Any further discussion of this project? Is there any
3 objection to retaining it in the list that goes out to public
4 review? 052 has been retained, \$188,000.00 to go out in the
5 public review package.

6 I think that's the last of the 0-6 and 1-5 projects, and
7 also I missed one here.

8 MR. COLE: Mr. Chairman.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: Having completed that satisfactorily, I hope
11 -- I would like to have a -- since we're in this maelstrom, a
12 review or comments on project number 28. I have a lot of
13 difficulty with the theory underlying 28, and 29, for that
14 matter, but let's start with 28.

15 MR. PENNOYER: Mr. Gibbons.

16 DR. GIBBONS: I defer that discussion to Ray Thompson,
17 Forest Service.

18 MR. COLE: Excuse me. Let me just comment on this, if
19 you don't mind. Here's what underlies my concern about it. As
20 I looked at the supportive data, this is a project which deals
21 with lands uplifted by the earthquake, and as a result of the
22 uplift from the earthquake, these lands are no longer
23 essentially wetlands, but the normal ecological processes are
24 operating so as to cause a growth of plants and young forest in
25 the uplifted areas. And the issue that I see presented by this

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1 study to the Trustee Council is whether we should seek, by
2 virtue of the expenditures of funds here, to reverse that
3 process and to reverse the natural process caused by the
4 earthquake and cause these lands to be -- to revert to
5 wetlands.

6 Have I analyzed the project accurately? That's what I
7 understand it to be. That gives me some concern of why we're
8 interfering with the natural results of the earthquake as part
9 of the study. I would like to

10 MR. THOMPSON: Mr. Chairman.

11 MR. PENNOYER: Yes.

12 MR. THOMPSON: Is this thing on?

13 MR. PENNOYER: Yes.

14 MR. THOMPSON: I'm just generally familiar with this, in
15 sitting in for Ken Rice today, but I think there is some
16 opportunity to maintain what is disappearing out there as a
17 result of an uplifting, and one of the ways that we can do that
18 is through the Oil Spill funding. And without going through
19 here, Mr. Chairman, and reading some of this, I'm not extremely
20 familiar with the details of this project to argue against
21 Mr. Cole's.

22 I guess, Dave, if you have something that's come out in
23 your arguments with the RT that I haven't been privy to, I'd
24 appreciate you filling in on those, 'cause I'm only generally
25 familiar with this concept.

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1 DR. GIBBONS: The thinking -- Mr. Chairman, the thinking
2 behind the Restoration Team, I believe, was a replacement
3 action for oiled wetlands. An opportunity was there that we
4 create 60-plus acres of wetlands, and that was just a
5 replacement action for oiled wetlands.

6 MR. PENNOYER: This is to study that feasibility; this
7 isn't actually doing it.

8 DR. GIBBONS: That's correct. Any other comments on
9 that, Mr. Cole?

10 MR. PENNOYER: It's characterized by Dr. Spies as a
11 enhancement opportunity. It's not a direct oiled wetland
12 improvement, but it's a creation of wetlands which may -- to
13 balance other wetlands which may have been lost, and I guess
14 the whole question on enhancement is one which we're having to
15 wrestle with, but this is a study to look at the opportunity to
16 do that, even though it was caused by the earthquake.

17 MR. COLE: That I understand. It's the theory of
18 whether we should be out saying let's reverse in the nature
19 of -- under the mantle of restoration. We're really restoring
20 damage caused by the earthquake, actual uplands. I mean,
21 that's what we're doing. We're not restoring the effects of
22 damage to the natural resource from the Oil Spill, we're
23 restoring lands from damage caused by the earthquake. You
24 know, if Council wants to say that that's one of the functions,
25 what we ought to be doing, I'm not going to say no and vote

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1 against it. But it seems to me that we should recognize
2 plainly what we're doing.

3 MR. PENNOYER: Mr. Cole, whether it was damage caused by
4 the earthquake or just an opportunity out there that didn't
5 exist before, if creation of wetlands for waterfowl and
6 anadramous fish is a replacement service to something that
7 might have been lost in the Spill, just because it was the
8 earthquake or maybe was just the way the land happened to be
9 configured at the present time wouldn't make any difference.

10 I don't know that we've made the judgment that we're
11 replacing wetlands yet. But if the opportunity was there and
12 available, whatever the cause originally was, and we could
13 replace the service lost due to the Spill, or enhance a service
14 done in the Spill; is that the issue?

15 MR. COLE: Well, I think the issue is -- the basic issue
16 is can we spend this money more fruitfully, restoring damage to
17 resources from the Oil Spill rather restoring damage to
18 resources from the earthquake. I mean,

19 MR. BRODERSEN: Mr. Chairman.

20 MR. PENNOYER: Mr. Brodersen.

21 MR. BRODERSEN: On this issue of oiled wetlands, it's a
22 very limited habitat in the Spill area, and, therefore, one
23 could either argue that it's very, very important in its
24 limited aspects or else it's unimportant because it is limited,
25 but either way, the wetlands that were oiled, from what I've

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1 been able to gather from talking to peer reviewers, technical
2 experts, et cetera, that the best thing we can do for those
3 oiled wetlands is to leave them alone. So as a replacement
4 action, in the meantime, for those oiled wetlands, this was one
5 possibility we wanted to look at on a feasibility basis to see
6 if we wanted to do a replacement action for those wetlands that
7 are probably best left to Mother Nature, in terms of repair.

8 MR. PENNOYER: Mr. McVee.

9 MR. McVEE: I don't have any problem with the
10 replacement concept. I guess I had some problem with these two
11 projects, 28 and 29, from the standpoint of being, you know,
12 time critical, but if they were something that needed to be
13 done now this year, '93, or lose an opportunity, I didn't see
14 that in those projects. That's another major question, but
15 something that I think could be resolved from the public
16 comment process. We have to revisit it again. Thank you.

17 DR. MONTAGUE: Mr. Chairman.

18 MR. PENNOYER: Mr. Montague.

19 DR. MONTAGUE: There are a few points, I guess, that we
20 might have overlooked on -- particularly on the wetlands
21 project. River routers were damaged, sea ducks were damaged,
22 anadramous fish were damaged, and a natural loss of this
23 wetland will indeed be an additional vertibation (ph) to all
24 those species that were injured.

25 So, I guess, we thought about the relationship to the

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1 earthquake but we just looked at it purely in terms of its
2 restorative value, and it seemed quite -- you know, without a
3 formal cost benefit analysis it seems quite cost effective,
4 say, compared to acquisition of habitats with -- we are
5 proposing to do to prevent further damage. And this prevents
6 further damage from nature to habitat that's useful to injured
7 species.

8 And in terms of its time criticalness, I know there was
9 an effort on our part, with very great sensitivity, that
10 projects that really did something, as opposed to further
11 study. So the fact that these projects are really doing
12 something was something that we looked at favorably.

13 MR. COLE: Mr. Chairman.

14 MR. PENNOYER: Mr. Cole.

15 MR. COLE: Well, this natural process has been going on
16 what now, 30 years. To say we ought to jump in and maybe do it
17 right away doesn't follow, number one, and number two, if you
18 look at it, this project isn't supposed to be completed until
19 1998, as I read the supporting data. That's a six-year
20 project. That's getting out there a bit, and how much money are
21 we going to spend on this project in the interim if it's really
22 going for six years, if you look at the backup materials.

23 MR. PENNOYER: I believe that's in fact if we decide to
24 go ahead with it. The study, to start with, is just to look at
25 the feasibility of doing this. Is that correct, the technical

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1 feasibility of doing it? Anybody have any idea if we're buying
2 into a \$30 million project here or what are we buying into?

3 MR. SANDOR: I can't answer that. I have another
4 question.

5 MR. PENNOYER: I think the first year was the study, and
6 the long-term buying into it is only if we decide to go ahead,
7 based on evaluation.

8 MR. COLE: Well, but here, unless we have the sense that
9 we're going to go ahead with it, in my view, we shouldn't be
10 spending money to start it, number one, or think about doing
11 it, the feasibility. And number two is the implementation of
12 the project construction is planned for four years. Do we have
13 any sense of how much it's going to cost us over to divert in
14 this area the effects of the earthquake?

15 DR. MONTAGUE: Mr. Chairman, yes, we do, in the budget
16 document.

17 MR. COLE: It's \$4 million.

18 DR. MONTAGUE: We're talking about project 28?

19 MR. PENNOYER: Yes, project 28.

20 DR. MONTAGUE: Mr. Chairman, it will be 82,000 in '93,
21 135 in '94, 195 in '96 and '97, and that's the total.

22 MR. PENNOYER: That includes implementation?

23 DR. MONTAGUE: Yes.

24 MR. PENNOYER: How much total?

25 MR. BRODERSEN: About 425,000.

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1 MR. PENNOYER: That's half a million. So the evaluation
2 part of it is 82,000, and then the implementation part of it is
3 350 or something?

4 DR. MONTAGUE: Roughly.

5 MR. PENNOYER: If we decide to do it.

6 DR. MONTAGUE: Mr. Chairman, I think it's also important
7 to note, I believe, on this project that logging operation are
8 going to be constructing a road near that site, and I think a
9 lot of the heavy equipment might have been -- this budget
10 reflects some heavy equipment would not be charged to the
11 Council.

12 Is that correct, David?

13 DR. GIBBONS: Mr. Chairman, yeah, there's an opportunity
14 there that perhaps we can use the equipment that's building the
15 Montague Road presently as we speak. The logging operation --
16 future logging operations to cut the -- reduce the costs down.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: Yes, I think it's a mistake to look at this
19 from the standpoint of correcting some damage from the
20 earthquake. It's rather taking advantage of an opportunity to
21 replace a resource that was damaged as a result of the Oil
22 Spill.

23 MR. PENNOYER: Do we have a motion on the floor? We're
24 just looking at the project.

25 Mr. Cole, do you have anything else you want to mention

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1 about that project, a motion you with to make?

2 MR. SANDOR: I have a comment, Mr. Chairman.

3 MR. PENNOYER: Mr. Sandor.

4 MR. SANDOR: I think the project ought to go forward for
5 public comment, but in addition to the concerns already for us,
6 I think that the question that's got to be answered is the 28
7 years of succession, moving in the direction it's moving, which
8 is away from habitat or trying to recreate. What would we
9 expect to be able to maintain? Continual re-flooding of the
10 uplifted lakebed, and if we're doing that, where are we
11 diverting water from and what are the impacts of the diversion
12 of water? So, there's a lot of far-reaching questions
13 associated with trying to manipulate this major succession and
14 process that we would hope to -- I can't believe we can hope to
15 divert that major successional change with \$400,000.00, and I
16 think that's just the beginning. When we come back to this in
17 December, or whenever, maybe that would be a question to try to
18 answer. I have problems with it. I don't have any problems
19 with it going out.

20 DR. GIBBONS: Mr. Chairman.

21 MR. PENNOYER: Mr. Gibbons.

22 DR. GIBBONS: Mr. Chairman, the way I understand the
23 project is the uplift changed the hydrology of the 60-plus
24 acres. They're starting to define channels now, it's draining
25 the wetlands in the channels and small conifers, four to six

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1 feet high, are starting to grow now. That's what I understand
2 the project to be.

3 So what the project proposal might be would be to put
4 some check dams in to re-flood the wetland area, put some check
5 dams into the channels.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: Well, like I say, I'm not going to vote
8 against it now, but I agree with Commissioner Sandor, it's a
9 project which I have some concern, and one of the concerns is
10 can we spend this prospective \$400,000.00 more effectively on
11 other restoration or acquisition proposals than try to
12 interfere with the natural processes of nature rebuilding from
13 the earthquake. So, let's just leave it in there.

14 MR. PENNOYER: Any objection to sending it out to public
15 review? There's no motion on the floor, so lacking a motion, I
16 think project 28 will go out to public review, with the caveat
17 that further explanation in December, whenever, on the
18 opportunities and value of habitats we're trying to create,
19 recreate, whatever, might be appropriate.

20 MR. SANDOR: And maintain.

21 MR. PENNOYER: Recreate and maintain. A dike -- it
22 doesn't say a dike over. This isn't very helpful.

23 MR. COLE: Mr. Chairman, just bringing in those
24 bulldozers and belly dumps and everything else into to this
25 nicely developing 60 acres out there just gives me the willies,

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1 I can tell you. We may wind up with something far worse than
2 that -- than we started with, but let's take a look at it in
3 December.

4 MR. PENNOYER: We have to make sure we didn't classify
5 that logging show as an imminent threat though.

6 Okay, next, any further questions on projects?
7 Mr. McVee.

8 MR. McVEE: I have a question on 33; 93003, which was
9 how to conduct restoration monitoring.

10 MR. PENNOYER: Okay, go ahead.

11 MR. McVEE: And this project is limited to Prince
12 William Sound and Afognak. I guess the question was, since
13 there is other harlequin duck habitat on the Kenai, in between
14 Prince William Sound and Afognak, was there some reason why
15 that wouldn't be included or wasn't included; can someone
16 answer that?

17 DR. MONTAGUE: Mr. Chairman.

18 MR. PENNOYER: Mr. Montague.

19 DR. MONTAGUE: This project was presented in three
20 options. The one that you see here, two was the addition of
21 work on the Kenai Peninsula, and three was addition of work on
22 the Kenai Peninsula and the Alaska Peninsula. And I think
23 primarily, just in terms of cost considerations, the least
24 expensive and most focused project was the one that was passed.
25 Now, certainly we think that that is a poor decision. We

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1 addressed that, and we considered it.

2 MS. BERGMANN: Mr. Chairman.

3 MR. PENNOYER: Ms. Bergmann.

4 MS. BERGMANN: I want to make one correction to that
5 statement that Jerome made. The options that we were given
6 included looking at the determination of injury on the Kenai
7 Peninsula and Katmai Coast rather than looking at habitat and
8 trying to characterize the habitat. So we were not really
9 given an option of looking at doing habitat characterization on
10 the Kenai Coast, which is something that Mr. McVee was
11 referring to and in which, as the Restoration Team
12 representative of DOI discussed and did support at the
13 Restoration Team level.

14 DR. MONTAGUE: Mr. Chairman, to further elucidate Pam's
15 comment, Afognak was viewed -- let me back-off a little bit on
16 that -- habitat characteristics for nesting and so on, the peer
17 reviewers and the Restoration Team wanted harlequin habitat
18 information that was in areas that were viewed to be
19 considerably different than what had already been studied in
20 western Prince William Sound, and Afognak, we viewed it as
21 being a fair amount more different than Prince William Sound
22 that say the Kenai Peninsula. So the ability to extrapolate
23 Prince William Sound information to the Kenai Peninsula, we
24 deemed a lot more plausible than extrapolating Prince William
25 Sound information to Afognak. And it was just a slight

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1 difference in priority, I believe, that the group and chief
2 scientist felt that if you're only going to look at habitat in
3 one area -- one new area other than western Prince William
4 Sound, Afognak would be the highest priority. Not that it
5 wouldn't be important elsewhere, but it would be the highest.

6 MR. McVEE: Mr. Chairman.

7 MR. PENNOYER: Mr. McVee.

8 MR. McVEE: I guess this bothers me in that these
9 habitat studies, as I mentioned before today, will be the basis
10 for designing a habitat protection program, which could be
11 acquisition, too. And this would bother me -- it would bother
12 me that we may have a gap here in terms of harlequin duck
13 habitat, which has not been looked at or inventoried because
14 the project has been restricted to exclude the Kenai.

15 MR. PENNOYER: Mr. McVee, what are you suggesting, an
16 expansion of the project?

17 MR. McVEE: Yes. I'm suggesting and I'm not quite sure
18 how to do that now other than we can let the project go forward
19 for public review with the kind of comment we have on it, but
20 when we come down to the December date, whenever that is, I
21 guess I will again be on the subject, and I think it should be
22 given some thought as to what kind of additional costs that's
23 going to be and where it should stand in the priority system,
24 and -- maybe I'm getting my comments in before the public is,
25 that's what I'm doing, I guess.

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1 MR. PENNOYER: In terms of doing something, was there a
2 proposal that was turned down by the RT -- I mean was there
3 anything on the table with a dollar amount attached to it that
4 included the Kenai?

5 DR. MONTAGUE: Mr. Chairman, there was. It included the
6 Kenai, but it was a damage assessment component. Habitat
7 component has not been presented, but, I believe, speaking for
8 staff, we could revise that -- the current one that you have in
9 front of you to include a habitat evaluation on the Kenai
10 Peninsula, and

11 MR. PENNOYER: Is there a

12 DR. MONTAGUE: shooting from the hip, I would say
13 on the order of about 250 to \$300,000.00 addition.

14 MR. PENNOYER: Additional?

15 DR. MONTAGUE: Yes. The damage assessment project was
16 about a \$200,000.00 additional, and habitat work is more
17 expensive in the damage assessment.

18 MR. COLE: Mr. Chairman.

19 MR. PENNOYER: Mr. Cole

20 MR. COLE: I move to expand it, but to extend no more
21 than \$100,000.00.

22 MR. PENNOYER: Any project design in mind?

23 MR. COLE: Well, yeah, I mean, you know

24 MR. PENNOYER: I'm being facetious.

25 MR. COLE: I think a lot of these things

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1 MR. PENNOYER: I haven't seen a project out here and I
2 don't know what

3 MR. COLE: Well, they know what we're talking about.

4 MR. PENNOYER: off-hand \$200,000.00

5 MR. COLE: Just -- you know, we just don't need, you
6 know, somebody getting a doctorate degree in this project. You
7 know, just give us a real good sense for \$100,000.00 what it --
8 you know, so we can make some decisions on it. I think that
9 ought to be enough. Maybe I'm off the track, but 100,000
10 should be enough to send somebody out there to take a look for
11 a couple weeks.

12 MR. PENNOYER: The project is currently at \$506,000.00,
13 including Afognak and Prince William Sound, so is that about a
14 quarter-million each or something? Am I in the right

15 DR. MONTAGUE: Mr. Chairman, no. Most of 75% of the
16 cost is for Afognak because the habitat work is more expensive
17 than the damage assessment. Most of the Prince William Sound
18 work is directed at further evaluating linkages to oiled mussel
19 beds and so on and so forth, with a minor component to damage
20 assessment. Most of this project is the habitat work, and the
21 reason -- one of the reasons or the primary reason for the
22 increased cost, compared to Prince William Sound, is in Prince
23 William Sound small boats were used, and the investigators and
24 most of those familiar with the area felt that the outer Kenai
25 coast and Afognak cannot be adequately supported out of a 20'

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1 Boston Whalers, that it would need a sizable vessel, and that's
2 where most of the cost additions were associated with 'em.

3 MR. COLE: You don't need the QE-2 either.

4 MR. PENNOYER: Mr. McVee, did you have something
5 additional?

6 MR. McVEE: No.

7 MR. PENNOYER: Mr. Sandor.

8 MR. SANDOR: Well, in reviewing the project description
9 in the blue sheet project description in the evaluation
10 comments and Dr. Spies' comments, I had, I guess, a erroneously
11 concluded that the description in the blue that this was at
12 least to be related and integrated with the previous
13 information gathered in 1992, and there is a sentence in this
14 that says field evidence collected in 1992 has shown additional
15 previously unreported oiled mussel beds in Prince William Sound
16 and on the Kenai coast and I know that the oiled mussel bed
17 studies covers harlequin ducks. In fact a intensive study of
18 that this year, and aside from not knowing what that evaluation
19 comment is, I'm persuaded by Dr. Spies' comments, the comment
20 that this is a worthwhile project on an injured species.

21 Before laying out another one or \$200,000.00 on this,
22 maybe if the descriptions of the projects were incomplete or if
23 in fact I guess Dr. Spies and the peer review group provided
24 some information that the project ought to be rewritten, it
25 seems to me, I guess, that if we're talking about jumping this

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1 up from 500,000 to 700,000, that's a major project change. I
2 guess it's surprising to me that this comes up at this point.
3 I hate putting Dr. Spies on the spot but say the project is
4 very worthwhile, it ranks 2, do you see the need for additional
5 investment of \$200,000.00?

6 MR. PENNOYER: Dr. Spies, would you comment on the need
7 to do Kenai habitat as well as Afognak habitat and Prince
8 William Sound restoration monitoring?

9 DR. SPIES: It arises out of more of a concern, as
10 Jerome said, as the -- to what extent you can extrapolate the
11 findings of Prince William Sound. There's just a lot of
12 uncertainty as to -- if you're going to be making a potentially
13 multi-million dollar decisions on habitat acquisition on the
14 Kenai based on projections of habitat information developed in
15 Prince William Sound, well, (indiscernible - away from
16 microphone - coughing) sound thing to do or perhaps we should
17 invest some more money covering that base to make sure that we
18 understand the habitat would be (indiscernible) ducks on the
19 Kenai Peninsula.

20 MR. PENNOYER: Could be reach a compromise here,
21 perhaps, gentlemen, and ask the Restoration Team to design a
22 project, even make it a second one, 33-A? We can't do that,
23 okay.

24 MR. BRODERSEN: A new number, but not an A.

25 MR. PENNOYER: Okay, let's forget the A and give it some

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1 other number, to include expansion, research of the Kenai
2 Peninsula and send that out to public review and we will review
3 it when it comes back, and that it is their best estimate of
4 \$200,000.00. Then we certainly could review that comment and
5 drop it or modify it in December based on public comment, if so
6 wished.

7 Is that what you had in mind, Mr. McVee?

8 MR. McVEE: That's fine with me. It might be that a
9 sampling -- a sample technique of some sort without a
10 full-blown inventory of all habitats might fit the bill, but I
11 think that without some information there, we've got a gap, and
12 this is kind of part of the problem I had talked about before,
13 I guess, in terms of inconsistencies, the way we approach
14 various resources. But I would think your suggestion would do
15 it.

16 MR. PENNOYER: Do you want to put a bounds on that since
17 we're not going to come back and revisit it, it's going to go
18 out under our letterhead, a hundred to 200 or something, to
19 keep it -- try and get a sampling technique to keep the price
20 down as much as possible? See if answers from Afognak couldn't
21 be connected to the Kenai -- a sub-sampling on the Kenai or
22 something?

23 MR. COLE: Mr. Chairman, you know, we should point out
24 so everyone knows this project is to be \$506,000.00 in '93, and
25 another \$500,000.00 in '94, and that the project will not be

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1 completed until we get results back in '95. So we're making a
2 multi-year commitment for this project. We should be aware of
3 that when we vote on this, and I personally feel that a million
4 dollars or more for this study is a lot of money for this
5 particular study, and I think that we could achieve the type of
6 information required for us to make decisions on restoration
7 for the harlequin duck for less money. I don't think we need
8 these definitive studies. I think that we would -- could make
9 more of a sampling type studies so as to furnish us with the
10 requisite information. That's my only thought.

11 MR. PENNOYER: Do you want to highlight this particular
12 study and ask in December after the public review of this plus
13 the non-sub-A alternation that we get back some rather
14 highlighted discussions on why this level of sampling is
15 required and why in fact we couldn't do it for a lower price?

16 MR. COLE: Mr. Chairman, you know, we get criticized for
17 spending too much money on studies that are out there in the
18 public -- too much money on studies, and I think that we have
19 to be cognizant of that criticism. I think it's a legitimate
20 comment. I do think we need these studies, but we must keep
21 the study in balances so it provides us only the information
22 that we essentially need to make decisions for restoration.

23 MR. PENNOYER: Any further comment? Is there any
24 objection to the non-sub-A modification going out to public
25 review, as inexpensive as possible, adding the Kenai Peninsula

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1 on the samplings (indiscernible) or something to the Afognak
2 part of the study? Is that okay, Dave, from a Restoration Team
3 standpoint?

4 DR. GIBBONS: (Nods head affirmatively)

5 MR. PENNOYER: Is there any objection to that? Was
6 there a motion that was seconded? It's done, okay.

7 MR. COLE: Mr. Chairman.

8 MR. PENNOYER: Okay, next project.

9 MR. COLE: I move we delete project number 29.

10 MR. PENNOYER: Is there a second to that.

11 MR. SANDOR: Yes, I'll second that.

12 MR. PENNOYER: It's been moved and seconded that we
13 delete project number 29, Prince William Sound second growth
14 management, which was a 5-1 vote of \$62,000.00.

15 Mr. Cole, do you want to speak to your motion?

16 MR. COLE: Well, the introduction on the project number
17 comment reads as follows: Prince William Sound area has
18 several watersheds on national forest lands for timber.
19 Harvest occurred in the early '70s. These cuts were made
20 without an understanding of an optimum stand structures for
21 wildlife populations. As a result of these harvest practices,
22 succession to old growth will be delayed as much as 75 years.
23 Old growth dependent species such as river otter, marbled
24 murrelet, harlequin duck, involve the eagle are therefore being
25 negatively impacted. Managing second growth in Alaska's

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1 coastal rain forest with emphasis for fish and wildlife has
2 been a documented practice -- and so forth. But as I
3 understand this project, we are undertaking to manage the
4 second growth on national forest land -- for what, thinning
5 process? I think that's inappropriate for a Trustee Council
6 expenditure of funds. I think that management of national
7 forest lands is a function of the Department of Agriculture,
8 and it's their responsibility to manage those lands in the
9 public interest.

10 MR. PENNOYER: Mr. Barton.

11 MR. COLE: I had to say that.

12 MR. THOMPSON: Mr. Chairman.

13 MR. PENNOYER: Yes.

14 MR. THOMPSON: Yes, I'd just like to respond to that. I
15 think that there is an opportunity here to, you know, write
16 some wrongs possibly, but these stands, they are in the
17 proximity of the Oil Spill, adjacent coastlines and so forth,
18 and they very likely are habitat for a species that were
19 injured in the Oil Spill, and through this, you know, cultural
20 treatment, thinning or the like, there is a possibility of
21 improving that habitat for those species that might have been
22 injured. And we need to go out there and take a look at those
23 and, you know, design a particular stand structure which will,
24 you know, permit more rapid restoration of those injured
25 species if, in fact, they do exist out there.

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1 Now, I think there's another side-light to this
2 particular project. There is a strong interest by Native
3 corporations in the area to perform this kind of work, and that
4 way there is a significant opportunity for the, you know, to be
5 a part of this restoration activity.

6 And if there's other arguments on this, Dr. Gibbons, I'd
7 prefer you'd put those out.

8 MR. PENNOYER: Excuse me. Let me get this clear. This
9 is actually sort of a logging show where you eventually sell
10 the thinned logs to a corporation to come in and do the work?

11 MR. THOMPSON: Well, I would expect, not being on the
12 ground in those particular stands, that those trees are not of
13 a commercial size, and they would probably be removed, you
14 know, from the growing stock there and probably left on
15 location or something of that nature, and it wouldn't be part
16 of an economic product.

17 MR. PENNOYER: Oh, I see, they're only 20 years old.

18 MR. COLE: Mr. Chairman.

19 MR. PENNOYER: Mr. Cole.

20 MR. COLE: For the purpose of this expenditure of these
21 monies to just design a program to enhance the habitat? I mean
22 cutting is part of this project, for example?

23 MR. THOMPSON: Again, I'd like to defer that question to
24 Dr. Gibbons. I'm unfamiliar with what the process needs to be.
25 I've only recently reviewed this and I can't remember, right

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1 off the top of my head.

2 MR. PENNOYER: Mr. Barton or Dr. Gibbons.

3 DR. GIBBONS: It's my understanding of this project,
4 this year would be to design, make the link to the possible
5 injured resources, identifying the critical habitats that make
6 that link, do the necessary environmental documents, make the
7 documents to get ready for possible implementation activities
8 next year.

9 MR. PENNOYER: Mr. Barton.

10 MR. BARTON: I'm a little puzzled. I really don't see a
11 lot of difference between this type of work and some of the
12 fisheries enhancement projects that we've agreed to undertake.
13 It seems like one is one form of habitat enhancement, this is
14 another form of habitat enhancement.

15 MR. PENNOYER: Anybody want to start on the fisheries
16 enhancement project?

17 MR. BARTON: I support those, too.

18 MR. PENNOYER: Okay. Mr. Sandor.

19 MR. SANDOR: Well, I seconded the motion, and I did so
20 not for the reason that I didn't think the activity wouldn't
21 benefit the habitat which may include the habitat of species
22 injured in the Spill, but rather I thought it was an obligation
23 of the Forest Service or private land owner or whoever was
24 doing the timber harvesting to assure one regeneration --
25 adequate regeneration, and then, two, to assure the proper

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1 fitting to allow the stand to develop into an optimum
2 productive forest of stand.

3 I mean, so I thought that this activity -- these two
4 activities, reforestation and thinning, are part of a
5 commitment to timber harvesting to begin with, and that
6 activity not be undertaken without the assumption of a
7 responsibility of doing both; assuring regeneration and
8 assuring thinning.

9 In the case of Alaska as a whole, the Congress has not
10 funded the activities and I understand the time table for
11 thinning activities is greatly lagging from what is needed. I
12 guess I'd hate to see the restoration funds be used for this
13 purpose and believe, one, that the thinning should certainly
14 take place or else the stand will be permanently damaged, and
15 will be detrimental to species using that habitat, but it's the
16 Congress under the appropriations for measures of the
17 Department of Agriculture that should fund it. That's the
18 difficulty I have with that.

19 I think the project ought to go out, but I think maybe
20 between now and December when we evaluate it, maybe determine
21 whether or not that and other areas that have been harvested
22 which will similarly develop into the thick stand that need
23 thinning. It seems to me that ought to be funded by other
24 sources. But maybe we can explore that between now and
25 December.

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1 MR. PENNOYER: In looking at this budget, it's a
2 feasibility study for \$62,000.00, and do you project out-year
3 costs or are they going to be born by the agency if the project
4 looks feasible or not? This is just a study, for the money to
5 do it here; is that correct?

6 MR. BARTON: No, as I understand it, it would actually
7 deal with 2,500 acres.

8 MR. PENNOYER: Oh, so it's actually cutting

9 MR. BARTON: (Indiscernible - simultaneous speech) 2,500
10 acres. The process would be to expand that in the future then
11 potentially, which would be the agency's responsibility?

12 MR. BARTON: If there were identified critical habitat,
13 then it would be an option, certainly.

14 MR. PENNOYER: Is there more than the 2,500 acres in the
15 Spill area where oil might be -- this technique might be
16 usefully employed on if it works out?

17 MR. BARTON: I don't know. Do you know, Ray?

18 MR. THOMPSON: I'm not sure on that, Mike. I'd like to
19 respond to a little bit earlier comment though that Mr. Sandor,
20 you know, kind of took the view that most of the work that
21 would be done out here would be a standard preparatory work for
22 future stand which would be logged for its commercial benefit,
23 and I think there's some secondary benefits there to the
24 economy. I think the primary focus of this particular project
25 is to try to look at stands, try to design the habitat there to

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1 take care, enhance injured species, you know, from this oil
2 spill, and that would take a different angle -- focus than we
3 might ordinarily take on some of these stands. So, just a
4 different perspective on there, Mr. Sandor.

5 MR. COLE: Mr. Chairman.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: I would think that before we even do the
8 study we should first determine that this is habitat or injured
9 species, number one. And, you know, number two, I think one
10 should comment on the fact that we ought not let our views on
11 restoration replacement, et cetera, be colored in any fashion
12 with furthering economic activity in the area. We just must
13 not do that, i.e., that it's apt to provide, for example,
14 employment in the area. We just can't do that.

15 MR. THOMPSON: Mr. Chairman, the reason I made that
16 comment was not specifically to entertain economic activity in
17 the area but that could be a side-light from doing the work at
18 some future time. You know, I don't have any control over
19 that, but I think the primary purpose of this project is not
20 for economic purposes.

21 MR. COLE: No, Mr. Chair, I just wanted to make sure
22 that no one was able or did say, well, this was a factor in the
23 decision to adopt this program. We must be very, very careful
24 about that, and make certain that it is not a consideration of
25 any kind.

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1 And I would like to say one other thing. That if we do
2 this, talk about thinning, well, then we're apt to get
3 pressured by the private landowners who say, what about our
4 lands, maybe we should go in and approve them for habitat, too,
5 as long as we're dealing with national forest lands, from that
6 standpoint. It's a position, I think, we should be careful to
7 get in.

8 But I will not move to delete it, and I agree that it's
9 proper to go out, but in view of the discussion.

10 MR. PENNOYER: Mr. Barton, further comment.

11 MR. BARTON: The only other comment I was going to make
12 in response to Mr. Cole's second question, inventorying the
13 habitat is part of the project.

14 MR. PENNOYER: Further discussion on this item? With no
15 motion then, this project, number 29, will go out to public
16 review.

17 Any other projects that the Trustee Council members wish
18 to review or comment on?

19 MR. SANDOR: Mr. Chairman.

20 MR. PENNOYER: Yes.

21 MR. SANDOR: This is re-visitation of project 64, and I
22 guess a question. As that is defined, the price tag on that, I
23 found, was zero to 20 million. The question is -- it's been
24 partially answered, I think, but I guess to understand where
25 we're going and what's going out, and someone summarized the

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1 rationale for that zero to 20 million, and does that really
2 mean up to 20 million? That's one of the ways I read that, up
3 to 20 million.

4 MR. PENNOYER: If I could

5 MR. SANDOR: I'm looking at this continued
6 discussion -- go ahead.

7 MR. COLE: I move we delete all the references to zero
8 to 20 million, but let me say why, before the wrath of the
9 environmentalist lobby comes down on me.

10 You know, I think we're getting a little ahead of
11 ourselves, as I said earlier today. We have several months
12 here to plan our decisions in this area, and I don't think -- I
13 think it's premature to talk about extending specific sums of
14 money at this stage. I thought we could do that in December
15 when we would have a better sense of the information we get
16 from the study and what should be doing, generally, and I also
17 think -- it would be my thought that we should expand maybe 64
18 or maybe one of these other projects to get professional advice
19 on how we should go about acquiring threatened habitat.

20 You know, I just think we're going to get this
21 information come December and then we're going to be in a
22 position to say -- I mean, but what do we do now? I think we
23 should be formulating our acquisition strategies at the same
24 time we're collecting this information, otherwise we'll have
25 the information and then we'll be somewhat bewildered or non-

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1 plussed (ph) about what we do with it. I think we've got to
2 just keep all these things moving along sort of at the same
3 time. So, that's my thought.

4 MR. PENNOYER: There's a motion on the floor. Is there
5 a second to delete the project 64?

6 MR. COLE: No, it's to delete

7 MR. PENNOYER: The dollar amount.

8 MR. COLE: The dollar amounts in there and leave that
9 open and continue with the project. Then we don't have to face
10 this decision on how much money we're going to spend. It's
11 just getting ahead of ourselves.

12 MR. PENNOYER: Is there a second? Is there further
13 discussion or further amendment? Mr. Sandor?

14 MR. SANDOR: Yeah, I don't feel it appropriate to second
15 them motion because -- or speak in opposition to not
16 identifying some value because, as I understand it, and I guess
17 this is a thing that needs to be discussed as a significant
18 issue by the Trustees, and I'm reading from this 9/18/92 draft
19 of the project description of 93064, on the last page, which
20 says: Trustee Council to determine appropriate allocation
21 between state and federal agencies. Money will be allocated by
22 the Trustee Council to a lead federal agency when a willing
23 seller with lands linked to a recovery of injured species
24 and/or services identified.

25 Well, maybe I'm -- but then I'm also referring, as you

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1 recall, to the comprehensive habitat protection strategy which
2 was passed out at the last meeting, and specifically item
3 three, which was listed under 93064, that this project sets
4 (indiscernible) in. It was my understanding, perhaps
5 incorrectly, that the position of the Restoration Team since
6 our last meeting of identifying this five million was to
7 essentially propose a range of up to 20 million -- zero to 20
8 million.

9 Is that valid? Can you explain that rationale in that
10 this is not a commitment to spend 20 million -- up to 20
11 million. It's a commitment to have a signal -- a policy
12 provision to the Trustees that indeed the Trustees would be
13 willing to spend up to 20 million or up to five or whatever if
14 the critical habitat provided -- that in these individual
15 projects would have to come forward to the Trustee Council for
16 approval.

17 Can you reaffirm that or say what was intended?

18 DR. GIBBONS: Mr. Chairman. That's what was intended.

19 MR. SANDOR: See, if that's what is intended, Mr. Cole,
20 I don't see any problem with saying that, hey, if critical
21 habitat is identified, and if specific projects are proposed,
22 if the Restoration Team believe they merit approval by the
23 Trustee Council, why not let them move forward?

24 Not doing that -- and I guess the other thing that I
25 assume is that we have to or are supposed to, in the

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1 preparation of our budget -- in the submission of our budget to
2 the court judge, that we really should have an item in the
3 budget if, in fact, we expect to be able to spend something in
4 that item. And I think we will be spending something in that
5 item. I don't know how much. Therefore, we need something in
6 there to send out a message. That was part of the rationale,
7 Mr. Cole, that prompted me to support some level of funding.

8 MR. PENNOYER: What would show, Mr. Gibbons, in the OMB
9 budget on our zero to 20 configuration; what would you put
10 there to OMB to indicating what levels we might expect to spend
11 in '93?

12 DR. GIBBONS: Well, we put the range there, hopefully,
13 that the Trustee Council would pick a figure between zero and
14 20 to put in there.

15 MR. PENNOYER: We're faced with the same original
16 problem. I want to send a strong message to the public that we
17 are seriously considering habitat acquisition modification or
18 whatever as a restoration strategy, but we don't know, because
19 we don't have the data back, how much we want to spend on it.
20 At the same time, if we don't put anything in there, it sends
21 the message that we may not be seriously considering this
22 strategy and OMB requirements aren't satisfied.

23 Mr. Rosier.

24 MR. ROSIER: Mr. Chairman, I want to give my compliments
25 to the staff on this. I believe on the 14th when we met, I

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1 think that the Trustee Council kind of raised hell with them
2 for putting aside a \$20 million figure in there, so now we've
3 got a range where we get to figure it out.

4 MR. PENNOYER: Very true. Mr. McVee.

5 MR. McVEE: Yes. Mr. Chairman, there's another approach
6 to this that just dawned on me because looking at the Habitat
7 Protection Work Group there are two -- two of the agencies have
8 plugged in \$100,000.00 for land appraisals. So there would be
9 \$200,000.00 in the budget -- administrative budget for land
10 appraisal. I'm not sure it belongs in the administrative
11 budget, it seems to me like that's very project specific, but
12 maybe that's another matter, but maybe what we deal with or the
13 way we reflect this to the public is show a number there that
14 deals with the processing costs -- you know, the staffing costs
15 at this stage, that the unknown -- the acquisition is unknown.
16 Until we have gone through the processing, including the
17 appraisals, it's still an unknown, and, you know, we can
18 express in our cover memorandum to the public that when we have
19 that number it is our intent, you know, to respond to it. That
20 the Trustee Council is committed to look at acquisition, but we
21 don't have any idea what it is at this point.

22 MR. PENNOYER: Further comment?

23 MR. BARTON: Mr. Chairman.

24 MR. PENNOYER: Mr. Barton.

25 MR. BARTON: I think Mr. McVee's proposal has some

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1 merit. I worry, too, a little about the pig in the poke
2 syndrome. I would support, however, as I said earlier, a
3 modest amount of money in lieu of Mr. McVee's proposal to be
4 shown in this item. I would support \$2 million, \$5 million.

5 MR. PENNOYER: What was the feeling -- we had a
6 \$5 million in front of us at one time. I think we all agreed
7 that that would be too little, too much, nobody knew. Why from
8 zero to 20, I guess, why -- what -- between five and 20
9 million, what did you think we were going to do in terms of
10 making a decision here? Just a general feeling you had amongst
11 us that some might go higher and some might go lower?

12 DR. GIBBONS: Yes, Mr. Chair. The 20 million figure
13 came from -- we did a quick analysis of how much money we'd
14 have remaining in 1991, approximately 17-1/2 million,
15 projections from expenditures from this year's payment, and
16 said, perhaps half of that might be an upper figure for
17 activities in this type of arena for this year, and that's
18 where the 20 million came from. It's just that. We did look
19 at a fixed formula for determining how much money, and we
20 talked to the Nature Conservancy a little bit, but the problem
21 with that is it doesn't provide us the flexibility and the
22 options that might be available to us. If we take 10% of the
23 yearly value or something and use that, it doesn't give you the
24 flexibility of perhaps land banks or a lot of these other
25 things that may cost us nothing to do some activities.

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1 MR. PENNOYER: Except if we pick a number, it doesn't
2 give us flexibility either. It's high enough that you'd go
3 within it.

4 DR. GIBBONS: Well, the number depends on what the
5 intent of the number is. I know the first thoughts on the 5
6 million was not to acquire but was for imminent threat, perhaps
7 moratorium type activities, and that's when we came up with the
8 \$5 million for. If, you know, you choose to do more -- it's an
9 option, but that's what that number was geared at. It's not
10 for actually going out and buying public parcels.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: See, the discussion simply highlights the
14 fact that we need a fundamental plan of what we're going to do.
15 Here we are trying to -- talking about some money, how much
16 we're going to allocate, and we don't know whether we're
17 addressing this at this stage from the standpoint of acquiring
18 options or moratoriums. We don't know whether we're talking
19 about the acquisition of timber or land at fee. We don't know
20 whether we're talking about, with respect to particular areas
21 only habitat along anadromous streams or where we're going
22 right now, and I think that we -- or what our acquisition
23 strategy is.

24 I guarantee you that if we put a \$20 million figure in
25 there and we approach some landowner and say we'd like to

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1 acquire this critical habitat, we will get numbers that are off
2 the chart. We'll go to Judge Holland and -- so we'll have to
3 formulate in the next 60, 90 days a strategy of what we're
4 going to do when and why. And I say again we get all this data
5 in December without having formulated a general plan, we're
6 going to be in a position where we're buying, seeking to
7 negotiate for specific tracks, and -- in response to pressure,
8 and we're going to have to make some tragic mistakes with
9 respect to our acquisition strategy.

10 MR. PENNOYER: Mr. Sandor.

11 MR. SANDOR: The description of a project activity
12 includes both this activity of moratorium and other temporary
13 measures -- I guess short-term protection measures to allocate
14 the Trustee Council specific parcels of land as well as the
15 other option of protecting critical habitat.

16 I think the plan's in place to -- well, I know the plan
17 is in place to identify the identify the habitat. We've got
18 approved already projects, 50 million and 60, with respect to
19 identifying the habitat and getting the associated data. What
20 would be troubling to me is that we go out to the public
21 without -- and then not meet again on this until December
22 something, and then at that time the question we face is how
23 much, and that wasn't even discussed.

24 It seems to me we should -- well, Curt McVee's
25 suggestion is just saying that something -- that we'd be better

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1 off putting even what the Restoration Team set up some amount,
2 or saying some amount like 5 million plus or minus or 5 million
3 to be qualified by -- but again reiterating the specific
4 projects have to come to the Trustee Council. What that would
5 say to me, if I was getting this package, at least the Trustee
6 Council recognizes that there's a likelihood of spending 5
7 million plus or minus in this 20 million -- up to 20 million
8 and I think not doing that may be incorrectly -- would be
9 incorrectly interpreted as an uncertainty that we'll be
10 spending any money, and I think that would be troubling.
11 Because I don't think that's the intention of the Trustees.

12 MR. PENNOYER: Mr. Sandor, your recommendation is then
13 to send out a range?

14 MR. SANDOR: I guess I move that we attach -- we fix a
15 five million plus/minus estimate and that the text specifically
16 say that the plan is in place to look at proposals and funds
17 will be spent -- will be considered for expenditure on a case
18 by case basis.

19 MR. COLE: Mr. Chairman.

20 MR. PENNOYER: Mr. Cole. Well, is there a second to
21 that motion?

22 MR. BARTON: Second.

23 MR. PENNOYER: It's been moved and seconded that we send
24 out a proposal with \$5 million with a plus or minus attached to
25 it indicating the uncertainty attached to it how much we want

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1 to spend until we get back the appropriate background work and
2 make a final decision on a project by project basis.

3 Mr. Cole.

4 MR. COLE: I speak in opposition to that for the same
5 reasons I said the other day. We put in \$5 million, I know
6 that we will get an immediate response that said: but you're
7 only going to spend \$5 million out of this \$100 million that's
8 coming in, what's the matter with those yahoos there?

9 You know, we're going to get incredible criticism, and
10 furthermore, I don't think that that's what you plan on doing
11 anyway. At least it's not what I plan on doing. To spend only
12 \$5 million? I think what we should be prepared to say is we
13 will spend whatever amount of money is necessary to protect
14 threatened habitat, and just put it right in there. You know,
15 with contingent liability and footnote it and be done with it.
16 Otherwise, that will be viewed as a limiting factor.

17 I don't think it is a limiting factor, and my position
18 is, while I'm accused of being a foot dragger, I think we ought
19 to move a little faster, and during this next 90 days instead
20 of formulating simply a plan for the acquisition of threatened
21 habitat, I think we should be formulating a broader plan that
22 will address not only threatened habitat but for the
23 acquisition of, you know, resources beyond that so that we're
24 not boxed in. At least we should be looking at a broader
25 overall plan. And having something along those lines available

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1 for us in December, because we may wind up in December, as I
2 foresee it with proposals for the acquisition of threatened
3 habitat which, you know, may be fairly confined, I don't know.
4 And then we're going to be in a position where we say to
5 ourselves, well, what do we do now, guys? Sorry, I can't
6 (indiscernible - trailing off).

7 But, I mean, that's what troubles me. I think we should
8 be moving along in a broader front than we're moving along, and
9 we can also back-off of that, if need be or that's our
10 decision, but we don't need to be quite so narrow in our
11 approach is troubling.

12 MR. PENNOYER: Perhaps somebody could answer on where
13 we're going with this. 64 is for the '93 budget, starting
14 March 1, 1993, correct? All these things that were discussed
15 in Mr. Weiner's presentation on negotiation and coming to us
16 about parcels and so forth, the money wouldn't be available for
17 any of that actual work until after March 1, 1993. So all
18 these negotiations and studies and so forth we're doing now are
19 under another category. They're the two Nature Conservancy
20 budgets plus something in the administrative process, I guess.

21
22 So, I guess, I agree with Mr. Cole, and I don't want to
23 limit ourselves to 5 million. At the same time I'd like to
24 give -- let the public know that this is a strategy we're
25 seriously considering for restoration of injured resources in

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1 Prince William -- or services in Prince William Sound.

2 I also am bothered then, having said that, with what we
3 do with OMB and the permission to spend these funds, or any
4 funds, starting March 1st, unless we indicate some type of a
5 number. We don't indicate a number until whenever these
6 studies are done, let's say January 1st or late December or
7 whenever, what -- we would be any more prepared to indicate a
8 number that ought to be in this budget on December 1, 2, 3, 4,
9 whatever we decide to pick here is the day of our next meeting.

10

11 Are we going to know it by then, and if it's something
12 different, can we then propose it and get something through OMB
13 in time to put in place in the start of the next fiscal year or
14 the next second half of this fiscal year?

15 Dave, do you have any idea of the timing on all that?

16 DR. GIBBONS: Well, Mr. Chair, the only way you're going
17 to get that answer is you run it through the imminent threat
18 process, and you're going to have some kind of number then that
19 says X amount will be needed for these types of activities.
20 Then there'll be, yeah, negotiation with the land owner at that
21 time.

22 MR. PENNOYER: So, we're not going to know this number
23 then until sometime next spring anyway; is that correct?

24 MS. RUTHERFORD: In December, we'll know. We'll
25 probably know parcel acreages, but until we actually start

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1 talking to land owners, the actual dollar figures,

2 MR. PENNOYER: So, even in December, we won't be in a
3 position to put a number in here that we're going to be finally
4 happy with, and we're still faced with somehow acquiring the
5 money both through the court and with OMB.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: Why don't you just ask OMB how to handle it?
9 Say, here's our problem, guys, what do you want us to do; how
10 do we handle it?

11 MR. PENNOYER: We also have to go forward with the court
12 sometime before March and

13 MR. COLE: Well, we can do that

14 MR. PENNOYER: it looks like we can do that in
15 successive stages, I suppose. Mr. Sandor.

16 MR. SANDOR: It may be that the restoration team wasn't
17 really passing the buck. Maybe they knew exactly what they
18 were doing in saying 0 to 20. That 0 to 20 seems really more
19 in line with what Attorney General Cole is saying, that it
20 could be as much as 20, and I guess as a matter of procedure,
21 if the project package is given to us by the Restoration Team
22 is 0 to 20, and that if no motion is passed to change it, be it
23 5 million, plus or minus, or zero, that's what will go out for
24 the public discussion. And is it correct that what will go out
25 for public discussion, barring any action by this Trustee

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1 Council, for project 64 is in fact 0 to 20.

2 DR. GIBBONS: That's what we'd go out to the public
3 with, Mr. Chairman.

4 MR. SANDOR: Well, then, Mr. Chairman, I withdraw my
5 motion to 5, plus or minus, and essentially agree with the
6 package as going out as described.

7 MR. PENNOYER: You know, I think I agree with -- I'm
8 just troubled by what the Restoration Team and the federal side
9 is going to do with OMB at this stage. Maybe Mr. Cole is
10 right, we ought to ask OMB what they want us to do with it.
11 Maybe we pick the higher number for OMB purposes and then make
12 its clear it's going to go under it, but that's going to send
13 one type of budget to Congress. I'm still not sure what we do
14 in that case. I guess we're going to have to discuss it.

15 Mike, do you have any idea what we do with OMB?

16 MR. BARTON: No.

17 MR. PENNOYER: You don't have a particular number?

18 MR. BARTON: The best thing to do is ask them. If it
19 were later in the year, we could go through the supplemental
20 process, but that won't be till mid-year

21 MR. PENNOYER: We might not have the money until then.

22 MR. BARTON: or later.

23 MR. PENNOYER: Particularly in this scene we're in right
24 now it would be better to get authorization at the start to
25 spend up to whatever we want to spend up to from them. I think

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1 maybe we ought to ask them. And, Mike, we'll have to somehow
2 take it upon ourselves to find out that answer.

3 Curt, any further discussion on the zero to 20?

4 Mr. McVee.

5 MR. McVEE: Yes, Mr. Chairman. At this point, where
6 we're considering projects of budget to go out for public
7 review, maybe it over-simplifies it, but it seems to me like we
8 can say that will that budget, basically it reflects the intent
9 of the Trustee Council; the whole budget reflects the intent of
10 the Trustee Council for the remaining portion of -- the
11 settlement portion of fiscal year '93. This seems to me it
12 might be appropriate to say that we don't have a number at this
13 time, and maybe that's what the 0 to 20 reflects, we don't have
14 a number, but our intent is then, you know, -- and it would be
15 appropriate to add some footnote language that would convey
16 that, that our intent is to go forward with the habitat
17 protection program. But we do not have a number at this time.
18 That is the fact as illustrated by the conversation here for
19 the last hour.

20 MR. PENNOYER: Are you speaking in favor, Mr. McVee, of
21 sending out the 0 to 20 with that very statement in it, that we
22 don't know what the true number should be?

23 MR. McVEE: I guess -- or even no number, just a
24 statement.

25 MR. COLE: Mr. Chairman.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: Now, I can tell you, as soon as you put that
3 zero -- I mean, if people aren't going to function on 20,
4 they're
5 going to function -- you know, fasten on zero, you know,
6 they're talking about spending zero money, and then we'll have
7 big trouble, you know. That's why I think if we put a footnote
8 in there, just write in the proposed budget that we will spend
9 whatever amount of money, in our judgment, is necessary to
10 protect imminently threatened habitat, even if it should be as
11 much as 20 million, we're prepared to do that. Let it be. But
12 that zero is a huge red flag.

13 MR. PENNOYER: Well, then, instead of zero, we'd say up
14 to 20 million?

15 MR. COLE: I'd say that's a better approach.

16 MR. PENNOYER: Mr. Sandor, does that meet with your
17 approval as a concept?

18 MR. SANDOR: Yes.

19 MR. PENNOYER: Then that will go to OMB and figure out
20 what they want us to do.

21 Is there further discussion on project 64 going out with
22 the appropriate language about studies and the need for further
23 data and so forth, and up to \$20 million?

24 MR. SANDOR: Mr. Chairman, that would mean that it's
25 modified to be up to 20 million with that proposal.

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1 MR. PENNOYER: With the footnote.

2 MR. SANDOR: With the footnote that we've been
3 discussing.

4 MR. PENNOYER: The caveats on

5 MR. SANDOR: Yes.

6 MR. PENNOYER: the data and not really knowing
7 what the numbers should be, yes.

8 MR. SANDOR: Yes,

9 MR. PENNOYER: All right.

10 MR. SANDOR: that's fine.

11 MR. PENNOYER: Mr. Rosier.

12 MR. ROSIER: Mr. Chairman, I guess I'm satisfied with
13 the up to 20 million approach on this, but, I guess, one of the
14 things, I think, that we're ignoring in this entire discussion
15 has been the fact that we've heard during the public hearing
16 process an awful lot of people that in terms of land owners
17 that we're, in fact, dealing with, they're planning for their
18 actions on lands that may, in fact, be available. That
19 generally starts right after the first of the year, in terms of
20 making commitments for contracts or whatever use they intend to
21 make of that land.

22 I'm not sure at this point -- I was under the impression
23 that we would, in fact, come out of the December meeting with
24 some understanding of what those critical -- or at least some
25 of the critical pieces of habitat were, in fact, going to be,

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1 and based on that, then we would, in fact, in the proposal
2 here, we would in fact be in a position to begin to make some
3 kind of commitment in terms of some of those critical areas,
4 the ones that we judged to be the critical areas by the Trustee
5 Council.

6 You know, Charlie was right this morning when he said
7 that, hey, we're not going to be logging these things in
8 December and January, but there may be opportunities that we're
9 in fact missing here as a result of land owners in fact moving
10 ahead with plans of their own on critical habitat that we've
11 missed the opportunity for.

12 MR. PENNOYER: Mr. Rosier, my assumption, from the
13 presentation we had this morning, is that negotiations -- well,
14 actual purchase couldn't -- or rights or whatever couldn't be
15 acquired until the money became available, the actual
16 negotiations with the knowledge that that money is sitting out
17 there would proceed, so we wouldn't be waiting until people got
18 permits and bought their equipment or were ready to go. At
19 least that's my assumption. Does that answer your question?

20 MR. ROSIER: Well, that helps, in terms of the question,
21 but I just don't want us to feel that fine, there may be other
22 threats other than logging, but certainly the presentation this
23 morning, at least in my view, really spoke primarily to the
24 logging operations in terms of imminent threat. Because of the
25 conversation about well, they're not going to be cutting in

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1 December and January anyway, so, I just feel that, you know,
2 when the opportunity is in fact there, we should in fact be in
3 a position to in fact move ahead as soon as possible.

4 We've been around and around on this subject for the
5 last several months, and so I would like to see that
6 flexibility there and a system where we can in fact move when
7 the opportunity is in fact there.

8 MR. COLE: Mr. Chairman.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: See, that was one of the reasons I thought we
11 should do this in December rather than not spill over to
12 January and then the Legislature and

13 MR. PENNOYER: Speaking thereof The next item on
14 the agenda, after we finish this, we'll be back to that

15 MR. COLE: Can I stay on this just a little more?

16 MR. PENNOYER: Sure.

17 MR. COLE: I would really like to make one more pass at
18 persuading the Council to adopt or consider adopting a project
19 which would formulate for us strategies for the acquisition of
20 lands or interest in lands. And I say that -- again, I keep
21 trying to make this point, but it's pretty hard to get it done,
22 but I'll take one more pass at it.

23 Gentlemen, thank you, if you'll allow me the privilege.
24 But it's this: I mean, suppose we get all this data and we --
25 Commissioner Rosier says, all right, now, we're ready to move,

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1 and we want to acquire this threatened habitat from private
2 landowner A, and we have some description of the threatened
3 habitat within this land description. Are we simply going to
4 say okay, let's go acquire that, without any reference to
5 contiguous lands? Are we going to simply say, all right, we'll
6 just buy the lands within one mile of a anadromous stream,
7 Annie Laurie, and then not worry about the consequences as we
8 have with that particular say section of land next year.

9 Those are the things that are bothering me. And I think
10 that when we go out to talk to these landowners, we should have
11 in mind a broader perspective, because we're going to have only
12 about 10% of the loaf. We are not thinking simultaneously
13 about what we're doing in this land area. Like I say, some
14 particular island or something. I think we should be moving
15 along with a general acquisition strategy. That's my thinking.

16 MR. PENNOYER: Mr. Barton.

17 MR. BARTON: Yes. I thought that was what the
18 Restoration Plan was going to provide us, in terms of those
19 properties -- those habitats that are not imminently
20 threatened. And as far as the imminently threatened habitats,
21 I really don't see any other way to deal with those but on a
22 case by case basis in considering those factors that you
23 raised, Mr. Cole. But I think the global look really comes
24 through the Restoration Plan, which we're also developing, and
25 we haven't talked much about.

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1 MR. PENNOYER: I would presume, from the presentation we
2 got, that even the imminent threat part has to at least take
3 into account subsequent threats. I mean, you know, then the
4 threat is going to cost more than all the money you have or
5 something. Obviously, you need to tell us on those imminent
6 threats whether there's another imminent threat, whether it's
7 right around the corner, whether it's going to be the same
8 imminent threat if we don't take it into account. So, I mean,
9 they can't do all of that at once, but the imminent threat
10 ones, I think, are going to highlight a case by case basis
11 real, quote, imminent threats, and then we'll have to judge
12 each one of them as it comes along.

13 MR. WEINER: I might be able to shed some light on that.

14 MR. PENNOYER: If you would.

15 MR. WEINER: I started this this morning.

16 MR. PENNOYER: Well, why don't you try and finish it.
17 We started with you and we'll finish with you here on this
18 project.

19 MR. WEINER: I'll stick my neck out a little bit
20 further. What we contemplate and what we put before you in the
21 supplement was a two-pronged strategy for habitat
22 protection/land acquisition.

23 The evaluation process is the long-term approach to
24 evaluating those lands that are thought to contain linked
25 habitats. In the short term, the second strategy was to try to

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1 address those lands that are identified through the threat
2 analysis as being imminently threatened. So, you basically
3 have a short-term and concurrently a long-term process running
4 at the same time. And this is, you know, where I think that
5 the strength in the strategy is, is that we're letting the
6 public know that we're attempting to address those lands that
7 are imminently threatened, but we're not trying to create the
8 impression that if somebody calls us on the phone and puts a
9 chainsaw in the background, we're going to immediately dedicate
10 -- identify their lands as being imminently threatened and move
11 the into that category.

12 We're trying to develop a way in which we can identify
13 lands that are legitimately imminently threatened, and that's
14 what I think that Mr. Sundberg and Mr. Sheridan explained last
15 time was that we had, through looking at the permitting
16 process, identified those lands that already were within the
17 process of working towards development. Those are in the
18 category now of imminent threat.

19 At the same time, once we begin to develop a better
20 database, we'll be able to look at all lands in the affected
21 area and determine which of those lands -- private lands
22 particularly, contain habitats that are linked to the injured
23 resources.

24 So, we really do have a strategy in place that attempts
25 to address the imminent threat and on imminent threat lands.

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1 MR. COLE: Mr. Chairman.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: I don't think we can so discreetly make those
4 acquisitions. That's what troubles me, number one. And number
5 two is when we go to taking these acquisitions, we're going to
6 be, I suspect, dealing with very skilled, able people, and I
7 think we need expert advice on how -- our our strategy for, you
8 know, negotiation strategy and acquisition strategy. I don't
9 think we can simply say gee, -- I don't think we have the
10 luxury of saying, as it were, look, we just just want to look
11 at this stream A and acquire the imminently threatened habitat
12 around it, and not simultaneously deal with the lands that are
13 in the same general region. I don't think we have that luxury.

14 So, that's why I'm urging us to sort of move along and
15 formulate a broader strategy at the same time, because when we
16 go out, as Commissioner Rosier says, and if we do move to make
17 acquisitions in January and February, with indifference to
18 these landowners and their future plans, I think we have to be
19 prepared to say what is our general plan for this -- what I
20 call a region or general

21 MR. ROSIER: Geographic area.

22 MR. COLE: Pardon me?

23 MR. ROSIER: Geographic area.

24 MR. COLE: Yeah, geographic area. Fine, thanks. I was
25 looking for a more scientific term, but I don't have it.

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1 MR. WEINER: But the project, as currently conceived,
2 doesn't anticipate -- unless there's an emergency here of some
3 sort, of actually acquiring fee simple title to anything. What
4 I think we're trying to get across to you all is that we're
5 looking for funds to enable us to buy the time to go out next
6 field season, in the summer, and those lands that presumptively
7 contain habitat federal link to the resource, go out and do
8 some ground truthing on those lands. We need to walk the land.
9 And it would be very nice if the landowners would stop their
10 proposed activities and say we'll wait and give you a field
11 season to go out and walk upon those lands. But it's unlikely
12 that that will happen. I think, as Mr. Rosier pointed out,
13 they have some pretty major investments out there in equipment
14 and personnel, and it's unlikely they'll put all that on hold
15 to give us the time to go out and do the ground truthing on
16 those lands to make the necessary assessments. I think, in
17 good faith to those folks, we're going to have to indicate to
18 them that we might be willing to spend some money to ask them
19 to hold up their activities to give us the time to make those
20 assessments on the ground.

21 MR. COLE: All I said is the theory is that this money,
22 this up to 20 million, is essentially, singularly for, you
23 might say, options?

24 MR. WEINER: I would think options is a little
25 restrictive, but the short answer would be yes.

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1 MR. PENNOYER: Well, you might not preclude, however, a
2 purchase or something if we came upon one jewel upon which the
3 whole harlequin duck population hinged on

4 MR. WEINER: Right, exactly.

5 MR. COLE: Well, that, Mr. Chairman, puts a different
6 light on things to me. Spending up to \$20 million for options
7 for the next summer and to expire a year from now is maybe a
8 little farther than I would be prepared to go.

9 MR. PENNOYER: Well, I'm not clear that it was just
10 options.

11 MR. COLE: Well, you know, that's just not options. We
12 made that clear. But principally options. I mean, the central
13 focus to be options. Isn't that what we're talking about?

14 MR. WEINER: Yeah, I think what we're trying to do is
15 buy time, and whether you call it an option or a moratorium or
16 whatever

17 MR. COLE: Well, whatever.

18 MR. WEINER: Yeah, it's buying the time for us to do the
19 detailed assessment so we're not buying the pig in the poke.
20 We need to find out, you know, what's on that land, and remote
21 sensing and other techniques are helpful, but until you
22 actually walk some of these parcels, walk the streams and look
23 for the murrelet habitat, we're not going to be able to provide
24 you with good

25 MR. PENNOYER: Why did you think up to 20 million is

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1 appropriate for options?

2 MR. WEINER: Again, we looked at the numbers of
3 imminently threatened lands that are out there, and we looked
4 at the range of values that was quite broad, all be it, and
5 decided that this would at least be a start. And we're looking
6 -- I hate to use the term seed money, but we're trying, I
7 think, to encapsulate a concept of a fund -- a revolving fund,
8 whereby we would have enough money to show good faith to the
9 public but not tell the public that this is the cat, this is
10 all that we're going to spend. I mean, in one year we'll spend
11 perhaps less, and in another year we'll spend more.

12 MR. PENNOYER: But, hopefully, we won't just spend money
13 on options for the next 10 years.

14 MR. WEINER: Hopefully, not.

15 MR. PENNOYER: Otherwise, we'll end up with nothing when
16 we're done except for a 10-year delay. Mark, would you

17 MR. BRODERSEN: I need to chime in here, too. I can't
18 stand it any longer, to keep quiet. I think it's real
19 important that we get to where the Attorney General's
20 requesting us to get to, which is a comprehensive plan for
21 everything before we start doing major acquisitions out there.
22 But to get to that comprehensive plan, I think, is going to
23 take us a little bit more than 60 to 90 days. It's much more
24 in line of what Mr. Barton was talking about is we need a
25 Restoration Plan, and that's more or less a generic plan, and

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1 then you've got to get into specific parcels from your
2 Restoration Plan. I cur a horrible thought, and the last time
3 I said this I got beat up, because we're looking at a year to
4 two years out to have a comprehensive plan in place. We need
5 to buy time to be able to do that year to two years worth of
6 planning, and that's what we're looking for to do right now is
7 that year to two years.

8 We will have for you, hopefully, some time in December,
9 a look at the imminently threatened lands, as determined from
10 permits that we have right now. We'll attempt to overlay that
11 with critical habitat to the best we can. Given those parcels,
12 we then see which of the landowners are amenable to delaying
13 their actions on those lands and which ones aren't. Once we've
14 had discussions with the landowners, and some of them,
15 hopefully, will stop their actions, we would probably, in a
16 year from now, be able to shuck most of those options, the ones
17 that still look good, you keep until you can actually get the
18 comprehensive plan done.

19 I think it's just essential that we don't go out there
20 willi-nilly, as the Attorney General was being fearful, and
21 start buying up parcels. But to not do that, we also have to
22 make sure we don't lose opportunity. We don't want to end up
23 finding out that the parcel we really would have wanted was cut
24 in the meantime, and that's what we're trying to get to is to
25 get us time to be able to do a good job of this and be proud of

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1 it when we're done.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: I have trouble seeing why it would take us
4 two years to develop a plan. If that's the case, then we're
5 going to have to have moratorium options, whatever, if you
6 will, next year, and then the same the next year. That's two
7 years out that we're going to be spending money for moratoria,
8 or whatever that word is. And I just have trouble why we can't
9 look at -- why we have to watch every stream in Prince William
10 Sound to figure out whether we can find a murrelet nest in
11 there. I mean, can't we just look at some aerial photographs
12 of the Sound in these areas and say -- you know, let's take a
13 look at Sheep Bay and say, well, we should really acquire the
14 lands in there and get it done? I don't think we can wait till
15 we walk every foot of every stream in Prince William Sound.

16 Now, maybe I'm off the wall, but that would be my sense.
17 That's the way I'd do it.

18 MR. PENNOYER: Mark, tell us you'll do it as fast as you
19 can.

20 MR. BRODERSEN: Well, much more important is is it your
21 call as to what level of confidence you feel comfortable in
22 making decisions about what parcels you want to protect and
23 what parcels you don't. We could have a plan to you tomorrow
24 if you were comfortable with the reasonableness of the plan we
25 presented you. It's really where is your comfort level, and we

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1 are attempting to divine that from these wonderful meetings
2 where we get this input.

3 And judged on the input so far, my guess is that on
4 specific parcels in a comprehensive plan to spend \$600 million
5 over 10 years, we're going to need 18 months. We're looking at
6 the Restoration Plan being out, what, February, a draft --
7 well, the final won't be out until June, July, August,
8 somewhere in there, and sometime after that you actually
9 determine the specific parcels you want to buy. That says to
10 me you're looking at 12 to 18 months. So I said two years
11 earlier, 'cause I was trying to get a little pad time in there
12 because it seems like when we do these things, we always end up
13 using the pad time.

14 But in actuality, I think, to get down to specifics, to
15 know each parcel that we want to procure, and also other
16 actions -- as we're doing this, we're losing sight that this is
17 not the only thing we want to do in restoration. We're going
18 to have staff, I hope, thoroughly involved in doing a whole
19 number of other actions for restoration in the meantime. If we
20 want to throw three, 400 people at this, we could probably have
21 a plan for you much sooner also. It's a mix. How many people
22 do you want to put on this and how long do you want to take and
23 what's your level of confidence in making decisions for this
24 comprehensive plan.

25 We need to get a Restoration Plan in place, and from

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1 that you develop your comprehensive plan of what the individual
2 parcels are. And in the meantime, we need to have some of
3 these lands protected temporarily while we're doing this
4 comprehensive plan.

5 I think the way this will work, that in actuality in the
6 second year, you will need many fewer options than you would
7 need this year because you would have been able to shed a whole
8 large amount of the acreage that you protected with options
9 this year, after you've done your preliminary work on it.

10 But you really aren't going to need very many options in
11 future years. As we go through this, it's not the kind of
12 thing where we need to wait to the very end to know what we're
13 going to do. We can be shucking off lands as we go along that
14 need to get back into the economy and need to be logged. We
15 can't stop all logging. We don't want to stop all logging out
16 there. We don't want to destroy the economy of the area. We
17 will have some idea of where we're going as we go along. It's
18 not a wait till we're done to be able to know what to do type
19 of situation.

20 MR. PENNOYER: I think you've heard the expression, of
21 course, that was expressed in the two projects we funded with
22 the Nature Conservancy, if we can speed things up, we would
23 like to. And that habitat acquisition end of it is going to be
24 ongoing and gathering data even while we are still working on
25 the Restoration Plan. So while that's -- that is going to be

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1 broad, to start with.

2 I think it's a narrow focus on this issue, but it's
3 resulting in some day to being an acquired -- before you have
4 the final Restoration Plan. So I would hope that helps speed
5 the process up. But, I guess, I won't know how long it's going
6 to take until I have an idea of what type of product we're
7 going to have in December in this initial go around.

8 The presentation the other day was pretty much of a
9 generic overview, and still doesn't give me a large feeling of
10 all the things that I need to make that decision, 'cause I'm
11 not a land expert, and I don't know that much about land
12 acquisition. So, I don't know all the things that I need. I
13 just know that I don't want -- like the Attorney General, don't
14 want to go down a blind alley and spend a whole lot of money on
15 something that turns out to be not very valuable.

16 MR. BRODERSEN: One of the other things that -- well,
17 I'm going to come up to my soapbox here, that I want to bring
18 up is that we definitely want to stay away from the standpoint
19 of trying to identify the 10 ideal parcels that we have to have
20 for restoration, 'cause we can get killed in negotiations.
21 Now, we've actually thought about this quite a bit. We've
22 dealt quite a bit with both the state and federal people that
23 do this for a living. We've dealt quite a bit with T & C about
24 how you go about negotiating for these kinds of things. And it
25 seems quite clearly that what we want to do is get a suite of

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1 lands that would be conducive to restoration.

2 As a case in -- a generic example, say that we identify
3 20 parcels and we tell folks that we want 10 of them. Then as
4 a negotiating stance, you go out and you say the first five
5 that give us the best deal, which in this case has to be fair
6 market value, we're not allowed to go up, we're not allowed to
7 go down, the first 10 folks who give us fair market value, we
8 pick up their lands, and the other 10, well, too bad. But in
9 the meantime, we've identified enough parcels that restoration
10 can go ahead and proceed. You don't want to get into the
11 situation where you're just identifying the exact parcels you
12 want and then having the price jacked way up on you.

13 So, this is something that we have been dealing with,
14 and we have been trying to deal with folks who are much better
15 at negotiating this kind of stuff than we are, and also how the
16 process is carried out. This has been something we have been
17 already looking at.

18 MR. PENNOYER: Is there further comment on project 64?
19 Mr. Rosier.

20 MR. ROSIER: Mr. Chairman, I have a question for Art.
21 Art, would you refresh my memory, please, on this imminently
22 threatened parcels that are out there? We talked about the
23 imminent threat as being those that have -- that are in the
24 permitting process at the present time, whether the
25 identification of those that go beyond that, only those that

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1 there was a permitting process on, I guess, is one part of the
2 question. The other part of the question is -- is -- well,
3 I've forgotten the second part of the question, but

4 MR. WEINER: I can answer the first part.

5 MR. ROSIER: Yes.

6 MR. WEINER: Kenny Sundberg did the detailed analysis of
7 the permit applications and the status of permits, and what we
8 identified as imminent threat were those parcels wherein
9 permits were either -- actively had been applied for or were in
10 hand.

11 MR. ROSIER: Okay. The second -- Mr. Chairman, the
12 second part of the question was was that applied only to those
13 proposals that come before the Trustee Council to date or was
14 the list larger than that?

15 MR. WEINER: I really can't answer that. My gut feeling
16 is that Mr. Sundberg did go beyond what was proposed to us.

17 DR. GIBBONS: That's correct. There were two lists.
18 One list was submitted as project ideas, and then the list that
19 Ken Sundberg was put together as a complete composite of all
20 lands.

21 MR. ROSIER: Thank you.

22 MR. PENNOYER: Further comment on project 64? Let's
23 see, I already asked that. Is there objection to sending it
24 out with the 20 million and the appropriated caveat and
25 footnotes and future data needs and so forth? Okay. Thank

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1 you.

2 Are there other projects the Trustee Council wishes to
3 take up individually before we pass on this total package for
4 public review?

5 Well, I'll just mention one then. And we have to get on
6 with things.

7 MR. COLE: Oh, no, not the killer whales.

8 MR. PENNOYER: No, I'll skip the killer whales. I'm not
9 going to get into this one now, but I think come December, I'm
10 going to be interested in the differences between the
11 Restoration Team and the chief scientist, item number 51. It's
12 1.6 million, and I think the chief scientist's recommendation
13 is that half of it falls below the 3 or below level, and that
14 taking that out would move the rest of it up to 2. So when we
15 send this out, we're going to send the chief scientist's
16 comments out as well as the Restoration Teams recommendations,
17 so I think we'll get public comment back on it, and I don't
18 need to delve into the -- particularly in our waning half-hour
19 before the public hearing -- delve into it in detail now, but
20 it's a very expensive project, and I am going to be interested
21 in comment from the RT and the chief scientist on the
22 difference -- well, in fact, they are two-fold in the estimated
23 required cost.

24 MR. COLE: That and 64.

25 MR. PENNOYER: That and 64? 64 is actually a project to

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1 put aside money to negotiate. This is going to be, actually,
2 part of the study to determine what streams -- this is part of
3 an ongoing background study into the habitats that we might
4 want to acquire with 64. We've got an option with 64. There
5 are several habitat studies in here that relate to defining the
6 habitat requirements of different resources.

7 Mr. Barton, I think we're all going to take a break here
8 because the next item is the calendar. So why don't we take a
9 10-minute break and then come back and do the calendar, and
10 rather than take a break just before the public hearing.

11 (Off record - 3:44 p.m.)

12 (On record - 4:00 p.m.)

13 MR. PENNOYER: We have the public hearing scheduled in
14 half an hour, and we have several items to cover before we get
15 to that. I know Mr. McVee had some other suggestions on the
16 document going out to public review. We finished with the
17 project section. Before we get into that, Mr. McVee, I'd like
18 to try and settle on the date of our decision process meeting
19 on the '93 Work Plan.

20 Mr. Gibbons, did you -- are we all going to just give
21 dates or -- I forget, what was the date that you might have it
22 available by?

23 DR. GIBBONS: A

24 MR. PENNOYER: Anytime from December 1st on or something
25 like that?

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1 DR. GIBBONS: Mr. Chair, yeah. If we use the 35-day
2 review period or 37-day review period, and have the package
3 ready for comment by the 10th of December, we could hold the
4 meeting on the 20th of December.

5 MR. PENNOYER: I thought that -- or I had the impression
6 we might get to it by the 1st of December. I think some people
7 are keying in on that week of the 1st.

8 DR. GIBBONS: Well, if we go to a 30-day comment period,
9 making that November 20th, we could probably have that ready by
10 the 1st of December, and then hold the meeting on the 10th. We
11 could do that. That's an option.

12 MR. PENNOYER: I like to get out of a North Pacific
13 Council meetings anyway, but the week of the 1st -- of November
14 30th to December 4th, is just out though.

15 MR. BRODERSEN: Mr. Chairman, what I heard earlier was
16 that if you all want no staff work whatsoever, and if we just
17 give you what comes in from the public, then that could be
18 moved into that week. If you want some compilation or
19 synthesis or anything, then it moves back a week, and so it's
20 kind of up to the Trustee Council as to what they want, in
21 terms of work by the staff.

22 MR. PENNOYER: We asked for just a compilation. Could
23 the compilation include grouping of comments by appropriate
24 proposals so we don't have to kind of leaf back and forth
25 through several hundred; would you at least for each proposal

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1 have them clumped?

2 DR. GIBBONS: Mr. Chair, yeah, I envision organizing
3 that so it's just not a bunch of comments. We'll organize that
4 for you into groups and then let you deal with it that way.

5 MR. PENNOYER: If you did that could you have something
6 to us sometime during the week of November 30th, December 1st?

7 DR. GIBBONS: Yes, we could.

8 MR. PENNOYER: 'Cause you can give the 10-day notice on
9 the meeting. You don't have to wait until the end of the
10 public comment period to give the 10-day notice on our meeting.

11 MR. BRODERSEN: The 10 days if for you per your
12 request

13 MR. PENNOYER: That's right.

14 MR. BRODERSEN: for 10 days in advance.

15 MR. PENNOYER: Thank you for reminding me. That's
16 correct. Any feeling from the Trustee Council as to -- first
17 of all, do you accept the idea of the compilation of public
18 comments by category rather than have them all summarized by
19 staff?

20 MR. BARTON: I thought we decided that earlier.

21 MR. PENNOYER: I was reconfirming it.

22 MR. COLE: What did we decide earlier?

23 MR. BARTON: That we were going to have a compilation
24 instead of analysis and synthesis.

25 COURT REPORTER: You mean compilation means they'll just

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1 send them all to us?

2 MR. BARTON: They'll group them.

3 MR. COLE: Yes, that was my understanding. Thanks.

4 MR. PENNOYER: They'll group the comments by proposal.

5 Can I ask the Trustee Council, are you available the week of
6 November 30th, December 1st, any time during that week?

7 MR. COLE: We can try.

8 MR. PENNOYER: I would appreciate that because I have a
9 North Pacific Council meeting that starts -- goes for about 10
10 days, starting on December 7th, so it's hard for me to get out
11 of. Well, I could though. Which days then? Can we do it on
12 December 3rd -- is everybody free on December 3rd?

13 MR. COLE: No, sorry. I'm not December 2nd through the
14 5th, that's when I'm not available.

15 MR. PENNOYER: You're not available. How about the 1st?

16 MR. COLE: I may have to travel. That's the trouble.

17 MR. PENNOYER: You have to travel on the 1st?

18 DR. GIBBONS: Mr. Chair. I think you'll have to set it
19 back a little bit. If you have a 30-day comment period, that
20 closes on the 20th, and we are obligated to accept comments
21 that are postmarked on the 20th, so that will set it back to,
22 perhaps, the 23rd or 24th, and if you have a 10-day comment
23 period, that puts you right back into like December 3rd or 4th.
24 Is December 7th or 8th possible?

25 MR. SANDOR: This may be one of the extraordinary

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1 circumstances where we can -- since we can accept 5 days or
2 something. You have a meeting from 7 to 11, right?

3 MR. PENNOYER: Yes. I mean, I'd have to -- the Council
4 could let -- I could let my alternate sit in if he's available
5 to, but there's a continual flow of stuff that happens and
6 sitting out for a day is difficult. Yeah, he's gone from the
7 1st to the 5th.

8 MR. SANDOR: You're going from 7 to 11?

9 MR. PENNOYER: He's going.

10 MR. SANDOR: No, you from 7 to 11?

11 MR. PENNOYER: Well, I don't know. The North Pacific
12 Council meeting starts that week, and I haven't announced the
13 starting date, it's either Monday or Tuesday. How about doing
14 the 10th, and I'll just walk out of the meeting for the day --
15 half a day. Is that okay, the 10th? What day can you do it,
16 only the 7th or 8th?

17 MR. McVEE: The 7th and the 11th.

18 MR. PENNOYER: How about the 11th?

19 MR. SANDOR: 11th and 12th.

20 MR. PENNOYER: I won't be able to do two days, but I can
21 do one. I can't walk out on the council for two days.

22 MR. SANDOR: It will run two weeks. The 14th is out,
23 too, then.

24 MR. PENNOYER: I'm back in DC. Those are my worst two
25 weeks in all of November and December. I have North Pacific

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1 Council from the 7th through the 12th, leave for DC on the
2 13th.

3 MR. SANDOR: Let's do the 11th.

4 MR. PENNOYER: Can we do December 11th? Try it for one
5 day, start early and go late?

6 MR. BRODERSEN: Can this be done in one day, judging by
7 discussions we've had today, where we weren't trying to make
8 decisions?

9 MR. PENNOYER: I don't know. I have no idea. I'm
10 willing to try for the 11th. If I can't do it, then I'll get
11 an alternate.

12 MR. COLE: Pardon me?

13 MR. PENNOYER: Got to get it done.

14 MR. COLE: Let's try to do it in one day.

15 MR. PENNOYER: Let's start early, 8:00 o'clock on the
16 11th, 8:00 a.m. We're going to try and do it in one day. Will
17 we have a public hearing associated with that? I might have to
18 excuse myself in the latter part of that if it spills over in
19 to Saturday.

20 MR. COLE: I move we do not have a public hearing that
21 day -- at the conclusion of that day. Commissioner Sandor,
22 that may shock you, but here's the reason: We may, at 5:00
23 o'clock, still have a lot of work to do in order to finish the
24 agenda, and I would say we should want to be in a position that
25 we can go right through till 10 or 12 or midnight, if need be,

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1 to get our work done that day. And it's nice to have a clear
2 head when we do that. I wouldn't want to do that following it,
3 and recess for a public hearing.

4 MR. SANDOR: Second that motion.

5 MR. PENNOYER: It's been moved and seconded that we not
6 have a public hearing on the 11th, we will receive public
7 comment, of course, when we send the Plan out, and that's the
8 main focus of this meeting. Is there any further discussion of
9 that? Is there any objection to that? That motion passes.

10 Do I have a motion for December 11th or is that part of
11 your motion?

12 MR. COLE: That's fine with me.

13 MR. PENNOYER: Is December 11th fine with everybody?
14 Okay, December 11th, 8:00 a.m. will be our meeting to finalize
15 the '93 Work Plan.

16 MR. COLE: Mr. Chairman.

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: Have we taken care of the Public Advisory
19 Group's scheduling sufficiently, if indeed we have anything to
20 do in that regard at this meeting?

21 MR. PENNOYER: I think we asked for a report on that,
22 and we were assured it would happen as soon as possible.
23 Mr. McVee gave a report in terms of what the Secretary of
24 Interior is doing for approval, and I assume that we have
25 nothing else to handle here on the urgency that was made

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1 apparent.

2 MR. McVEE: Well, I guess we can see what kind of a
3 schedule that will be required if we get the final appointments
4 cut, but as soon as we can get a fix on that, I think that at
5 that point -- and some commitment, at that point we could
6 probably go ahead and issue a notice and schedule a first
7 meeting. As lead agency, we'll try to expedite that
8 appointment process as rapidly as possible so that we will have
9 time to have a Public Advisory Group meeting before December
10 11th so we can have that input.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. PENNOYER: I would say, Mr. McVee, that if there
14 appears to be any delay in getting them certified or approved
15 or whatever, that we schedule a meeting with them in any event
16 before that. I should think we need to have at least two
17 meetings of that group before December 11th; one, the general
18 organization meeting, and, secondly, a meeting to consider
19 these proposals.

20 MR. PENNOYER: Mr. McVee.

21 MR. McVEE: I'm trying to move it as fast as possible.
22 I guess a organizational meeting -- I think there's some
23 preliminary things we need to do with the Public Advisory
24 Group, although it doesn't seem to like it will take a great
25 deal of time. They need to select officers. The charter calls

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1 for a chairman and vice chairman and they'll have to go through
2 that process. Also, they need some briefings on the whole
3 ethics, conflict of interest issue, and they may want some
4 discussion on that, but that should not take a great deal of
5 time. It seems to me like the high priority is the budget,
6 which we would require some background. That will take some
7 time to background this group on so they can adequately address
8 issues.

9 MR. PENNOYER: And maybe prepped with the materials and
10 so forth ahead of the meeting and maybe combine the two
11 sections?

12 MR. McVEE: It possibly could be.

13 MS. BERGMANN: If I could just add to that. The
14 Department of Interior, federal representative to the PAG is
15 working today on putting together a schedule, which he will be
16 presenting to the Restoration Team tomorrow, for their
17 consideration, and he's looking at all the things that
18 Mr. McVee talked about, as well as putting together a draft
19 agenda for their first couple of meetings and what needs to be
20 done. Restoration Team members can share that draft schedule
21 with you all as soon as we take a look at it tomorrow. So, as
22 Mr. McVee said, we are working toward getting that group
23 together as soon as possible.

24 MR. PENNOYER: If you'll send that out to the Trustee
25 Council members, I think that would be appropriate. They may

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1 with to comment.

2 We have a very short time before we go to the public
3 hearing. I know Mr. McVee has some suggestions for the
4 packages going out to public review on the '93 Work Plan. Mr.
5 McVee, maybe you should go with those right now.

6 MR. McVEE: Yes. Thank you, very much. This should be
7 fairly brief. But it's against my thinking that again the
8 public -- we're asking the public to evaluate the package, and
9 a fairly complex package, and I think there's a couple
10 documents that should accompany that so that the general public
11 would get some knowledge of what all this means, but I'd like
12 to move that a narrative -- brief narrative for each working
13 group accompany the working group budgets, as they are released
14 for public review and comment, and also the second part of that
15 motion would be to include the latest injury assessment with
16 that package. On the working group narrative some rationale
17 for that is that those budgets represent a sizeable chunk of
18 funds out of the account, and I believe that a description of
19 the working group and of what the working group is responsible
20 to produce the deliverables and some such schedule for
21 completing that task will provide a better basis for public
22 comment. And I think the Council for part of Agriculture,
23 Forest Service, Marial Kowski (ph), and her initial draft of
24 the program status report did a brief description on the
25 working groups, and I think this would be used as a starting

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1 point. I think it needs a little bit more added to it. Maybe
2 there's another document, too, but just to summarize the motion
3 again: A narrative that describes the working groups and what
4 they are responsible to produce in the schedule and in the
5 whole, so a document -- or updating the injury assessment would
6 be added to the public document.

7 MR. SANDOR: Second.

8 MR. PENNOYER: It's been seconded. Adequate descriptive
9 materials of working groups go out to -- with the public review
10 document on the '93 budget. Is there any further discussion?

11 DR. MONTAGUE: Mr. Chairman.

12 MR. PENNOYER: Mr. Montague.

13 DR. MONTAGUE: I can see that these are valuable and you
14 need to include them, but I would like to point out that it
15 will be very difficult to have anything before October 6th with
16 the addition of these new documents that need editing and
17 everything else.

18 MR. PENNOYER: Mr. Gibbons.

19 DR. GIBBONS: Mr. Chair, maybe a couple of
20 clarifications on this. Is the latest injury assessment, is
21 that the assessment from the restoration framework released in
22 April, or would that be an update to that? It would be very
23 difficult to update that when everybody is still in the field.
24 That would be my point there.

25 I've already got a cut on the paragraphs describing the

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1 working groups; it's already done. So that's not a problem. I
2 completed that last week.

3 DR. MONTAGUE: Mr. Chairman, they have schedules in
4 those. That's a significant addition to all those work groups.

5 DR. GIBBONS: The deliverables, we can meet tomorrow on
6 and we can finalize those a little bit, those deliverables, I
7 think, like the GIS or Restoration Plan.

8 MR. PENNOYER: Is it adequate, Mr. McVee, to include a
9 motion to do as much as possible without fowling up the time
10 schedule that we've set for the process?

11 MR. McVEE: Yes, I appreciate Dr. Gibbons' comment on --
12 I'd agree we don't have time to do another update at this time
13 point and meet our schedule for getting it out. Maybe April is
14 the latest and the best we've got, but I think it should be
15 included, the injury assessment information.

16 MR. PENNOYER: Okay. Further comments on the '93 Work
17 Plan package that's going out to public review? Mr. McVee, did
18 that cover all your comments?

19 MR. McVEE: It covered it.

20 MR. PENNOYER: Does anyone else have anything further on
21 that document?

22 DR. MONTAGUE: Mr. Chairman.

23 MR. PENNOYER: Mr. Montague.

24 DR. MONTAGUE: These additional documents, would you
25 intend that they be bound and printed along with the Work Plan

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1 or they be an attachment to them? It doesn't matter.

2 MR. PENNOYER: Whatever fits in the time schedule the
3 best.

4 DR. MONTAGUE: There was one more point that I think we
5 need to discuss relative to the '93 Work Plan, and that is we
6 have mentioned previously, but I'd like to point out again that
7 what our original intent was that at this meeting we would
8 approve a draft budget, and that would go to the state and
9 federal OMBs, and between now and the finalization of the Work
10 Plan in December it was our intent that a request for proposals
11 be prepared and detailed project plans be prepared and that
12 these be reviewed by the chief scientist and the peer
13 reviewers.

14 So there is some effort and cost associated with doing
15 this, and what I'd like some guidance on from the Council,
16 should be begin this type of work on all the projects in the
17 plan or just those with the five and six votes?

18 And the one additional bit of information, I believe,
19 there was only -- now that a number of projects have been
20 removed, there's only seven projects left in there that aren't
21 in the 5-6 vote category, and the cost of preparing these are
22 generally in the projects themselves, the overhead costs and
23 the program manager's costs, but should these RFPs and detailed
24 work plans -- project plans be prepared and then if the project
25 was not funded in December, there would be a shortfall within

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1 the agencies for -- I don't know if anybody could give an
2 estimate, probably at a minimum of two or three weeks of staff
3 time per project plus a fair amount of costs from the chief
4 scientist and peer reviewers.

5 MR. PENNOYER: Well, I guess the question I'd ask,
6 Mr. Montague, is are all those projects required to have the
7 RFP and so forth prepared between now and December, are some
8 not starting till next summer or late next spring?

9 DR. MONTAGUE: I haven't reviewed the time limits on all
10 those. A number that are continuations of one sort of another
11 of last year's projects will not need anything until March 1st.
12 Any project that's going to be beginning, you know, in say at
13 least by April, and it was going out by RFP, we would need to
14 have the RFP out sometime in late December, early January with
15 a month or so out for preparation of proposals, and another
16 month or so to review them. So they're probably just guessing
17 60 or 70% of those here would need to have this done -- at
18 least 60% between now and December.

19 MR. PENNOYER: We weren't going to make any final
20 decision on the project anyhow, regardless of what happens at
21 this meeting, until after the December session and public
22 comment. What were you going to do?

23 DR. MONTAGUE: In the event that a project was canceled.

24 MR. PENNOYER: I mean now, no matter what we did at this
25 meeting, we were not going to take a final decision on any

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1 project until after we got public comment, PAG committee review
2 and that's in December. So you're faced with the same dilemma
3 that you have right now. Before this meeting you must have had
4 a plan for action of some kind.

5 DR. MONTAGUE: That's somewhat true, it's just there's
6 an addition of projects that in previous years we would have
7 had a recommendation by now, which ones the Trustee Council
8 favored, and we do not have that now. So, I guess, the
9 probability of projects not going forward may be higher now
10 than we had originally anticipated.

11 MR. PENNOYER: But it still could have happened to any
12 project based on public review and public comment

13 DR. MONTAGUE: Absolutely.

14 MR. PENNOYER: in December. So you're still faced
15 with that uncertainty. I guess you're going to have to make a
16 choice. If you have some project that does not require start-
17 up, you could act on it -- on getting an RFP and so forth
18 together after a December decision. If you have some that
19 would start in January of February, you're probably in the
20 position of having to put something together, otherwise you'll
21 lose a year.

22 MR. PENNOYER: Well, I mainly just wanted to make sure
23 the Council was aware of this so that, you know, if we did have
24 some shortfalls that we'd be forewarned of it.

25 MR. COLE: Mr. Chairman.

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: Are we never going to get ahead of this
3 process? I mean, I thought we had this problem last spring,
4 and now we have it again, seemingly, this fall. I hope that
5 before the end of my term, we eventually get ahead of this. I
6 don't say this by way of criticism of the Restoration Team,
7 but, you know, it was understandable that for this season's
8 projects, because we just started in December and started
9 getting underway, that we were behind schedule for '92, but now
10 to be told that we're essentially in some ways behind schedule
11 for the '93 is

12 MR. PENNOYER: I think by the '94 budget, we should be
13 back on track, should we not?

14 DR. MONTAGUE: That's correct, Mr. Chairman, and this
15 year, as opposed to '92, we're not talking about any real
16 project field costs, we're only talking about minor cost in
17 comparison to what we approved preliminarily in '92.

18 MR. PENNOYER: Ms. Bergmann.

19 MS. BERGMANN: Mr. Chair, I'm not sure that -- it was
20 not my understanding as a Restoration Team member, that we
21 would be asking the Trustee Council to go ahead and approve
22 agencies to develop detailed project budgets and descriptions
23 and RFPs at this point in time. We are in a bind because of
24 the schedule, and my understanding of the process was that when
25 this package goes out to the public for review, that if

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1 agencies would like to, at their own expense, take a risk on
2 those projects where if they receive approval -- support from
3 the public and support from the Trustee Council, and need to
4 move forward quickly in January, that they could go ahead and
5 begin developing those documents. But I think it's unwise to
6 put ourselves in a position where we look like we're already
7 making a decision about what's going forward. So I think it's
8 a little -- it's a subtle difference, but it's an important
9 difference. And my understanding was that agencies would just
10 be doing that if they so chose to do that at their own expense.

11 MR. PENNOYER: Comment? I guess the answer still
12 stands. You'll have to look at the schedule and judge what you
13 need to do, and you have all those 6-0, 5-1s and 4-2 projects
14 that you're going to have to take a close look at.

15 MS. BERGMANN: But if that project doesn't go forward,
16 the agencies wouldn't be reimbursed for putting together those
17 budgets, RFPs and detailed budget descriptions.

18 MR. PENNOYER: Comment? Well, I'm not sure how those
19 are funded now, and I'm not sure how many people already on
20 staff are working on these things. I don't know how they're
21 prepared, agency by agency; I don't know how to comment on
22 that. I don't know which staff is doing it, but in any case,
23 I'm certainly not going to tell you to -- that we've approved
24 something and give you the impression that it's got tentative
25 approval when we're holding approval until after the public

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1 review process. So that's where we stand.

2 Further comments on the '93 package?

3 MR. McVEE: Mr. Chairman.

4 MR. PENNOYER: Mr. McVee.

5 MR. McVEE: I think there was an earlier request from
6 Trustee Council that they wanted to see at least some part of
7 the Work Plan. Was that just the cover memorandum that you
8 wanted to review or was that the transmittal?

9 MR. BARTON: I believe. That's my recollection.

10 MR. PENNOYER: And that will be mailed out individually
11 for comment. Any further questions or comments on the '93 Work
12 Plan?

13 Mr. Gibbons, anything else?

14 DR. GIBBONS: I have one item here. Following up on
15 Mr. Cole's comments last week about a work session with the
16 Trustee Council and Restoration Team, I'd like to propose such
17 a work session before the December meeting, and discuss some
18 items such as the 1993 Work Plan project legal review; draft
19 Restoration Plan, it's issues; habitat protection criteria, the
20 supplement document; alternative formulation, and some other
21 items. But if we're in a work session than full public

22 MR. PENNOYER: When were you going to suggest that,
23 judging the last process we went through on the December 11th
24 meeting. That only took us about 15 minutes in going through
25 the calendar. Did you have a date in mind?

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1 DR. GIBBONS: I was hoping somewhere around late October
2 might work.

3 MR. PENNOYER: Anybody care to try for a date in late
4 October, or why don't you -- maybe we'll leave that up to you
5 to try and set up by phone and mail. I don't think we've got
6 much more time right now.

7 DR. GIBBONS: I can do that.

8 MR. PENNOYER: Do you agree with the concept of trying
9 to set up a work session for some time in late October?

10 MR. COLE: Yes.

11 MR. McVEE: Yes.

12 MR. PENNOYER: Any objection to that? We'll leave it to
13 Mr. Gibbons to try and contact each of us and find out when
14 we're available.

15 I believe we had one more item on the agenda before the
16 public hearing, a review and update on the Walcoff contract?

17 DR. GIBBONS: Yes. Ray Thompson will handle this.

18 MR. PENNOYER: Then we need to take about a five-minute
19 break so you can set up the telephone conference, or are you
20 doing that already?

21 MR. BRODERSEN: We're doing it already.

22 MR. PENNOYER: Oh, good.

23 MR. THOMPSON: Mr. Chairman.

24 MR. PENNOYER: Yes.

25 MR. THOMPSON: Very briefly, the Walcoff contract, there

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1 has been an agreement reached with the Department of Justice to
2 amend the contract to have Walcoff Associates do the EIS for
3 the restoration process, and the negotiated cost on that was
4 \$298,000.00. Currently available to meet that end is
5 \$100,000.00. And as I understand it right now, there's only
6 one person on the Walcoff staff that still needs to be on their
7 contract -- sub-contract negotiated, and then they'll have a
8 complete team and they'll be ready to go to work.

9 And their schedule -- I'm assuming, I haven't seen the
10 contract, Ken Rice has that -- will pretty much follow that
11 that's been set up for the Restoration Plan, which means that
12 they'll be working with us on the restoration planning working
13 group to have a final EIS in late May, early June.

14 MR. PENNOYER: Are there any questions? Any action
15 required?

16 MR. THOMPSON: I'll refer that, again, to Dave. I'm not
17 sure if any action needs to be taken on the 198,000 for the
18 additional part of that contract, or if that's, you know, part
19 of other money that's been approved.

20 MR. PENNOYER: Dr. Gibbons, would you tell us what we
21 need to do, please?

22 DR. GIBBONS: Yeah, Mr. Chair, I believe that's
23 programmed in the budget for 1993.

24 MR. PENNOYER: So this is simply an update; no action is
25 required?

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1 DR. GIBBONS: That's correct.

2 MR. PENNOYER: Thank you. Is there any other action
3 coming before the Trustee Council before we start the public
4 hearing? Okay, well, then we won't adjourn. Do we need to
5 recess for five minutes? Okay, five minutes, and let's try and
6 limit it to that, if we could.

7 (Off record - 4:27 p.m.)

8 (On record - 4:35 p.m.)

9 MR. PENNOYER: Trustee Council meeting at this
10 time. We've advertised a public hearing on our agenda to go
11 from 4:30 to 6:00 o'clock. I'm afraid we're going to have to
12 adjourn the meeting at 6:00, we have a number of members who
13 have other commitments. But I'd like to emphasize this is a
14 continuation of the meeting that started on September 14th, and
15 at that meeting, we took about three and a half hours of public
16 testimony on this same topic. I would appreciate it,
17 therefore, if at the network here in Anchorage that, one,
18 people would limit their comments and try and be as brief as
19 possible so we can fit in as many folks as we can; and second,
20 that those that testified on the 14th give preference to those
21 who did not, so we can take those who didn't get a chance to
22 testify on the 14th. I know some people were cut off, even
23 though we went till, what, after 8:30 at night. So, I'd like
24 to do it that fashion, if I could. The conference operator
25 reminds me that those who testify need to state their name and

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1 spell their last name.

2 To start with, first of all, this is a meeting of the
3 Trustee Council; the primary purpose of the meeting today was
4 to approve the '93 Work Plan to go for public review. I think,
5 at this stage, I'd ask Mr. Gibbons to give a brief review of
6 the actions taken at this meeting, so those of you who were not
7 here and didn't get a chance to hear it can hear what we've
8 done today so far before you testify. After that, we will go
9 out on the net and here in Anchorage and start taking
10 testimony. Dr. Gibbons.

11 DR. GIBBONS: Thank you, Mr. Chair. The first motion
12 passed was to revise the operating procedures of the
13 Restoration Team to reflect a review of the Trustee Council and
14 public of materials to be extended from the comment period from
15 five day -- a review period from five days to 10 days, except
16 in cases of extraordinary circumstances. This relates to the
17 materials before the Trustee Council meeting.

18 The Public Advisory Group recommendation on the 1993
19 Work Plan is essential; before finalization, the Restoration
20 Team is to build that process into the 1993 Work Plan schedule.

21 There was a motion to drop Project Number 48, entitled
22 Communications from the Review Package Going to the Public.

23 The motion to the Restoration Team and the Financial
24 Committee is be to review the budget inconsistencies, primarily
25 with administrative costs, by the December 11th meeting.

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1 There was a motion to incorporate a bark beetle
2 infestation data layer into Projects Number 60 and 59. This
3 would add an overlay of beetle infestation areas to the Oil
4 Spill area.

5 There's a motion to include killer whales, Project
6 Number 42, into the recommended draft 1993 Work Plan, package
7 for public review and budget projections to OMB.

8 The following motions relate to specific projects. The
9 Trustee Council moved to delete Project Number 1, Recreational
10 Resources, and get all possible information from the Department
11 of Justice to review to see if there is adequate information to
12 document injury to recreational resources.

13 Project Number 19, Mariculture, is to be included in the
14 package for public review, but it's subject to a legal review
15 by the State and Federal attorneys.

16 Project Number 21, remove Project Number 21 from
17 public -- from the public review package; that is the Murre
18 Chick Transplant project.

19 The Trustee Council moved to remove Project 37 from the
20 public review package, that's the Intertidal Control Project
21 looking at unoiled sites.

22 The Trustee Council moved to remove Project 40/54 from
23 the public review package, this is the Intertidal Ecology
24 Monitoring Project.

25 Project Number 52 concerning bald eagles was retained

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1 for public review.

2 There was a motion to amend Project 33, the Harlequin
3 Ducks; the amendment to include a design, a new portion for
4 expansion of the Harlequin habitat work to the Kenai Peninsula,
5 and send out in the public review package. It was stated,
6 perhaps, a sub-sample of the Kenai area do this, but include
7 this expansion in the most cost effective manner as possible.

8 There was a discussion on Project 064 which is Habitat
9 Protection Fund, wording will be added to the project to
10 reflect all potential projects will be approved by the Trustee
11 Council for expenditure of funds on a case by case basis. The
12 budget reflects the intent of the Trustee Council up to 20
13 million dollars. But at this time, we do not know the exact
14 number until the imminent threat analysis is completed.

15 The next meeting of the Trustee Council on the 1993 Work
16 Plan is December 11th, starting at 8:00 a.m., and there will be
17 no public comment period at this meeting since public comments
18 have been received on September 14th and again on -- tonight.

19 The Trustee Council moved to add two accompanying
20 documents to the 1993 Work Plan. The first would be a
21 narrative of each working group with deliverables (ph) and time
22 frames, what products each working group intends to provide in
23 1993. And the second document would be a copy of the injury
24 assessment that was contained in the restoration -- April
25 Restoration Framework document.

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1 MS. EVANS: Mr. Chair, I'd just like to check and see
2 who's on line on the net and make sure that you all are hearing
3 us well.

4 MR. PENNOYER: Fine, why don't you go ahead.

5 MS. EVANS: Barbara?

6 BARBARA: Yes. Okay.

7 MS. EVANS: Would you let us know who's on line?

8 BARBARA: At this time, we have Cordova, Kodiak, Homer
9 and Valdez.

10 MS. EVANS: Thank you. And everyone is receiving us
11 okay?

12 BARBARA: Homer, could you answer that question?

13 HOMER: Yes, we're hearing you fine.

14 BARBARA: Thank you.

15 MS. EVANS: Thank you.

16 MR. PENNOYER: Dave, is that the total report, then?

17 DR. GIBBONS: Yes.

18 MR. PENNOYER: Okay. Thank you very much. I was remiss
19 in not identifying the fact that the full Trustee Council is
20 here and has been here for the meeting today. We have Mr. Carl
21 Rosier, Commissioner, Alaska Department of Fish & Game; Mr.
22 Curt McVee from the Department of the Interior; Mr. Mike Barton
23 from the U.S. Forest Service, Department of Agriculture; John
24 Sandor, Commissioner of the Alaska Department of Environmental
25 Conservation; Mr. Charlie Cole, Attorney General for the State

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1 of Alaska; and I'm Steve Pennoyer with the National Marine
2 Fisheries Service.

3 I think we'll go ahead and start the public hearing
4 there. And again, I would like you to limit your testimony and
5 to give preference to those who did not get a chance to testify
6 at the meeting on September 14th; this is a continuation of
7 that meeting, and we had some three and a half hours of public
8 testimony at that session. Our time is limited tonight, so I'd
9 like to give preference to those who did not get a chance to
10 address us on the topic of the '93 Work Plan or other things
11 that were the subject of this meeting.

12 So, I think I'll go ahead and start with somebody from
13 Anchorage and alternate between Anchorage and the field. Who
14 in Anchorage would like to go first? Senator Sturgulewski,
15 please.

16 SENATOR STURGULEWSKI: My name is Senator Arliss
17 Sturgulewski, that's S-T-U-R-G-U-L-E-W-S-K-I. Mr. Chairman,
18 members of the Council, I'll be very brief. I would like to
19 appear once again to ask for your support for the establishment
20 of the Exxon Valdez Marine Sciences Endowment, and bring you up
21 to date on a couple of things.

22 First of all, we -- and that's kind of a royal we, but
23 we did revise the proposal on August 24th, '92; rather minor
24 changes. The major goal, certainly, remained the same, and I
25 won't take your time by going over those. We did change a

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1 little bit the coordination portion with other groups, and I'll
2 explain well, as well as to bring just a little information on
3 some questions that there might be with the State law regarding
4 the proposal.

5 What I particularly wanted to tell you about was a
6 meeting, I did appear before the Arctic Research Commission at
7 their Nome meeting. The proposal that I made to them was that
8 they convene a group of major interests that are handling
9 science along Alaskan marine waters, and think about the
10 possibility of how we coordinate those various groups. I won't
11 mention all of them, but we have a new international
12 organization that some of you may have heard of Pisces; we have
13 the North Pacific University's Fisheries Research Consortium
14 which I'm very excited about that's looking at coordinating
15 marine science; and we have the Pacific States Marine Fisheries
16 Commission, and there are certainly others.

17 But as a result of that meeting, at the December meeting
18 of the Arctic Research Commission in December in Seattle,
19 they're going to bring together a number of the various groups
20 that are dealing with science to talk about how we can maximize
21 both marine and ocean science. And so, I think that's
22 something to keep in mind as we look at this proposal of how it
23 ties in. As you know, the Arctic Research Commission
24 recommends to the interagency group of the National Science
25 Foundation, and they have been -- it's interesting in their

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1 report that they have showing the coordinated projects that are
2 being done in Alaska. Now, that takes in more than just marine
3 science, it also takes in atmospheric and oceanic; but I think
4 any kind of a foundation or trust that would come out needs to
5 be aware of those other agencies so that we maximize what we
6 have.

7 In addition to that, I brought together a group of
8 scientists, many of them doing work in a number of areas, but
9 all of them involved in science in the Prince William Sound.
10 At that meeting, we also had some members of the environmental
11 community. Really, what I'd wanted to do was to present the
12 proposal and get their suggestions on this; it was a very
13 positive meeting, a lot of positive report (ph) information.
14 We'll be looking at that to see if it would mean some possible
15 changes in what we've gotten to you.

16 One of the things I wanted to be very sure about is that
17 we did not get into a conflict situation with the environmental
18 community. They have been very interested, of course,
19 acquiring trees, and that certainly is a worthy project. I
20 would hope that there is certainly room for major approaches,
21 both acquisition of trees and the idea of a science -- some
22 kind of a foundation.

23 My reason for appearing before you today, there's -- you
24 really have a tremendous workload before you, and I realize
25 your concentrating on fiscal year '93. But there are some very

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1 complicated issues, as you well know, with setting up a
2 foundation. And I would just -- am here to encourage you to
3 fully explore the -- both the legal and the structural issues
4 surrounding the idea of putting dollars aside. I -- in some
5 ways, I represent no constituency, I have no government body
6 behind me, all I have is some ideas and would certainly want to
7 enter into any possible helpful discussions, but I simply don't
8 have the ability to find out how those are dealt with; whether
9 it means going back to the Court, whether it means you'd have
10 to go to Congress or what the other impediments would be. So,
11 I just hope that's a part of what you are doing. And again, I
12 appreciate the hard work you're doing and thank you for the
13 opportunity to appear.

14 Thank you.

15 MR. PENNOYER: Thank you, Senator. Any questions of the
16 Senator? Okay. Mr. McVee.

17 MR. McVEE: Yes. We've had the members of the
18 Restoration Team here today, and usually have them at our
19 meetings. And I guess my hopes are that -- is this working?

20 (Off record comments)

21 MR. McVEE: I guess my interest is seeing that all these
22 proposals are giving -- given full coverage in the Restoration
23 Plan and are analyzed in the options. And you know, I would
24 certainly encourage, you know, keeping this proposal that the
25 Senator has been working on before the Restoration Team, and

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1 having it presented in the Restoration Plan and discussed as
2 part of the total package and part of all of the options that
3 we will consider in the final Plan.

4 MR. PENNOYER: Thank you, Senator. Next, I'll go to
5 Cordova. Is there anyone in Cordova who wishes to testify?

6 MR. STEINER: Yeah. Can you hear us here in Cordova?

7 MR. PENNOYER: Yes, we can. Go ahead, please.

8 MR. STEINER: It's a lovely fall afternoon down here, I
9 wish you were here having fun. This is Rick Steiner, I'm just
10 testifying on my own behalf this afternoon. And very quickly,
11 I think the main problem I see with the '93 Work Plan is that
12 it completely excludes work on identifying damage to resource
13 services, and therefore, how to replace those damaged resource
14 services. And that that is, perhaps, the largest category of
15 damage as far as was identified in the economic studies that
16 the Government's paid a pretty penny for. I think it's sort of
17 a glaring hole in the '93 Work Plan. And I would very much
18 like to have a project in there that identifies the lost
19 resource services, and therefore, how to replace and/or acquire
20 equivalent such services.

21 And this project needs to be more of the contingent
22 valuation nature rather than just the direct uses of resources
23 that were lost. I spent a couple of hours this afternoon on
24 the telephone with a number of the academic community
25 throughout the nation who participated in the economic studies

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1 discussing this very thing. And I think the largest category
2 of economic damages was those -- the contingent value, I think
3 the Attorney General has mentioned that many times before, such
4 as existence value and bequest value, such like that.

5 For those of you who are unfamiliar with the jargon and
6 the terminology and the lexicon here, the existence value is
7 the value derived from simply knowing that something exists;
8 for instance, the pristine Prince William Sound or Afognak
9 Island or something like that. Bequest value is the
10 willingness to pay for the economic benefits of saving a
11 particular resource or service for future generations. And
12 this really cuts to the core, I think, of what we need to be
13 doing in the Restoration Plan. Even in the '93 Plan, the fact
14 that we haven't even begun to identify what these are, it sort
15 of tips the hand to a number of us in the region that there is
16 no intention, no genuine, sincere intention of doing so.

17 The -- so, anyway, a study needs to be done. I don't
18 know how much it would cost. I got a fair range of dollar
19 values from a number of people, all the way from \$200,000.00 up
20 to a million dollars. What's important is a study done for the
21 purposes of restoration, identifying restoration options, would
22 be about a fifth the dollar value -- or the cost of one that is
23 done for litigation, and I think the attorneys very clearly
24 understand why. This doesn't have to be as detailed a
25 resolution that litigation product would be. So, if a project

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1 could be put in there to do this, it would signal to the public
2 that there is some serious intention of doing that.

3 And the other thing is I'd like to ask the Trustees
4 Council on the record here, now that we're altogether, two
5 questions. And the first is: Is there anybody amongst the
6 Council that disagrees with the statement that the overwhelming
7 public input and comments to date has favored habitat and/or
8 resource service acquisition? So, I guess the question would
9 be is there anyone there that disagrees that that is the case?

10 MR. PENNOYER: Mr. Steiner, I'm not clear, you're asking
11 us if we disagree that the public input has been heavily in
12 that area? I don't think anybody can disagree with that, I'm
13 not sure where you're leading.

14 MR. STEINER: That's the first step. And therefore, the
15 second step is: Is there any disagreement that habitat
16 acquisition should be a significant component of the final --
17 the 1993 Restoration Plan?

18 MR. COLE: Well, I'd like to respond to that,
19 Mr. Chairman.

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: You know, first, I don't my silence to be
22 construed as agreeing or denying with Question Number 1, that's
23 the first element of my response. The second element of my
24 response is that it should be only to the extent that we can
25 find the essential link between restoration, replacement,

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1 enhancement, or the acquisition of equivalent resources and
2 services. And I think we want to have to continually make that
3 clear. And to the extent that that essential link is
4 established, in the sound judgment of the Trustee Council, I,
5 for one on the Council, believe that we should make the
6 requisite acquisitions of habitat. Thank you.

7 MR. PENNOYER: Mr. Steiner, you, unfortunately, couldn't
8 be hear to hear the deliberations today, but I think there's a
9 lot of discussion of the habitat acquisition, or easements or
10 whatever action might be taken relative to habitat at this
11 meeting. And I think we have a placeholder project proposals
12 for up to 20 million dollars going out to public review. We
13 have already approved it. At the last meeting we were at some
14 heard -- some speeded up data acquisition projects on habitat.
15 We have a number of habitat studies related to various
16 resources in the '93 Work Plan. And I think the Trustee
17 Council is indicating that they're very interested in this as a
18 restoration strategy.

19 I hope that that comes across clearly in the packets
20 that we sent out. And as Mr. Cole has said, we're trying our
21 best to find out what the key elements are, recognizing we
22 can't deal with all of them. So, hopefully, the plan that you
23 see will help address that concern. And we are moving as
24 quickly as we can get the information to try and deal with this
25 strategy.

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1 MR. COLE: Mr. Chairman?

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: Yes.

4 MR. STEINER: Thanks, Mr. Pennoyer. Can I close out
5 with one quick one, then? And that is if -- the question was
6 put before at the meeting I was a week ago whether to have the
7 public comment specifically on how to accomplish habitat
8 acquisition. And I think the reason the public has been a
9 little reticent to do that is because the question has not been
10 how to do it, it's been whether to do it or not. And so, once
11 we've established that yes, the public is overwhelmingly in
12 favor of this, although, there's a lot of money to do other
13 good things with. Once we've established that the Trustees
14 Council is genuinely in favor of this, then there -- the
15 mechanisms for doing it are actually quite straightforward, and
16 there's a number of options around for that.

17 And lastly, I think the indication by the '93 Work Plan
18 that there is no -- this question that the Attorney General
19 raised about linkage, that there is no program or project in
20 the '93 Work Plan that addresses services lost, and therefore,
21 how we're going to replace them, really tells us that there is
22 less than a genuine, sincere intention of going ahead with
23 this. And that's the concern, because if -- with the
24 aesthetic, and intrinsic and existence and bequest values that
25 were lost in the Spill, we can easily link places such as Cape

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1 Suckling, which I'm sure the Attorney General knows and doesn't
2 quite like. But that can easily be linked in the idea of
3 offsetting the lost wilderness value of Prince William Sound,
4 for instance, by the commensurate acquisition of another area.

5 So, at any rate, I'd ask, with all due respect, that
6 such a project get proposed, and there are economists around
7 that can do it, and that it be fast-tracked. Thank you.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: I want to comment on, Mr. Steiner, your
10 gen- -- your comment that because there's nothing in this '93
11 Work Plan dealing with services that, therefore, you
12 legitimately draw the conclusion that the Council has no
13 interest in that subject. I mean that doesn't follow, and it
14 doesn't follow at all. As a matter of fact, if you --
15 unfortunately -- I'm certain you couldn't have been here today,
16 but that was a subject of discussion here today, about how we
17 should look into the acquisition of equivalent services. It
18 was a discussion, we haven't developed on it.

19 But I think it's an unfair comment to the Council to
20 jump to the conclusion that we aren't interested in that, we
21 are interested in that. However, I think we properly have a
22 mandate to first direct our attention to the restoration of
23 injured natural resources where our restoration efforts can
24 effectively support restoration, and that we should, initially,
25 direct our efforts there. And that doesn't mean that you can

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1 jump to the conclusion that we have no interest in the
2 acquisition of equivalent services, 'cause we int- -- I, for
3 one, and I'm certain that others on the Council view that as
4 one of the direct provisions of the decree.

5 I also would like to see you furnish us with a written
6 proposal of what services you think have been lost, and what
7 equivalent services you think that we should acquire. If you
8 would be good enough to do that, I'm certain that the members
9 of the Trustee Council will view them with interest.

10 MR. PENNOYER: Any other questions of Mr. Steiner by the
11 Trustee Council or comments? Thank you very much, Rick. I'd
12 like to now come back to Anchorage and take another witness
13 here in Anchorage, somebody who didn't get to testify on the
14 14th, if possible. Is there anybody here that didn't testify
15 on the 14th that would like to testify? Okay. We'll go back
16 out to the net then. Kodiak? Is there anybody in Kodiak that
17 wishes to testify?

18 MAYOR SELBY: Yes, Mr. Chairman. This is Jerome Selby,
19 Mayor of the Kodiak Island Borough. I appreciate the
20 opportunity to testify. I assume since there was no mention
21 made of it that our request to deal with the pink salmon
22 projects has been ignored. I guess I have a hard time
23 understanding that when we have a fishery where it was clearly
24 impacted by Exxon Valdez Oil Spill in terms of both year (ph)
25 classes of pink salmon had to swim through the Oil Spill in

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1 order to -- in the case of the fry going out, they were leaving
2 to go to the ocean, and in terms of the adults that were
3 returning in 1989, had to swim through the Spill before they
4 spawned. What the impact that had on the eggs and the
5 subsequent fry, I have no idea; no one's done any research on
6 that to date. But we are quite concerned, because we had a
7 drastic crash of the pink salmon return this year, as I'd
8 indicated last week, from some 12 to 15 million projected
9 return to three million.

10 And I'm having a hard time understanding why we wouldn't
11 fund something for \$150,000.00, the four projects on pink
12 salmon that I had named last week; Horse Marine, Waterfall,
13 Uganik and Katoi (ph); and we do fund things where we're
14 stretching to tie it clearly to the Oil Spill, such as the
15 Kenai River sockeye run which was clearly in trouble before the
16 Oil Spill ever occurred; the Fort Richardson Pipeline for 3.7
17 million, it had absolutely nothing to do with the Oil Spill
18 except to put some red salmon back into the Kenai system for
19 the sports fishermen. And here, we have a commercial fishery
20 that's worth millions of dollars to the State of Alaska that
21 has clearly been impacted by the Exxon Valdez Oil Spill.

22 We're asking for a measly \$154,000.00 to try to put it
23 back on track, and I don't understand why it's not funded.

24 MR. PENNOYER: Trustee Council members, anybody wish to
25 comment or further questions? Mr. Selby, of course, we're

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1 putting a package out to public review. And the project you
2 mentioned, the Fort Richardson hatchery water pipeline, no
3 action formally was taken on it. The Restoration Team
4 recommendations are going to be included in that package, as
5 well as will Dr. Spies. So, of the projects going out, you'll
6 have the benefit of the Restoration Team recommendation and
7 Dr. Spies' comments. We will not make a final decision on the
8 project complexes (ph) until the December meeting. Mr. Cole --
9 Mr. Rosier.

10 MR. ROSIER: Thank you. I'd like to clear the air on
11 something. I know that Mayor Selby has spoken about this
12 project with the water line here at Fort Rich on at least a
13 couple of occasions. And really, that project has nothing to
14 do with production of red salmon. Basically, we're talking
15 about the replacement of the red salmon fishery with other
16 species as a replacement for those fishermen that would be
17 displaced out of the Kenai River. So, it really doesn't have
18 anything to do with red salmon production.

19 MR. PENNOYER: Mr. Cole.

20 MR. COLE: Mr. Chairman. I overlooked it, during the
21 course of the discussions today, of asking a question about
22 these projects that Mayor Selby mentioned at the public hearing
23 last week. I had intended to ask for an explanation or at
24 least an answer as to why those projects were not included.
25 And I think that Mayor Selby deserves a response, so I would

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1 like to hear it, and I'm sure he would, too.

2 DR. GIBBONS: Mr. Chair?

3 MR. PENNOYER: Mr. -- Dr. Gibbons.

4 DR. GIBBONS: Yes. Last week, I pulled those projects,
5 the ideas, and I pulled the evaluation sheets that the
6 Restoration Team evaluated those on and mailed those to Mayor
7 Selby, I think on Wednesday.

8 MR. PENNOYER: Did you provide the Trustee Council with
9 a copy of

10 DR. GIBBONS: I can provide you with a copy, yeah. He
11 gave me a list and asked me, you know, to please send that to
12 him. The package of 1993 ideas and the evaluation sheets are
13 over in OSPIC, and they're out, so they're available to the
14 public. But I did mail those to Mayor Selby.

15 MR. PENNOYER: Do you have a copy of that package?
16 Could you get somebody on the Staff to make it available for
17 the Trustee Council, maybe even pass it out now, if possible;
18 is there anybody here who could do that?

19 DR. GIBBONS: Sure. I

20 MR. PENNOYER: It's easily accessible?

21 DR. GIBBONS: If I can disappear for two minutes, I'll
22 have it.

23 DR. MONTAGUE: Mr. Chair?

24 MR. PENNOYER: Dr. Montague.

25 DR. MONTAGUE: Mr. Chairman, I can answer somewhat on

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1 these. On the Waterfall Creek and the Horse Marine Creek
2 projects, these were two of four that were submitted out of a
3 project we had last year that was looking at various creeks
4 around the damaged area to see which ones would benefit from
5 enhancement action such as fish passes (ph). And these four
6 were put forward to the Restoration Team for review. And of
7 those four, two were approved as being time critical, and these
8 two were deemed to be good projects to do, but if they waited
9 till next year, it wasn't particularly -- you know, there
10 wasn't the real lost opportunity.

11 And on some of the other projects, I believe one of the
12 areas was not injured by the Spill, and another project dealt
13 with being prepared for future spills, which we felt wasn't
14 part of restoration relative to the civil settlement. That's
15 just from memory, I'm sure Dave will have a little bit more
16 specifics.

17 MR. PENNOYER: Mayor Selby, we've requested the package
18 that was sent to you, we'll look at it. Did you have further
19 comment at this time? Did we lose Kodiak?

20 MAYOR SELBY: projects, one was \$45,000.00 to work
21 on the pink salmon right now, and the other one was the Spill
22 preparedness thing that had been mentioned. They're actually
23 two separate projects, and what we were interested in is the
24 \$45,000.00 project that would let us do some work with Katoi
25 right this next year to try to get our pink salmon production

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1 up. And the same thing with those other two projects, granted,
2 I mean, I suppose you can go work on those cricks (ph) any
3 time, but the fact is is we have a fishery that's in trouble,
4 and we need to do some enhancement now. And we would like to
5 request you folks to fund or, at least, put those four
6 projects; Horse Marine, Waterfall and the Uganik fish weir and
7 the Katoi project; at least, put them on the list for public
8 comment.

9 MR. PENNOYER: Further Trustee Council comment? We will
10 get copies of the package sent to you and take a look at it.
11 Anybody else want to make a comment or ask a question at this
12 time? Thank you, Mayor Selby. Is there anything else?

13 OPERATOR: Was anyone else in Kodiak?

14 MR. PENNOYER: I'm sorry. I'm going to Homer next, do
15 you have somebody? I'm trying to do the stations in rotation,
16 so somebody from each place gets a chance to comment and then
17 cover as much as possible. Homer, are you on the line?

18 MS. POST: This is Joy Post, it's spelt
19 P-O-S-T. And I think you've heard from many people, they all
20 favor land acquisition, and many of those many have said they
21 favor land acquisition in the Kachemak Bay State Park. I
22 believe in the case of the Park, it would an injustice to clear
23 cut the forest. It would be an injustice to destroy the
24 renewable tourism industry that's centered around this Park.
25 And at this point, it is imminent that this is dealt with

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1 immediately. The Seldovia Native Association has set a date
2 for the beginning of October. By that time, they want earnest
3 money on the land. And I believe you people have five million
4 set aside for short-term protection measures, some of which
5 could be used today as a down payment that the Native
6 Association wants.

7 You have reams of information in your possession. I
8 know of the importance of this land to birds and mammals, and
9 the importance of protecting the marine environment. Many
10 agencies and experts have testified to this. I don't think for
11 a minute that you will allow this land to be ruined by a clear
12 cut logging operation. However, the clock is ticking away, and
13 I feel it's urgent that you act upon this quickly. My thinking
14 is that the voices of the public that you have heard will
15 become one with your voice and with your action. Thank you for
16 your time.

17 MR. PENNOYER: Thank you. Public -- or comment from the
18 Trustee Council or questions? Thank you very much. We sent
19 the package out for public review, we have tried to address
20 imminent threat. And the money you referred to in the package
21 proposal would not actually come available until March -- the
22 end of March of next year as part of the '93 Work Plan that was
23 specified as 0 to 20 million, and that will be for the very
24 type of thing you're talking about; defining imminent threat
25 and, perhaps, negotiating either delays or moratorium or

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1 whatever. In the meantime, we have people looking at various
2 habitat, trying to classify those imminent threats; we hope to
3 have a report on that sometime later this fall. But you will
4 see that package when it goes out to public review in a week or
5 two.

6 Are there further comments? Okay. I'd like to go on to
7 Valdez, anybody in Valdez want to testify?

8 MS. FISCHER: Hello, this is Donna Fischer,
9 F-I-S-C-H-E-R, and I am just listening. Thank you.

10 MR. PENNOYER: Thank you, Ms. Fischer. By the way, I
11 think you (indiscernible) on the Public Advisory Group
12 discussion. Dave, you reported that, didn't you,
13 (indiscernible)

14 DR. GIBBONS: Um-hum.

15 MS. FISCHER: Yes, I am, I have been appointed. I just
16 haven't received anything yet, that's all.

17 MR. PENNOYER: Well, I think the point is that we're
18 moving as fast as we can on that process, and hopefully within
19 the next few weeks, you will start to receive something. And
20 we're certainly looking forward to your comments as a group on
21 the '93 Work Plan.

22 MS. FISCHER: Thank you.

23 MR. PENNOYER: Let's go back to Cordova. Cordova,
24 anybody else want to testify?

25 MS. MCBURNEY: Yes. This is Mary McBurney. And I would

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1 like to testify or offer testimony on behalf of Jerry McCune,
2 M-c-C-U-N-E, with Cordova District Fishermen United. And the
3 following will be written comments on behalf of Jerry McCune.

4 I regret not being able to personally attend today's
5 teleconference but I'm out fishing. As you well know, the
6 Public Advisory Group is not yet in place and hasn't had an
7 opportunity to review and make recommendations on the projects
8 you considered earlier today. I realize that the Trustee
9 Council is under deadline to approve the proposed project list
10 for 1993. However, the project review process seems to be
11 backward.

12 First, I received no information from the Council
13 regarding what was to be on the agenda for today's meeting,
14 which makes it extremely difficult to offer constructive
15 comment. Secondly, when I found out that the projects proposed
16 for 1993 were to be discussed and/or approved during today's
17 meeting, I had to wonder what will be the purpose of the Public
18 Advisory Group.

19 The list of projects proposed for 1993 represents a wide
20 variety of proposals. As a perspective member of the Public
21 Advisory Group, I would have appreciated an opportunity to
22 review the project proposals and offer my comments and
23 recommendations on those projects dealing with Prince William
24 Sound and commercially harvested fish. For example, Project
25 93014, a study dealing with quality assurance for coded wire

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1 tag application for pink, chum and sockeye salmon, received
2 lukewarm support from the Resource Restoration Coordination
3 Group. Why? This project may be a very valuable tool for
4 evaluating the effectiveness of studies dependent on coded wire
5 tags. However, I don't have the information to evaluate the
6 merits of this project, and I certainly haven't heard the
7 Restoration Team's reasons for not giving this project a higher
8 rating. If nothing else, this example clearly points out the
9 necessity for having a Public Advisory Group.

10 It's important to allow the public an opportunity to
11 comment publicly on proposed restoration projects. It provides
12 an important avenue for people impacted by the Exxon Valdez Oil
13 Spill to participate and help direct the rebuilding efforts. I
14 appreciate having my comments entered into the record today,
15 and I look forward to participating in the next Trustee Council
16 meeting in person. Thank you.

17 MR. PENNOYER: Ms. McBurney, I hope you would pass on to
18 Mr. McCune that the actions taken today were not final actions.
19 We passed -- we voted rather broadly to send the package out to
20 public review, and that will certainly include the Public
21 Advisory Group who will be, hopefully, formed and have their
22 formative meeting, get a chance to look at the projects in some
23 detail. We'll probably have a separate presentation on the
24 projects on the Restoration Team. And at the same time, the
25 comments from the Chief Scientist will go out with this

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1 package. So, we're assuming there will be ample opportunity
2 for a extended public review period, and we will not actually
3 take action on the '93 package until December.

4 Are there other comments or questions from the Trustee
5 Council members? Mr. Rosier.

6 MR. ROSIER: Just speaking specifically to the example
7 that was used, that is part of the package that will be going
8 out, so Mr. McCune will have the opportunity to look at that.

9 MR. PENNOYER: I might also mention, as far as the
10 notice of this meeting goes and the agenda, it is simply a
11 continuation of the meeting that was on September 14th, with
12 the primary purpose of looking at what we started on the 14th
13 but were unable to complete, the '93 Work Plan. So, any other
14 comments, questions. Thank you very much for your testimony.

15 MS. MCBURNEY: Excuse me. This is Mary McBurney again.
16 And I entered into the conversation here a little bit late, you
17 were going through the proposed projects for 1993. We'd like
18 to get a copy, perhaps, faxed to my office of the list of
19 projects that were approved for public review. I understand
20 that there were several projects that were struck from the
21 list.

22 MR. PENNOYER: That is correct. And Dr. Gibbons, how
23 will you report the results of this meeting?

24 DR. GIBBONS: I can fax that list to her.

25 MR. COLE: Well, Mr. Chairman?

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1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: Does she have a list there of the proposed
3 projects, from 1 to 64?

4 MS. MCBURNEY: Yes, I do.

5 MR. COLE: Can't we just tell her now which projects
6 were deleted. Other than the few which were deleted,
7 Ms. McBurney, we are sending them all out. And I think now we
8 can furnish you with a list of the projects which were deleted,
9 and we not?

10 MR. PENNOYER: Dr. Gibbons, would you do that, please?

11 DR. GIBBONS: Yes, I can do that, they're easy. Delete
12 Project Number 1. Delete Project Number 21. Delete Project
13 Number 37. Delete Project 40/54. And delete Project Number
14 48.

15 MS. MCBURNEY: Thank you very much.

16 MR. PENNOYER: Okay. Thank you. Do you have anything
17 further?

18 MR. COLE: Mr. Chairman?

19 MR. PENNOYER: Mr. Cole.

20 MR. COLE: I would like to say when Mr. McCune gets the
21 detailed backup of all of these projects, he will have plenty
22 of reading to do. It consists of about three or four inches of
23 typewritten material. And we will be sending all of this
24 material to each of the Public Advisory Group members well in
25 advance of the deadline for public comment. We've proposed

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1 that the Public Advisory Group meet at least once or twice
2 before the time for furnishing final comments to the Trustee
3 Council. And no action will be taken on any of these proposed
4 projects until the Trustee Council meeting on December 11th.
5 And furthermore, all public comment will be furnished verbatim
6 to each of the Trustee Council members by the latter part of
7 November. So, I think that there will be full opportunity for
8 the Trustee Coun- -- for the Public Advisory Group and for the
9 public itself to comment on each of these projects.

10 MR. PENNOYER: Thank you, Mr. Cole. Shall we proceed
11 then and go on? Is there anybody in Anchorage that didn't
12 testify on the 14th? Sir, if you would hold your testimony
13 until -- I believe you did testify on the 14th, see if we can
14 get done with the people that did not get an opportunity to do
15 that. Kodiak? Anybody else from Kodiak?

16 MS. STAHL-JOHNSON: Yes, this is Kristin Stahl-Johnson,
17 I'm speaking as the Coordinator for the Kodiak Conservation
18 Network. And I did -- was not able to speak on the 14th, so I
19 appreciate the opportunity to speak today. I want to make my
20 comments brief, I don't want to reiterate too much of the
21 details that other people have said but would like to add my
22 voice and the voice of the Network, again, to the call for
23 habitat acquisition, and to comment briefly on Attorney General
24 Cole's process of determining direct links between acquisition
25 and habitat -- and damage or loss of habitat when the

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1 Settlement pure- -- clearly allows for replacement habitat.
2 And that doesn't -- it's not required to make very specific
3 links between the two when we are talking about habitat in our
4 areas that clearly can't be -- the damaged habitat can't be
5 replaced by acquisition of anything exactly the same.

6 We'd like to look, more specifically -- we would like
7 for you to take the approach that you have on Figure 7 in
8 evaluating your -- in evaluating the restoration options,
9 Figure 7 in the Restoration Framework Supplement. That is a
10 much more clear and fair way of looking at the different
11 options you have for the proposed Work Plan.

12 I'd also like to reiterate what Rick Steiner said about
13 looking at contingent valuation and not at the actual value of
14 the actual use of the property or lands. It's been really
15 clear from the coastal communities that were affected by the
16 Oil Spill that we all, in a democratic way, have said we would
17 like to see habitat acquisition. And we have identified those
18 areas that we want to see preserved, and there are some really
19 good reasons connected with those, that preservation. We can't
20 look at isolated areas and not look at the areas around them
21 for the impact.

22 And anyway, I guess I lost track of my thought there.
23 So, just to reiterate, again, the public in the impacted areas
24 wants habitat acquisition. And I think that the Trustee
25 Council needs to be more sensitive to that desire. Thank you.

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1 MR. PENNOYER: Thank you, Ms. Johnson. Would you mind
2 repeating your name for the record, please? First name, we got
3 the last name.

4 MS. JOHNSON: Okay. Kristin Stahl-Johnson,
5 K-R-I-S-T-I-N, S-T-A-H-L-Johnson, J-O-H-N-S-O-N.

6 MR. PENNOYER: Thank you very much. Are there questions
7 or comments from the Trustee Council? Thank you very much.
8 Let's go on and try Homer. Anybody else from Homer wish to
9 testify?

10 MS. KABISCH: Yes. My name is Sally Kabisch,
11 K-A-B-I-S-C-H, and I'm a resident of Homer. And I just wanted
12 to testify in support of what a lot of other people have
13 testified in support of, and that is habitat acquisition and
14 spending the significant portion of the Oil Spill settlement on
15 habitat acquisition. Of most immediate concern is, of course,
16 Kachemak State Park because of the deadline set by Seldovia
17 Native Association, as well as the plans by Timber Trading
18 Company to move ahead with their permits for logging. So, I
19 urge the Council to take whatever action they can to begin the
20 process of purchasing those lands.

21 In addition, I haven't been following this process as
22 closely as most people in terms of the money and where it's
23 going. But just from sitting here while I was waiting to
24 testify, I was looking through the proposed fiscal year '93, I
25 guess it's new project, and I noticed that only five million

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1 dollars out of a proposed total of 34 million dollars for new
2 projects, only five million is proposed for land acquisition
3 and only for imminent threat. And while that is good, and I'd
4 like to see imminently threatened lands protected using some of
5 this Oil Spill money, I just think that the five million is a
6 fraction; it's insignificant, it's not enough. I can't think
7 of the many different ways to say that and to urge you to
8 allocate more money to habitat acquisition, because I think
9 it's the most meaningful and the most long-term way of
10 restoring, not only the land but peoples' spirits that were
11 affected by the Oil Spill. Thank you very much.

12 MR. PENNOYER: Thank you, Ms. Kabisch. For your
13 information, the project that's going out to public review is
14 up to 20 million dollars, and the primary thrust of the issue
15 (ph) would be imminent threat because our plan for restoration
16 and our more comprehensive look at the properties that are
17 going to be available and the possible restoration value of
18 acquiring those won't be ready in the short-term. We do have
19 studies ongoing to look at that and identify imminent threat,
20 maybe not with the idea of purchase at that stage, but at
21 least, the idea of options on moratoria or something to put off
22 possible damage to those lands that are identified as, perhaps,
23 being under imminent threat. So, the number there is not --
24 the final number, we don't know what the final number should be
25 and don't have an estimate yet of where that process will take

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1 us.

2 Other comments from the Trustee Council members? Thank
3 you very much. Anybody else at Valdez yet that wants to
4 testify? Okay. Going on to -- back to Cordova. Anybody else
5 from Cordova that wishes to testify?

6 MR. McMULLEN: Yeah, Mr. Chairman. This is John
7 McMullen, spelled M-c-M-U-L-L-E-N; I'm president of Prince
8 William Sound Aquaculture Corporation.

9 MR. PENNOYER: Good afternoon, John. Go ahead.

10 MR. McMULLEN: Regarding the 1993 EVOS Project Work
11 Plans, this past weekend, we received an update of this list of
12 projects, and we've been discussing it since that time. I
13 recognize that I'm somewhat behind the times in my response to
14 these project proposals, but it is sometimes difficult to keep
15 up with the planning process and the timelines of the EVOS
16 restoration program.

17 I think -- I wish to read into the record I letter I
18 sent to the Trustees at mid-morning today. Here goes. Dear
19 Chairman Cole. I recently received a copy of the EVOS 1993
20 proposed projects as will, apparently, be presented today to
21 the Trustees Council by the Restoration Work Group. I note
22 with great disappointment that most proposed salmon projects
23 received a split vote with the working group, which unanimously
24 recommended a number of expensive monitoring projects which
25 seem not to address the application of needed restoration

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1 enhancement procedures.

2 More disturbing yet is the absence of applied projects
3 needed to further evaluate affects of EVOS on migratory
4 behavior and stock interactions of wild and hatchery salmon in
5 the impact region. I believe studies conducted since EVOS have
6 demon- -- documented some strain of fish between streams and
7 between hatcheries and streams. Is this a common occurrence or
8 is it EVOS related? Follow-up information is required.

9 So, for this and other reasons, it is inappropriate to
10 admit -- omit salmon tagging studies from your list of approved
11 projects. The Restoration Working Group cannot agree that
12 salmon stocks of the EVOS impact region should be identified
13 and described through genetic differentiation. This type of
14 study must be funded because the restoration, management and
15 future utilization of these stocks by salmon producers,
16 fisheries managers and fisheries users will depend upon an
17 understanding of these stocks so that programs can be avoided
18 which might inadvisably mix stocks or result in over-
19 exploitation of stocks.

20 The meaningful studies which I've briefly described in
21 this letter represent a beginning necessary to a plan for the
22 long-range, optimum production and utilization of the salmon
23 resources of the EVOS impact region. Pathways to progress need
24 to be defined. I am not sure that is evidenced in the
25 particular mix of EVOS 1993 projects prepared by the

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1 Restoration Working Group. Thank you for considering these
2 comments as you approve the 1993 proposed EVOS restoration
3 projects. Sincerely, John McMullen.

4 MR. PENNOYER: Thank you, John. I assume you heard the
5 earlier remarks on the Public Advisory Group and the fact that
6 this is going out to public review, including those projects
7 you said got a less than favorable rating. In addition to
8 that, will be comments from the Chief Scientist, and in
9 addition to that, the Public Advisory Group will get a more
10 detailed briefing, question and answer type briefing, before
11 they make recommendations back to the Trustee Council. We
12 won't be acting on the package until December 11th. So, while
13 there were, certainly, some discussions today and concerns
14 expressed, modifications made and some things omitted, broadly,
15 this whole package is going out to public review.

16 Anybody from the Trustee Council have further comment or
17 questions? Thank you very much.

18 MR. COLE: Would you ask him if that satisfies his
19 concerns as expressed today?

20 MR. PENNOYER: Mr. McMullen, Attorney General Cole asked
21 me to ask you if that satisfies your concerns? Or I would
22 expect you'll express those same concerns on the Public
23 Advisory Group.

24 MR. McMULLEN: Mr. Chairman, that's correct. I'll be
25 most happy to have that opportunity to deal with those through

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1 the Public Advisory Group, and I thank you very much for the
2 appointment.

3 MR. PENNOYER: Thank you. Let's see, Kodiak. Anybody
4 else from Kodiak wish to testify? Kodiak? Anybody wish to
5 testify in Kodiak?

6 KODIAK OPERATOR: No, that completes the testimony in
7 Kodiak.

8 MR. PENNOYER: Okay. Thank you. Homer? Anybody
9 additional who wishes to testify in Homer?

10 MR. TYLER: Yes, there's one diehard left here.

11 MR. PENNOYER: Okay. Go for it.

12 MR. TYLER: My name is Richard Tyler. And I was here at
13 the last one, and I sent you a letter, but in the meantime,
14 I've excerpted a section of it that I'll read into this. And
15 of course, I'm talking about right here at home in our Kachemak
16 Bay State Park.

17 The Kachemak Bay State Park is surely one of the prime
18 areas where the Trustees are in a position to correct an
19 ongoing and everyday more imminent threat to a very important
20 and highly productive habitat. There can be no doubt that any
21 sort of timber harvest, no matter how carefully done and how
22 carefully regulated, will cause untold destruction to local
23 fisheries and recreational opportunities in this very popular
24 and production region. Erosion into the critical habitat
25 region of Kachemak Bay, blow down of remaining trees, many of

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1 which will be left vulnerable on other bordering private land,
2 damage to spawning streams and lakes, and the obvious fact that
3 no timber will grow back at this latitude for several
4 generation are a very important reasons which cry out for the
5 protection of this habitat now.

6 I should also point out that the dip net fishery in
7 China Poot (ph) Bay, which the State has been stocking on
8 private lands, the SNA lands, for all these years has now shut
9 down, will remain so until the buy-back is completed. The
10 State has fumbled so many times on this that it may well be
11 left to the Trustees to recover the ball and run with it.
12 Thank you.

13 MR. PENNOYER: Thank you. Comments or questions from
14 the Trustee Council? Thank you very much. Let's see. Was
15 anyone left in Cordova that wished to testify? Cordova?

16 CORDOVA OPERATOR: I think we had one, hold on.

17 MR. PENNOYER: Okay. Thank you.

18 MS. MCBURNEY: Yeah. This is Mary McBurney again and
19 I'm testifying on my own behalf. I just had a quick question.
20 Why doesn't the list of proposed projects include any private,
21 non-agency proposals? Right now, I'm kind of concerned that
22 the absence of non-agency proposed projects points out the
23 shortcomings of having a Restoration Team that's made up 100%
24 of agency personnel. And I kind of wonder how objective the
25 recommendations are that are coming out of this Restoration

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1 Team. Is there a platform and a process for reviewing non-
2 agency proposals, and if so, what is it? I'd just be real
3 curious to find out.

4 MR. PENNOYER: Dr. Gibbons, do you care to answer on the
5 mix in this package?

6 DR. GIBBONS: Dr. Montague, do you want to handle that?
7 I can do it.

8 DR. MONTAGUE: Mr. Chairman. Yes. I think there may be
9 some confusion in looking at the draft notebook of the project
10 in that an agency is listed on there. And as you know, the
11 Council's operating procedures are that one of the six Trustee
12 agencies must be the lead on the project, but that statement
13 does not mean that it was agency idea. In fact, this -- what's
14 in this notebook is made up about 110 agency ideas and about 31
15 public ideas, and this similar in the ratio to the incoming
16 ideas; meaning there was about one-third of the ideas from the
17 public and two-thirds from the Agency. Does that answer the
18 question?

19 MR. PENNOYER: I'm not sure whether ideas are equivalent
20 of projects that we've approved.

21 DR. MONTAGUE: Okay. Well, the ideas and many projects
22 being that there's about 110 agency ideas and 31 private ideas
23 about 50 projects means there's a lot of these ideas are
24 combined, and there's some projects that are all agency and
25 some originated from an agency and a public idea, and so on and

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1 so forth.

2 MR. PENNOYER: Would you clarify originate versus
3 actually get funded for?

4 DR. MONTAGUE: Well, I mean if those that are in this
5 plan get funded, then that idea got funded, it just didn't get
6 funded as an individual project.

7 MR. PENNOYER: And it would go to the originator of the
8 idea?

9 DR. MONTAGUE: You mean would the project go to the
10 originator of the idea?

11 MR. PENNOYER: I think the question was how many are --
12 I think the question had to do with where the funding's going
13 to go, as well as where the ideas came from. Maybe I'm

14 MR. COLE: Maybe I can answer that.

15 MR. PENNOYER: Mr. Cole.

16 MR. COLE: Well, Ms. McBurney, let me say that in
17 legislation enacted by the last session of the Legislature, a
18 provision was inserted somewhat over my objection, but in order
19 to get the legislation enacted, I acquiesced, which provided
20 that these contracts be made between the Trustee Council and
21 State and Federal agencies only, except for administrative
22 expenses. So, I think that's the fundamental reason that the
23 State and Federal agencies as listed as the responsible
24 principle for these projects; that was -- that's Number 2.

25 And Number 2 is I think we on the Trustee Council are

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1 cognizant of the often expressed view of the public as to
2 whether there is sufficient safeguards in these projects for
3 this not being a repository for the receipt of funds by the
4 State and Federal agencies. And for that reason, in part, we
5 have contracted with a Chief Scientist and peer reviewers
6 retained by him to review each of these projects and to furnish
7 us with his comments on them. So, we have that mechanism to,
8 in part, guard against the possibility that these projects are
9 being only proposed, enacted up to sweeten the State and
10 Federal agencies' treasury. I think we're looking at that very
11 carefully.

12 MR. PENNOYER: Thank you, Mr. Cole. Any further
13 comments? Mr. Gibbons?

14 DR. GIBBONS: Yes. Previously sent to you is our series
15 of spreadsheets that track the 1993 ideas received, both agency
16 and public, and what occurred to those ideas. So, you can go
17 back to that package, if you would like, and track an idea
18 submitted, either by an agency or public, and where it ended up
19 into this package here. So, you have that capability of
20 tracking that, in Cordova.

21 MR. PENNOYER: Thank you. Any further comment? Ms.
22 McBurney, do you have any further testimony?

23 MS. MCBURNEY: No, thank you, not at this time.
24 Although, I just would like to mention that I haven't seen any
25 of those spreadsheets.

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1 DR. GIBBONS: They were mailed, they were there last
2 week at the office where the teleconference is.

3 MR. PENNOYER: If you can't get them there, we certainly
4 you send you a copy.

5 MR. COLE: They're in the notebook. Sometimes, I find
6 the spreadsheet terminology a little confusing. Are they not
7 in the notebook?

8 MR. PENNOYER: Can you specify where those spreadsheets
9 occur?

10 DR. GIBBONS: Yes. Yeah. In the package that was
11 mailed to you, they're the last part of the package, and
12 they're clear in the back; and there's a set of four of these
13 spreadsheets that track the idea, number, the name, the topic,
14 and you can move through that. So, they're in the last part of
15 that package that was DHL'd out to Cordova last week.

16 MR. PENNOYER: Okay. Thank you very much. Homer?
17 Anybody further in Homer?

18 HOMER OPERATOR: That's all in Homer at this time.

19 MR. PENNOYER: Okay. Thank you very much. Cordova?
20 Anybody further in Cordova? Do we have anybody on the line
21 besides Cordova, Kodiak, Homer and Valdez that wasn't signed in
22 before?

23 KODIAK OPERATOR: Kodiak does have more participation.

24 MR. PENNOYER: Okay. Kodiak, please go ahead.

25 DR. MICKLESON: Hi, my name is Lynne Mickleson; last

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1 name, M as in Mary I-C-K-L-E-S-O-N. I'm a physician here in
2 Kodiak. I have been doing a recent project, I've been -- well,
3 I've been looking into a new form of tourism down here, it's
4 called eco-tourism, and I wanted to make a few comments here.

5 One of the -- as I review this list of what's going to
6 be done, potentially, with the money, I see here that there's
7 basically nothing set aside for direct habitat acquisition.
8 There's a lot of proposed studies and things, but I think that
9 we really need to concentrate our efforts on buying habitat,
10 and the sooner the better.

11 Eco-tourism is a new form of tourism that is kind of a
12 subset of general nature tourism. Since we, here in Alaska,
13 are grappling with continuing economic woes and declining oil
14 revenues, especially as the North Slope production drops off,
15 we need to turn our attention to the future and to new sources
16 of long-term, sustainable income. Eco-tourism is one such
17 alternative. Worldwide, it is big business, amounting to 19.5
18 billion dollar annually, that's billion not million, and it's
19 increasing by 30% each year.

20 Eco-tourism is different from nature tour- -- general
21 nature tourism where many of the operating costs get spent
22 elsewhere and profits go back to firms in cities far away.
23 Eco-tourism works to keep profits and spending locally, promote
24 conservation, employ local people and make the conservation of
25 local natural resources the most economically beneficial of all

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1 options. Eco-tourism promotes economic growth while protecting
2 the environment. Let me repeat that. Eco-tourism promotes
3 economic growth while protecting the environment. Any
4 questions about the loss of jobs in logging, for example, in
5 some of the proposed protected area can be countered with the
6 realization that just as many, if not more, jobs can be created
7 through a program of eco-tourism.

8 A few comments on how these programs work. Studies by
9 the World Wildlife Fund have shown that eco-tourists like
10 things simple; small groups of four to eighteen people with
11 local guides through local terrain showing the plants, animals
12 and natural human history unique to the area. There is no need
13 for big hotels or fancy hunting lodges. Traditional local
14 cooking and bed and breakfast accommodations suit the eco-
15 tourist just fine. Eco-tourists want a glimpse of undisturbed
16 nature and the lifestyles and people that make Alaska special,
17 they do not want to simply observe Alaska, they want to live
18 it, not through the windows of the tour bus, not in large
19 groups and not from the protected decks of a cruise ship. They
20 need to escape urban and suburban life, change their routines,
21 experience untamed wilderness and enjoy physical activity.

22 This is the key point. Our nature beauty, our land is
23 our biggest resource and can provide us with years of income
24 and prosperity if managed properly. The world is looking for
25 clean, untouched areas to visit. We have what other people

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1 want. Eco-tourism is lucrative, it is growing, it is non-
2 destructive, and it is sustainable; that's a key word,
3 sustainable for the long-term. Let's act before it's too late
4 and develop a statewide eco-tourism program run by and for the
5 benefit of Alaskans.

6 The money from the Exxon settlement could be used to set
7 up a great local tourism -- eco-tourism activity and programs,
8 and I think it would be the best spending of the money for the
9 long-term. Again, the key word is sustainable; we need to
10 create economies that will -- that we can do for the long-term.
11 So, I would ask that you consider that the monies be spent to
12 develop such programs. Thank you very much.

13 MR. PENNOYER: Thank you, Mr. Mickleson. Any comments
14 or questions from the Trustee Council? Okay. Kodiak, I think
15 you're the only one on line left with people that want to
16 testify, why don't you go ahead.

17 MR. PETRICH: One more to testify from Kodiak.

18 MR. PENNOYER: Thank you. Proceed.

19 MR. PETRICH: My name is Greg Petrich, the last name is
20 P-E-T-R-I-C-H. And I'd like to comment, also, on what
21 Dr. Mickleson was -- his observations. One thing that gets
22 overlooked in this program, I think, from several people who
23 are on the Council who are -- show a past history or pro-
24 development orientation is that the money from any kind of land
25 acquisition is going into local economies through these

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1 acquisitions. Local Native corporations would prosper, they'd
2 be able to invest locally, and continue to build sustainable
3 income ventures.

4 And I just don't understand, some people on the Council
5 get stuck in this mode where the only thing that they seem to
6 know is resource extraction. Well, why destroy a resource, in
7 this case, just say timber land, when you could reap all the
8 benefits from that coming into a public holding and promote
9 recreational use on that land, and promote access and general
10 use, while at the same time, have that money going into local
11 economies. I don't understand why people seem to overlook this
12 aspect.

13 Also, I have one question for the Council. I see that
14 the Habitat Division of ADF&G has merged with the Oil Spill
15 Damage Assessment Group, and I'd like to know how their input
16 is going to be monitored by the Council? And does the public
17 -- is the public going to have free and clear access to this
18 information? Okay.

19 MR. PENNOYER: Trustee Council, comment or question?
20 Mr. Rosier?

21 MR. ROSIER: Mr. Chairman, I'll speak to the combination
22 there on that. Basically, the Habitat Group will be working
23 pretty much as it currently is structured here. The
24 Restoration Team that's been with ADF&G will be advising me and
25 providing as support for the Council just as they have been

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1 under the original division structure. So, there'll be very
2 little change.

3 MR. PENNOYER: Thank you. Any further comments or
4 questions from the Trustee Council? Okay. Thank you. Does
5 that complete the people that want to testify in Kodiak?
6 Anybody else on the net wish to testify? Thank you very much.
7 Anchorage, I believe we have one person that wanted here that
8 testified before?

9 MR. O'CALLAGHAN: Yes.

10 MR. PENNOYER: Sir.

11 MR. O'CALLAGHAN: Yeah. My name is Mike O'Callaghan,
12 spelled C-A-L-L-A-G-H-A-N. I came in to testify to you before,
13 I'd like to just limit my testimony to the three people here
14 who work for the State of Alaska. All three of you were sworn
15 to uphold the Constitution of the State of Alaska. Okay.
16 Quote from the Constitution of the State of Alaska: "The
17 purpose of any state tax or license shall not be dedicated to
18 any special purpose."

19 It was an Attorney General's opinion early in the
20 administration when we had our oil royalty that oil royalty
21 doesn't fall into this. A later opinion reversed this. In
22 '82, the State Supreme Court held the phrase "proceeds from any
23 state tax or license" should be construed broadly to include
24 all sources of public revenue. We made a settlement with Exxon
25 for their Oil Spill. This is income that should be deposited,

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1 as our Constitution says, in the State Treasury. It has not
2 been. It should be.

3 Also, the budget. The Governor shall submit to the
4 Legislature at a time fixed by law a budget for the next fiscal
5 year setting forth all proposed expenditures; all proposed
6 expenditures; and anticipated income of all departments,
7 offices and agencies of the State. I would submit that you
8 three are definitely from departments, offices and agencies of
9 the State. This has not been budgeted.

10 Expenditure. No money shall be withdrawn from the
11 Treasury except in accordance with appropriation made by law.
12 This section of the Constitution makes it clear no money may be
13 spent unless there is an appropriation that authorizes that
14 expenditure. You guys are circumventing our Constitution. You
15 do not have that authority. You were sworn to uphold the
16 Constitution, please do that. This is inappropriate behavior
17 on our public officials part.

18 MR. COLE: We have a statute enacted by the last
19 Legislature dealing with this very appropriations problem.

20 MR. O'CALLAGHAN: As you well know, statutes do not
21 supersede the Constitution.

22 MR. COLE: And the statute makes provisions for
23 appropriation of these funds, and they've also been

24 MR. O'CALLAGHAN: These funds were dedicated and they
25 have gone into the Treasury?

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1 MR. COLE: And they have not gone into Treasury because
2 this is proceeding under the Federal Statute, the Clean Water
3 Act and the Comprehensive Response Statute; and therefore, we
4 have statutory proceeding provisions dealing with the very
5 problem which you're addressing here today.

6 MR. O'CALLAGHAN: You can't supersede the Constitution,
7 you know that.

8 MR. COLE: I know that.

9 MR. O'CALLAGHAN: Yeah. It's inappropriate behavior.
10 Thank you.

11 MR. PENNOYER: Okay. Thank you. I believe that
12 concludes the public hearing. Are there further actions to
13 bring before this body before we adjourn?

14 MR. SANDOR: I move we adjourn.

15 MR. PENNOYER: Let's wait, that's a further action.

16 MR. COLE: Should we tell --

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: should we tell Mayor Selby that we've
19 been furnished with these materials?

20 MR. PENNOYER: Yes, we have.

21 MR. SANDOR: And Department's appreciation to the public
22 and to the Staff.

23 MR. PENNOYER: Okay. We will stand adjourned until
24 December 11th or earlier date if the Executive Director finds
25 one convenient to all parties. Thank you.

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(Off record - 5:50 p.m.)

(END OF PROCEEDINGS)

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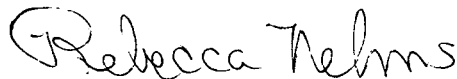
) ss.

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

6 THAT the annexed and foregoing is a Transcript of the
7 Teleconference Meeting of the Exxon Valdez Oil Spill Settlement
8 Trustee Council, taken on the 21st day of September, 1992,
9 commencing at the hour of 8:30 o'clock a.m., at the Simpson
10 Building, 645 G Street Building, Anchorage, Alaska;

11 THAT this Transcript, as heretofore annexed, is a true
12 and correct transcription of the proceedings, taken by Laurel
13 L. Kehler and thereafter transcribed by Laurel L. Kehler and
14 Karen E. Squiers.
15

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 affixed my seal this 24th day of September, 1992.

18 
19

REBECCA NELMS

Notary in and for Alaska.

My commission expires: 10/10/94

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